

# STATE OF NEW YORK

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9507--B

## IN ASSEMBLY

January 18, 2018

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

AN ACT to amend the public health law, in relation to distributing the general hospital indigent care pool; establishing a temporary work-group on the general hospital indigent care pool methodology; to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs; and directing the commissioner of health to conduct a study on the feasibility of creating a burn center in Kings County Medical Center in collaboration with SUNY Downstate Medical Center's University Hospital of Brooklyn (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 long term care plans; and to amend the public health law, in relation to community based service providers, home health care and medical assistance payments for care in hospice residences (Part B); to amend the social services 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, and in relation to extending the preferred drug program to medicaid managed care providers and offering the program to other health plans; and to repeal certain provisions of the social services law relating thereto (Part D); to amend the social services law, in relation to reimbursement of transportation costs (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); to amend the social services law and the public health law, in relation to managed care providers (Part I); to amend the state finance law, in relation to the false claims act (Part J); to amend the public health law and the social services law, in

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

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relation to 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); intentionally omitted (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); intentionally omitted (Part N); to amend the public health law, in relation to funding early intervention services; and to repeal certain provisions of the public health law and the insurance law relating thereto (Part O); to amend the public health law, in relation to the empire clinical research investigator program and hospital resident hour audits (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); intentionally omitted (Part R); Intentionally omitted (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the social services law, in relation to telehealth under medical assistance; and to repeal article 29-G of the public health law relating to telehealth delivery of services (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 relating to authorizing the commissioner of health to establish a statewide Medicaid integrity and efficiency initiative, 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 the social services law, in relation to agreements relating to pharmaceutical utilization (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); intentionally omitted (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, in relation to expanding the list of controlled substances (Part BB); to amend the public health law, in

relation to summary action for professional misconduct (Part CC); 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 the public health law, in relation to reporting immunizations; 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 extending the effectiveness thereof; 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 technical corrections (Part DD); to amend the mental hygiene law, in relation to state-operated individualized residential alternatives; and to amend part Q of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the closure or transfer of a state-operated individualized residential alternative, in relation to the effectiveness thereof (Part EE); to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part FF); to amend the insurance law, in relation to the purchase of prescription drugs (Part GG); to amend the mental hygiene law, in relation to establishing the office of the independent behavioral health ombudsman (Part HH); to amend the public health law and the state finance law, in relation to disposition of charitable assets and establishing a health care stabilization account (Part II); and in relation to the availability of federal financial participation and payments made to certain managed care providers; and to repeal section 3-d of part B of chapter 58 of the laws of 2010, amending chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to reimbursement (Part JJ)

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 JJ. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

1 sand fourteen, is greater than five percent; and, for the calendar year  
2 beginning on January first, two thousand fifteen[7]; is greater than  
3 seven and one-half percent, and for the calendar year beginning on Janu-  
4 ary first, two thousand sixteen, is greater than ten percent; and for  
5 the calendar year beginning on January first, two thousand seventeen, is  
6 greater than twelve and one-half percent; and for the calendar year  
7 beginning on January first, two thousand eighteen, is greater than  
8 fifteen percent; and for the calendar year beginning on January first,  
9 two thousand nineteen, is greater than seventeen and one-half percent.

10 (iv) Such regulations shall reserve one percent of the funds available  
11 for distribution in the two thousand fourteen and two thousand fifteen  
12 calendar years, and for calendar years thereafter, pursuant to this  
13 subdivision, subdivision fourteen-f of section twenty-eight hundred  
14 seven-c of this article, and sections two hundred eleven and two hundred  
15 twelve of chapter four hundred seventy-four of the laws of nineteen  
16 hundred ninety-six, in a "financial assistance compliance pool" and  
17 shall establish methodologies for the distribution of such pool funds to  
18 facilities based on their level of compliance, as determined by the  
19 commissioner, with the provisions of subdivision nine-a of this section.

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

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

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

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

28 § 2-a. Temporary workgroup on the general hospital indigent care pool  
29 methodology. No later than June first, two thousand eighteen, the  
30 commissioner of health shall convene a temporary workgroup to develop  
31 recommendations for modifying the distribution methodology of the indi-  
32 gent care pool to target payments to facilities that provide a  
33 disproportionate share of uncompensated care to uninsured, underinsured  
34 and medicaid populations; to develop recommendations for modifying indi-  
35 gent care distributions in the event of aggregate reductions in federal  
36 Medicaid disproportionate share hospital funding; to evaluate the finan-  
37 cial impacts of recent modifications to the indigent care pool made  
38 pursuant to subdivision five-d of section 2807-k of the public health  
39 law; and to evaluate the effectiveness of financial aid policies and  
40 procedures as mandated by subdivision nine-a of section 2807-k of the  
41 public health law. The workgroup shall include representatives of  
42 providers that provide such care, consumer advocates, members of the  
43 legislature, health care workers, the department of health, and other  
44 appropriate stakeholders. No later than December first, two thousand  
45 eighteen, the workgroup shall report on its findings and recommendations  
46 to the governor, the temporary president of the senate, and the speaker  
47 of the assembly, including any analysis of facility impacts by region  
48 and sponsorship as well as any additional information it deems appropri-  
49 ate.

50 § 3. Notwithstanding any inconsistent provision of law or regulation  
51 to the contrary, the medical assistance program shall allocate ten  
52 million dollars annually to expand preventative services as the commis-  
53 sioner of health may determine in regulation. Such preventative services  
54 may include but not be limited to mental health counseling provided by a  
55 licensed clinical social worker or a licensed master social worker,

1 physical therapy, diabetes prevention, or treatment by an applied behavior analyst.

2  
3 § 4. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section 4 2807 of the public health law, as amended by section 43 of part B of 5 chapter 58 of the laws of 2010, is amended to read as follows:

6 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this 7 subdivision, for periods on and after January first, two thousand nine, 8 the following services provided by general hospital outpatient depart- 9 ments and diagnostic and treatment centers shall be reimbursed with 10 rates of payment based entirely upon the ambulatory patient group meth- 11 odology as described in paragraph (e) of this subdivision, provided, 12 however, that the commissioner may utilize existing payment methodol- 13 ogies or may promulgate regulations establishing alternative payment 14 methodologies for one or more of the services specified in this subpara- 15 graph, effective for periods on and after March first, two thousand 16 nine:

17 (A) services provided in accordance with the provisions of paragraphs 18 (q) and (r) of subdivision two of section three hundred sixty-five-a of 19 the social services law; and

20 (B) all services, but only with regard to additional payment amounts, 21 as determined in accordance with regulations issued in accordance with 22 paragraph (e) of this subdivision, for the provision of such services 23 during times outside the facility's normal hours of operation, as deter- 24 mined in accordance with criteria set forth in such regulations; and

25 (C) individual psychotherapy services provided by licensed social 26 workers, in accordance with licensing criteria set forth in applicable 27 regulations[~~, to persons under the age of twenty one and to persons~~ 28 ~~requiring such services as a result of or related to pregnancy or giving~~ 29 ~~birth~~]; and

30 (D) individual psychotherapy services provided by licensed social 31 workers, in accordance with licensing criteria set forth in applicable 32 regulations, at diagnostic and treatment centers that provided, billed 33 for, and received payment for these services between January first, two 34 thousand seven and December thirty-first, two thousand seven;

35 (E) services provided to pregnant women pursuant to paragraph (s) of 36 subdivision two of section three hundred sixty-five-a of the social 37 services law and, for periods on and after January first, two thousand 38 ten, all other services provided pursuant to such paragraph (s) and 39 services provided pursuant to paragraph (t) of subdivision two of 40 section three hundred sixty-five-a of the social services law;

41 (F) wheelchair evaluation services and eyeglass dispensing services; 42 and

43 (G) immunization services, effective for services rendered on and 44 after June tenth, two thousand nine.

45 § 5. Paragraph (h) of subdivision 2 of section 365-a of the social 46 services law, as amended by chapter 220 of the laws of 2011, is amended 47 to read as follows:

48 (h) speech therapy, and when provided at the direction of a physician 49 or nurse practitioner, physical therapy including related rehabilitative 50 services and occupational therapy; provided, however, that speech thera- 51 py[~~, physical therapy~~] and occupational therapy [~~each~~] shall be limited 52 to coverage of [~~twenty~~] forty visits per year; physical therapy shall be 53 limited to coverage of forty visits per year; such limitation shall not 54 apply to persons with developmental disabilities or, notwithstanding any 55 other provision of law to the contrary, to persons with traumatic brain 56 injury;



1 § 5-a. The commissioner of health is directed to conduct a study and  
2 do research as to the feasibility of creating a burn center in Kings  
3 County Medical Center in collaboration with SUNY Downstate Medical  
4 Center's University Hospital of Brooklyn.

5 The study shall be conducted in accordance with rules, regulations and  
6 standards determined by the commissioner of health. The study shall  
7 concentrate on provisions of optimal care to burn patients for the time  
8 of injury through rehabilitation with the goal of establishing a frame-  
9 work for the establishment of an accredited burn unit that provides high  
10 quality patient care while meeting the standards for organizational  
11 structure, personnel qualifications, facilities resources and medical  
12 care services pursuant to the Guidelines for the Operation of Burn  
13 Centers of the American Burn Association.

14 The commissioner of health shall report his or her findings to the  
15 governor, the speaker of the assembly, the minority leader of the assem-  
16 bly, the temporary president of the senate and the minority leader of  
17 the senate on or before one year from the date this act shall take  
18 effect.

19 § 6. This act shall take effect immediately.

20 PART B

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

23 (g) The commissioner shall reduce Medicaid revenue to a residential  
24 health care facility in a payment year by two percent if in each of the  
25 two most recent payment years for which New York state nursing home  
26 quality initiative data is available, the facility was ranked in the  
27 lowest two quintiles of facilities based on its nursing home quality  
28 initiative performance, and was ranked in the lowest quintile in the  
29 most recent payment year. The commissioner shall waive the application  
30 of this paragraph to a facility if the commissioner determines that the  
31 facility is in financial distress.

32 § 2. Subdivision 3 of section 461-1 of the social services law is  
33 amended by adding five new paragraphs (k), (l), (m), (n) and (o) to read  
34 as follows:

35 (k)(i) Existing assisted living program providers licensed on or  
36 before April first, two thousand eighteen may apply to the department  
37 for up to nine additional assisted living program beds, by a deadline to  
38 be determined by the department. The department may utilize an expedited  
39 review process to allow eligible applicants in good standing the ability  
40 to be licensed for the additional beds within ninety days of the depart-  
41 ment's receipt of a satisfactory application. Eligible applicants are  
42 those that: do not require major renovation or construction; serve only  
43 public pay individuals; and are in substantial compliance with appropri-  
44 ate state and local requirements as determined by the department.

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



(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.

(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:

(i) Serve only public pay individuals;

(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;

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

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

(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.

(o) For periods on and after April first, two thousand twenty, the commissioner of health is authorized to issue assisted living program beds for any eligible applicant, other than an applicant that applied under subparagraph (ii) of paragraph (k) of this subdivision, that satisfactorily demonstrates the public need for such beds in the area to be served and meets all other applicable requirements of this section. Demonstrated public need shall be determined on a case by case basis whenever the public health and health planning council is satisfied that public need exists at the time and place and under circumstances proposed by the applicant; provided, however, the prior bed authorizations in paragraphs (h), (i), (j) and (k) of this subdivision shall continue in full force and effect.

§ 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:

(i) (1) 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 (2) 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 require community-based long  
21 term care services for a continuous period of more than one hundred  
22 twenty days from the date of enrollment and from the dates when continu-  
23 ing enrollment is reauthorized; however, medical assistance recipients  
24 enrolled in a managed long term care plan on October first, two thousand  
25 eighteen may continue to be eligible for such plans, irrespective of  
26 whether the enrollee meets the level of care requirements, provided that  
27 once such recipients are disenrolled from their managed long term care  
28 plan, the requirements of this paragraph would apply to future eligibil-  
29 ity determinations.

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

34 (vii) If another managed long term care plan certified under this  
35 section is available, medical assistance recipients required to enroll  
36 in such plans pursuant to this section or recipients who have been  
37 assigned to a provider by the commissioner may change plans without  
38 cause within ninety days of notification of enrollment or the effective  
39 date of enrollment into a plan, whichever is later, by making a request  
40 of the local social services district or entity designated by the  
41 department. However, after such ninety day period, a recipient may be  
42 prohibited from changing plans more frequently than once within the  
43 ensuing enrollment period, as permitted by federal law, except for good  
44 cause as determined by the commissioner.

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

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

52 (12) Native Americans; ~~and~~

53 (13) a person who is permanently placed in a nursing home; provided  
54 however, that a person who was enrolled in a plan under this section  
55 and, while enrolled, was transferred to a nursing home from community  
56 based care, shall remain enrolled under this section for three months at

1 which time such person shall be deemed suspended from enrollment by such  
2 plan for an additional six month period, so that the person may return  
3 to community based care without requiring reenrollment in such plan.  
4 Plans shall be reimbursed on a prorated basis when reinstating enroll-  
5 ment under this clause.

6 § 6. Intentionally Omitted.

7 § 7. Intentionally Omitted.

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

10 (h) Amounts payable under this title for medical assistance in the  
11 form of freestanding clinic services pursuant to article twenty-eight of  
12 the public health law provided to eligible persons participating in the  
13 New York traumatic brain injury waiver program who are also benefici-  
14 aries under part B of title XVIII of the federal social security act or  
15 who are qualified medicare beneficiaries under part B of title XVIII of  
16 such act shall not be less than the approved medical assistance payment  
17 level less the amount payable under part B.

18 § 8-a. Paragraph (d-2) of subdivision 3 of section 364-j of the social  
19 services law, as added by section 20-a of part B of chapter 59 of the  
20 laws of 2016, is amended to read as follows:

21 (d-2) Services provided pursuant to waivers, granted pursuant to  
22 subsection (c) of section 1915 of the federal social security act, to  
23 persons suffering from traumatic brain injuries or qualifying for nurs-  
24 ing home diversion and transition services, shall not be provided to  
25 medical assistance recipients through managed care programs until at  
26 least January first, two thousand [~~eighteen~~] twenty-two.

27 § 8-b. Paragraph (d) of subdivision one of section 3614-c of the  
28 public health law, as amended by section 5 of part S of chapter 57 of  
29 the laws of 2017, is amended to read as follows:

30 (d) "Home care aide" means a home health aide, personal care aide,  
31 home attendant, personal assistant performing consumer directed personal  
32 assistance services pursuant to section three hundred sixty-five-f of  
33 the social services law, a person delivering care under the traumatic  
34 brain injury program pursuant to section twenty-seven hundred forty of  
35 this chapter, or other licensed or unlicensed person whose primary  
36 responsibility includes the provision of in-home assistance with activ-  
37 ities of daily living, instrumental activities of daily living or  
38 health-related tasks; provided, however, that home care aide does not  
39 include any individual (i) working on a casual basis, or (ii) (except  
40 for a person employed under the consumer directed personal assistance  
41 program under section three hundred sixty-five-f of the social services  
42 law) who is a relative through blood, marriage or adoption of: (1) the  
43 employer; or (2) the person for whom the worker is delivering services,  
44 under a program funded or administered by federal, state or local  
45 government.

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. Paragraphs (c) and (c) of subdivision 18 of section 364-j of the  
7 social services law, as added by sections 40-c and 55 of part B of chap-  
8 ter 57 of the laws of 2015, are amended to read as follows:

9 (c) (i) In setting such reimbursement methodologies, the department  
10 shall consider costs borne by the managed care program to ensure actuar-  
11 ially sound and adequate rates of payment to ensure quality of care for  
12 its enrollees and shall reflect the reasonable costs associated with all  
13 applicable federal and state laws and regulations, including, but not  
14 limited to, those relating to wages, labor, and actuarial soundness.

15 ~~[(e)]~~ (ii) The department ~~[of health]~~ shall require the independent  
16 actuary selected pursuant to paragraph (b) of this subdivision to  
17 provide a complete actuarial memorandum, along with all actuarial  
18 assumptions made and all other data, materials and methodologies used in  
19 the development of rates, to managed care providers thirty days prior to  
20 submission of such rates to the centers for medicare and medicaid  
21 services for approval. Managed care providers may request additional  
22 review of the actuarial soundness of the rate setting process and/or  
23 methodology.

24 (iii) In fulfilling the requirements of this paragraph, in relation to  
25 a long term care plan operating under section forty-four hundred three-f  
26 of the public health law, the department shall establish separate rate  
27 cells to reflect the costs of care for specific high-need enrollees.  
28 The commissioner shall make any necessary amendments to the state plan  
29 for medical assistance under section three hundred sixty-three-a of this  
30 title, and submit any applications for waivers of the federal social  
31 security act, as may be necessary to ensure federal financial partic-  
32 ipation. The high-need rate cells established in accordance with this  
33 subparagraph shall include, but shall not be limited to:

34 (A) individuals who are either already residing in a skilled nursing  
35 facility or are placed in a skilled nursing facility;

36 (B) individuals enrolled with a managed care provider, who remain in  
37 the community and who daily receive live-in twenty-four hour personal  
38 care or home health services or twelve hours or more of personal care,  
39 home health services or home and community support services;

40 (C) such other individuals who, based on the assessment of their care  
41 needs, their diagnosis or other factors, are determined to present espe-  
42 cially high needs related to factors that would influence the delivery  
43 including but not limited to home location, or their use of services, as  
44 may be identified by the department.

45 § 11. Section 4403-f of the public health law is amended by adding a  
46 new subdivision 15 to read as follows:

47 15. If the department places a numerical limit on the number of commu-  
48 nity based service providers licensed under article thirty-six of this  
49 chapter with which a plan may contract, it shall do so only with  
50 approval by the public health and health planning council, consistent  
51 with standards adopted by the council to assure network adequacy includ-  
52 ing but not limited to: adequate and appropriate care for the enrol-  
53 lees; language and cultural competence; geographical coverage; and  
54 special needs services.

§ 12. Section 224-b of the public health law, as added by section 50 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

§ 224-b. Public health and health planning council; powers and duties; health care facilities, home care agencies and hospices. 1. The public health and health planning council shall have such powers and duties as are set forth in this chapter, including the consideration of applications for the establishment and construction of health care facilities, home care agencies and hospices licensed under articles twenty-eight, thirty-six or forty of this chapter. In carrying out its powers and duties, the council shall take into account the impact of its actions and recommendations on the quality, accessibility, efficiency and cost-effectiveness of health care throughout the state. The council shall undertake a comprehensive review of regulations and council procedures governing the establishment and construction of such health care facilities, home care agencies and hospices and shall submit to the commissioner any recommendations for the revisions of such regulations. Such review shall be conducted every five years, and the first set of recommendations shall be submitted to the commissioner on or before December first, two thousand sixteen.

2. For the period beginning April first, two thousand eighteen and ending March thirty-first, two thousand nineteen, the council shall not approve applications for new licensed home care service agencies under article thirty-six of this chapter unless the purpose of the license is to consolidate existing licensees, or overcome lack of network adequacy of a managed long term care plan under section forty-four hundred three-f of this chapter or a lack of adequate and appropriate care, language and cultural competence, geographical coverage or special needs services.

3. The council shall review and revise (a) standards relating to adequate and appropriate care, language and cultural competence, geographical coverage and special needs services, and (b) needs methodology relating to the approval, closure or consolidation of licensed home care service agencies to assure a statewide system that is financially viable. Such review shall be completed by March thirty-first, two thousand nineteen.

§ 13. Subdivisions 4 and 6 of section 3605 of the public health law, subdivision 4 as amended by section 62 of part A of chapter 58 of the laws of 2010, subdivision 6 as added by chapter 959 of the laws of 1984, are amended to read as follows:

4. The public health and health planning council shall not approve an application for licensure unless it is satisfied as to (a) the public need for the existence of the licensed home health care service agency at the time and place and under the circumstances proposed; (b) the character, competence and standing in the community of the applicant's incorporators, directors, sponsors, stockholders or operators; and (c) such other matters as it shall deem pertinent.

6. Neither [~~public need,~~] tax status nor profit-making status shall be criteria for licensure.

§ 14. Section 4012 of the public health law is amended by adding a new subdivision 5 to read as follows:

5. (a) Medicaid payments to hospice residences shall be in an amount equal to ninety-four percent of the weighted average medical assistance fee for service rate reimbursed to residential health care facilities located in the managed long term care region that the hospice residence is located. Such average medical assistance rate shall be inclusive of



1 specialty units, the room and board furnished by the hospice residence,  
2 cash receipts assessments and the case mix of the residential health  
3 care facilities located in the managed long term care region that such  
4 hospice is located. Such average medical assistance rate shall also be  
5 inclusive of an efficiency factor of 1.1 multiplied by such weighted  
6 average rate; recruitment and retention monies; and any adjustments made  
7 for minimum wage, as such adjustments are applied to the residential  
8 health care facilities located in the managed long term care region in  
9 which the hospice residence is located.

10 (b) Under no circumstances shall the rates established pursuant to  
11 this subdivision be less than the rates established for hospice resi-  
12 dences in effect on the effective date of this subdivision and managed  
13 care organizations shall reimburse hospice residences the rate estab-  
14 lished pursuant to this subdivision for a period of at least five years  
15 from the date hospice residents are transitioned to managed care. Such  
16 reimbursement shall be known as the hospice residence benchmark rate.

17 § 15. This act shall take effect immediately; provided, however, that  
18 the amendments made to paragraph (b) of subdivision 7 of section 4403-f  
19 of the public health law made by sections three, four and five of this  
20 act shall not affect the expiration of such paragraph pursuant to subdivi-  
21 sion (i) of section 111 of part H of chapter 59 of the laws of 2011,  
22 as amended, and shall be deemed to expire therewith; provided, further,  
23 that the amendments to section 4403-f of the public health law made by  
24 sections three, four, five and eleven of this act shall not affect the  
25 repeal of such section pursuant to chapter 659 of the laws of 1997, as  
26 amended, and shall be deemed repealed therewith; provided, further, that  
27 section four of this act shall take effect on October 1, 2018; provided,  
28 further, that the amendments to paragraph (d-2) of subdivision 3 and  
29 paragraphs (c) and (c) of subdivision 18 of section 364-j of the social  
30 services law as amended by sections eight-a and ten of this act shall  
31 not affect the repeal of such section pursuant to chapter 710 of the  
32 laws of 1988, as amended, and shall be deemed to repeal therewith.

33 PART C

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

37 2. In addition to payments made for health home services pursuant to  
38 subdivision one of this section, the commissioner is authorized to pay  
39 additional amounts: (a) to providers of health home services that meet  
40 process or outcome standards specified by the commissioner; and (b) to  
41 Medicaid managed care enrollees who are members of health homes in the  
42 form of incentive payments to reward such enrollees for participating in  
43 wellness activities and activities or behavior that have led to or may  
44 lead to a reduction in unnecessary hospitalizations and unnecessary  
45 utilization of hospital emergency department services. Provided, howev-  
46 er, that such incentive payments shall not, in any way, prohibit,  
47 discourage, or otherwise penalize an enrollee who utilizes hospital  
48 services, including emergency services. Such additional amounts may be  
49 paid with state funds only if federal financial participation for such  
50 payments is unavailable.

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

53 2-d. The commissioner shall establish targets for health home partic-  
54 ipation by enrollees of special needs managed care plans designated



pursuant to subdivision four of section three hundred sixty-five-m of this title and by high-risk enrollees of other Medicaid managed care plans operating pursuant to section three hundred sixty-four-j of this title, and shall require the managed care providers to work collaboratively with health homes to achieve such targets. The commissioner may assess penalties under this subdivision against managed care providers that fail to meet the participation targets established pursuant to this subdivision, except that managed care providers shall not be penalized for the failure of a health home to work collaboratively toward meeting the participation targets.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

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

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-1 of this chapter or such employees who provide home and community based services under a demonstration

1 program pursuant to section eleven hundred fifteen of the federal social  
2 security act who are expected to have regular and substantial contact  
3 with children; peace officer; police officer; district attorney or  
4 assistant district attorney; investigator employed in the office of a  
5 district attorney; or other law enforcement official.

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

8 34. The commissioner may, in his or her discretion, require managed  
9 care providers to submit a performing provider system partnership plan  
10 by July first, two thousand eighteen, in accordance with any submission  
11 guidelines issued by the department prior thereto. For purposes of this  
12 subdivision, "performing provider system partnership plan" shall mean a  
13 plan submitted by such managed care providers to the department that  
14 includes both short and long term approaches for effective collaboration  
15 with each performing provider system within its service area. A managed  
16 care provider shall not be penalized for failure to submit such plan if  
17 it has made a good faith attempt to partner with a performing provider  
18 system.

19 § 9. This act shall take effect immediately; provided, however, that  
20 the amendments made to section 364-j of the social services law made by  
21 section eight of this act shall not affect the repeal of such section  
22 and shall be deemed repealed therewith.

23 PART D

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

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

36 § 2. Intentionally omitted.

37 § 3. Intentionally omitted.

38 § 4. Intentionally omitted.

39 § 5. Intentionally omitted.

40 § 6. Intentionally omitted.

41 § 7. Section 3331 of the public health law is amended by adding a new  
42 subdivision 8 to read as follows:

43 8. No opioids shall be prescribed to a patient initiating or being  
44 maintained on opioid treatment for pain which has lasted more than three  
45 months or past the time of normal tissue healing, unless the medical  
46 record contains a written treatment plan that follows generally accepted  
47 national professional or governmental guidelines. The requirements of  
48 this paragraph shall not apply in the case of patients who are being  
49 treated for cancer that is not in remission, who are in hospice or other  
50 end-of-life care, or whose pain is being treated as part of palliative  
51 care practices.

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

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

(a) for state fiscal year two thousand seventeen--two thousand eighteen, be limited to the ten-year rolling average of the medical component of the consumer price index plus five percent and minus a pharmacy savings target of fifty-five million dollars; ~~and~~

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

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

§ 9. The social services law is amended by adding a new section 365-i to read as follows:

§ 365-i. Prescription drugs in medicaid managed care programs. 1. Definitions. (a) The definitions of terms in section two hundred seventy of the public health law shall apply to this section.

(b) As used in this section, unless the context clearly requires otherwise:

(i) "Managed care provider" means a managed care provider under section three hundred sixty-four-j of this article, a managed long term care plan under section forty-four hundred three-f of the public health law, or any other entity that provides or arranges for the provision of medical assistance services and supplies to participants directly or indirectly (including by referral), including case management, including the managed care provider's authorized agents.

(ii) "Participant" means a medical assistance recipient who receives, is required to receive or elects to receive his or her medical assistance services from a managed care provider.

2. Providing and payment for prescription drugs for medicaid managed care provider participants. Prescription drugs eligible for reimbursement under this article prescribed in relation to a service provided by a managed care provider shall be provided and paid for under the preferred drug program and the clinical drug review program under title one of article two-A of the public health law. The managed care provider shall account to and reimburse the department for the net cost to the department for prescription drugs provided to the managed care provider's participants. Payment for prescription drugs shall be included in the capitation payments to the managed care provider for services or supplies provided to a managed care provider's participants.

§ 10. Section 270 of the public health law is amended by adding a new subdivision 15 to read as follows:

15. "Third-party health care payer" has its ordinary meanings and includes an entity such as a fiscal administrator, or administrative services provider that participates in the administration of a third-party health care payer system.

§ 11. The public health law is amended by adding a new section 274-a to read as follows:

§ 274-a. Use of preferred drug program and clinical drug review program. The commissioner shall contract with any third-party health care payer that so chooses, to use the preferred drug program and the clinical drug review program to provide and pay for prescription drugs for the third-party health care payer's enrollees. To contract under this section, the third-party health care payer shall provide coverage

1 for prescription drugs authorized under this title. The third-party  
2 health care payer shall account to and reimburse the department for the  
3 net cost to the department for prescription drugs provided to the third-  
4 party health care payer's enrollees. The contract shall include terms  
5 required by the commissioner.

6 § 12. Intentionally omitted.

7 § 13. Subdivisions 25 and 25-a of section 364-j of the social services  
8 law are REPEALED.

9 § 14. This act shall take effect immediately and shall be deemed to  
10 have been in full force and effect on and after April 1, 2018; provided,  
11 however, that the amendments to paragraph (d) of subdivision 9 of  
12 section 367-a of the social services law made by section one of this act  
13 shall not affect the expiration of such subdivision and shall expire  
14 therewith.

15 PART E

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

19 4. The commissioner of health is authorized to assume responsibility  
20 from a local social services official for the provision and reimburse-  
21 ment of transportation costs under this section. If the commissioner  
22 elects to assume such responsibility, the commissioner shall notify the  
23 local social services official in writing as to the election, the date  
24 upon which the election shall be effective and such information as to  
25 transition of responsibilities as the commissioner deems prudent. The  
26 commissioner is authorized to contract with a transportation manager or  
27 managers to manage transportation services in any local social services  
28 district, other than transportation services provided or arranged for  
29 enrollees of managed long term care plans issued certificates of author-  
30 ity under section forty-four hundred three-f of the public health law;  
31 adult day health care programs located at a licensed residential health  
32 care facility as defined by section twenty-eight hundred one of the  
33 public health law or an approved extension site thereof; and a program  
34 designated as a Program of All-Inclusive Care for the Elderly (PACE) as  
35 authorized by Federal Public law 105-33, subtitle I of title IV of the  
36 Balanced Budget Act of 1997. Any transportation manager or managers  
37 selected by the commissioner to manage transportation services shall  
38 have proven experience in coordinating transportation services in a  
39 geographic and demographic area similar to the area in New York state  
40 within which the contractor would manage the provision of services under  
41 this section. Such a contract or contracts may include responsibility  
42 for: review, approval and processing of transportation orders; manage-  
43 ment of the appropriate level of transportation based on documented  
44 patient medical need; and development of new technologies leading to  
45 efficient transportation services. If the commissioner elects to assume  
46 such responsibility from a local social services district, the commis-  
47 sioner shall examine and, if appropriate, adopt quality assurance meas-  
48 ures that may include, but are not limited to, global positioning track-  
49 ing system reporting requirements and service verification mechanisms.  
50 Any and all reimbursement rates developed by transportation managers  
51 under this subdivision shall be subject to the review and approval of  
52 the commissioner.

53 § 2. Intentionally omitted.

54 § 3. Intentionally omitted.

§ 4. This act shall take effect October 1, 2018; provided, however, that the amendments to subdivision 4 of section 365-h of the social services law made by section one of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith.

## PART F

Intentionally Omitted

## PART G

Intentionally Omitted

## PART H

Intentionally Omitted

## PART I

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

34. Monies paid by the department to managed care providers are public funds and retain their status as public funds regardless of any payments made by the managed care provider to subcontractors, medical service providers, or other entities.

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

35. Recovery of overpayments from network providers. (a) Where the Medicaid inspector general, during the course of an audit or investigation, identifies improper medical assistance payments made by a managed care provider to its subcontractor or subcontractors or provider or providers, the state shall have the right to recover the improper payment from the subcontractor or subcontractors, provider or providers, or the managed care provider.

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

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

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

36. Reporting acts of fraud. (a) All managed care providers shall, without undue delay, refer to the office of the Medicaid inspector general any case reasonably believed to be potential fraud, waste, or abuse.

(b) Any managed care provider making a complaint or furnishing a report, referral, information or records pursuant to this section shall be immune from civil liability for making such complaint, referral, or



1 report when such complaint, referral, or report was reasonable and made  
2 in good faith.

3 (c) A managed care provider that willfully fails to make a referral to  
4 the Medicaid inspector general in accordance with paragraph (a) of this  
5 subdivision when there is actual knowledge that an act of fraud is being  
6 or has been committed may be subject to a civil penalty in an amount not  
7 exceeding one hundred thousand dollars.

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

10 § 37. Violations of medical assistance program laws, regulations or  
11 directives; penalties. 1. (a) Any provider or entity participating in  
12 the medical assistance program that willfully violates any statute,  
13 rule, or regulation of the medical assistance program, may be subject to  
14 a civil penalty in an amount not exceeding the sum of five thousand  
15 dollars.

16 (b) Every violation of any statute, rule, or regulation of the medical  
17 assistance program shall be a separate and distinct failure or violation  
18 and, in the case of a continuing violation, every day's continuance  
19 thereof shall be a separate and distinct offense.

20 2. (a) Any entity authorized to operate under article forty-four of  
21 this chapter or article forty-three of the insurance law, including any  
22 subcontractor or provider thereof, and participating in the medical  
23 assistance program that willfully fails to comply with or violates any  
24 statute, rule, or regulation of the medical assistance program, or any  
25 term of its contract with the department, may be subject to a civil  
26 penalty in an amount not exceeding the sum of five thousand dollars.

27 (b) Every failure to comply with or violation of any statute, rule,  
28 regulation, or directive of the medical assistance program, or term of  
29 the entity's contract with the department shall be a separate and  
30 distinct failure or violation and, in the case of a continuing  
31 violation, every day's continuance thereof shall be a separate and  
32 distinct offense.

33 3. Any entity participating in the medical assistance program and  
34 authorized to operate under article forty-four of this chapter or arti-  
35 cle forty-three of the insurance law that submits a cost report to the  
36 medical assistance program that contains data which is intentionally  
37 inaccurate, may be subject to a civil penalty in an amount not exceeding  
38 one hundred thousand dollars.

39 4. Any entity authorized to operate under article forty-four of this  
40 chapter or article forty-three of the insurance law, and participating  
41 in the medical assistance program that intentionally submits inaccurate  
42 encounter data to the state may be subject to a civil penalty in an  
43 amount not exceeding one hundred thousand dollars.

44 5. The Medicaid inspector general shall have the discretion to reduce  
45 or eliminate a civil penalty under this section and also shall, in  
46 consultation with the commissioner, consider the following prior to  
47 assessing a civil penalty against a provider or entity under this  
48 section and note in its written determination any such circumstances  
49 considered:

50 (a) the effect, if any, on the quality of medical care provided to or  
51 arranged for recipients of medical assistance as a result of the acts of  
52 the provider or entity;

53 (b) the amount of monetary loss to the program;

54 (c) any prior violations committed by the provider or entity relating  
55 to the medical assistance program or Medicare which resulted in either  
56 criminal or administrative sanction, penalty, or fine;



1 (d) the degree to which factors giving rise to the proscribed actions  
2 were in the control or out of the control of the provider or entity;  
3 and/or

4 (e) any other facts relating to the nature and seriousness of the  
5 violations including any exculpatory or mitigating information.

6 6. The Medicaid inspector general shall, in consultation with the  
7 commissioner, promulgate regulations enumerating those violations which  
8 may result in a civil penalty pursuant to subdivisions one and two of  
9 this section and the range and the amounts of any civil penalties which  
10 may be assessed under this section, the hearing process by which a  
11 penalty may be assessed, and the appeal rights afforded to individuals  
12 or entities subject to a fine. The regulations promulgated under this  
13 subdivision shall be no less protective of due process than section  
14 twelve-a of the this article.

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

18 (d) (i) Penalties under this subdivision may be applied to any and all  
19 circumstances described in paragraph (b) of this subdivision until the  
20 managed care [organization] provider complies with the requirements for  
21 submission of encounter data. (ii) No penalties for late, incomplete or  
22 inaccurate encounter data shall be assessed against managed care [organ-  
23 izations] providers in addition to those provided for in this subdivi-  
24 sion, provided, however, that nothing in this paragraph shall prohibit  
25 the imposition of penalties, in cases of fraud or abuse, otherwise  
26 authorized by law.

27 § 6. This act shall take effect on the ninetieth day after it shall  
28 have become a law; provided, however, that the amendments to section  
29 364-j of the social services law made by sections one, two, three and  
30 five of this act shall not affect the repeal of such section and shall  
31 be deemed repealed therewith.

32 PART J

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

36 (h) knowingly conceals or knowingly and improperly avoids or decreases  
37 an obligation to pay or transmit money or property to the state or a  
38 local government, or conspires to do the same; shall be liable to the  
39 state or a local government, as applicable, for a civil penalty of not  
40 less than six thousand dollars and not more than twelve thousand  
41 dollars, as adjusted to be equal to the civil penalty allowed under the  
42 federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, as  
43 adjusted for inflation by the Federal Civil Penalties Inflation Adjust-  
44 ment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410),  
45 plus three times the amount of all damages, including consequential  
46 damages, which the state or local government sustains because of the act  
47 of that person.

48 § 2. This act shall take effect immediately.

49 PART K

50 Section 1. Section 3612 of the public health law is amended by adding  
51 a new subdivision 8 to read as follows:

1     8. (a) The commissioner may require a certified home health agency or  
2 licensed home care services agency to report on the costs incurred by  
3 the certified home health agency or licensed home care services agency  
4 in rendering health care services to Medicaid beneficiaries. The depart-  
5 ment of health may specify the frequency and format of such reports,  
6 determine the type and amount of information to be submitted, and  
7 require the submission of supporting documentation, provided, however,  
8 that the department shall provide no less than ninety calendar days'  
9 notice before such reports are due.

10     (b) If the department determines that the cost report submitted by a  
11 provider is inaccurate or incomplete, the department shall notify the  
12 provider in writing and advise the provider of the correction or addi-  
13 tional information that the provider must submit. The provider must  
14 submit the corrected or additional information within thirty calendar  
15 days from the date the provider receives the notice.

16     (c) The department shall grant a provider an additional thirty calen-  
17 dar days to submit the original, corrected or additional cost report  
18 when the provider, prior to the date the report is due, submits a writ-  
19 ten request to the department for an extension and establishes to the  
20 department's satisfaction that the provider cannot submit the report by  
21 the date due for reasons beyond the provider's control.

22     (d) All reports shall be certified by the owner, administrator, chief  
23 executive officer, or public official responsible for the operation of  
24 the provider. The cost report form shall include a certification form,  
25 which shall specify who must certify the report.

26     § 1-a. Subdivision 4-a of section 365-f of the social services law is  
27 amended by adding a new paragraph (i) to read as follows:

28     (i) (i) The commissioner may require a fiscal intermediary to report  
29 on the direct care and administrative costs of personal assistance  
30 services as accounted for by the fiscal intermediary. The department may  
31 specify the frequency and format of such reports, determine the type and  
32 amount of information to be submitted, and require the submission of  
33 supporting documentation, provided, however, that the department shall  
34 provide no less than ninety calendar days' notice before such reports  
35 are due.

36     (ii) If the department determines that the cost report submitted by a  
37 provider is inaccurate or incomplete, the department shall notify the  
38 provider in writing and advise the provider of the correction or addi-  
39 tional information that the provider must submit. The provider must  
40 submit the corrected or additional information within thirty calendar  
41 days from the date the provider receives the notice.

42     (iii) The department shall grant a provider an additional thirty  
43 calendar days to submit the original, corrected or additional cost  
44 report when the provider, prior to the date the report is due, submits a  
45 written request to the department for an extension and establishes to  
46 the department's satisfaction that the provider cannot submit the report  
47 by the date due for reasons beyond the provider's control.

48     (iv) All reports shall be certified by the owner, administrator, chief  
49 executive officer, or public official responsible for the operation of  
50 the provider. The cost report form shall include a certification form,  
51 which shall specify who must certify the report.

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

1 1. For state fiscal years 2011-12 through [~~2018-19~~] ~~2019-20~~, the  
2 director of the budget, in consultation with the commissioner of health  
3 referenced as "commissioner" for purposes of this section, shall assess  
4 on a monthly basis, as reflected in monthly reports pursuant to subdivi-  
5 sion five of this section known and projected department of health state  
6 funds medicaid expenditures by category of service and by geographic  
7 regions, as defined by the commissioner, and if the director of the  
8 budget determines that such expenditures are expected to cause medicaid  
9 disbursements for such period to exceed the projected department of  
10 health medicaid state funds disbursements in the enacted budget finan-  
11 cial plan pursuant to subdivision 3 of section 23 of the state finance  
12 law, the commissioner of health, in consultation with the director of  
13 the budget, shall develop a medicaid savings allocation plan to limit  
14 such spending to the aggregate limit level specified in the enacted  
15 budget financial plan, provided, however, such projections may be  
16 adjusted by the director of the budget to account for any changes in the  
17 New York state federal medical assistance percentage amount established  
18 pursuant to the federal social security act, changes in provider reven-  
19 ues, reductions to local social services district medical assistance  
20 administration, minimum wage increases, and beginning April 1, 2012 the  
21 operational costs of the New York state medical indemnity fund and state  
22 costs or savings from the basic health plan. Such projections may be  
23 adjusted by the director of the budget to account for increased or expe-  
24 dited department of health state funds medicaid expenditures as a result  
25 of a natural or other type of disaster, including a governmental decla-  
26 ration of emergency.

27 § 3. This act shall take effect immediately.

28 PART L

29 Intentionally Omitted

30 PART M

31 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter  
32 266 of the laws of 1986, amending the civil practice law and rules and  
33 other laws relating to malpractice and professional medical conduct, as  
34 amended by section 15 of part H of chapter 57 of the laws of 2017, is  
35 amended to read as follows:

36 (a) The superintendent of financial services and the commissioner of  
37 health or their designee shall, from funds available in the hospital  
38 excess liability pool created pursuant to subdivision 5 of this section,  
39 purchase a policy or policies for excess insurance coverage, as author-  
40 ized by paragraph 1 of subsection (e) of section 5502 of the insurance  
41 law; or from an insurer, other than an insurer described in section 5502  
42 of the insurance law, duly authorized to write such coverage and actual-  
43 ly writing medical malpractice insurance in this state; or shall  
44 purchase equivalent excess coverage in a form previously approved by the  
45 superintendent of financial services for purposes of providing equiv-  
46 alent excess coverage in accordance with section 19 of chapter 294 of  
47 the laws of 1985, for medical or dental malpractice occurrences between  
48 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,  
49 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June  
50 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991  
51 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July  
52 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,

1 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June  
2 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998  
3 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July  
4 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,  
5 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June  
6 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005  
7 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July  
8 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,  
9 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June  
10 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012  
11 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July  
12 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,  
13 between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and  
14 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse  
15 the hospital where the hospital purchases equivalent excess coverage as  
16 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this  
17 section for medical or dental malpractice occurrences between July 1,  
18 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between  
19 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,  
20 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June  
21 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994  
22 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July  
23 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,  
24 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June  
25 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001  
26 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July  
27 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,  
28 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June  
29 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008  
30 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July  
31 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,  
32 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June  
33 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015  
34 and June 30, 2016, between July 1, 2016 and June 30, 2017, [~~and~~] between  
35 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,  
36 2019 for physicians or dentists certified as eligible for each such  
37 period or periods pursuant to subdivision 2 of this section by a general  
38 hospital licensed pursuant to article 28 of the public health law;  
39 provided that no single insurer shall write more than fifty percent of  
40 the total excess premium for a given policy year; and provided, however,  
41 that such eligible physicians or dentists must have in force an individ-  
42 ual policy, from an insurer licensed in this state of primary malprac-  
43 tice insurance coverage in amounts of no less than one million three  
44 hundred thousand dollars for each claimant and three million nine  
45 hundred thousand dollars for all claimants under that policy during the  
46 period of such excess coverage for such occurrences or be endorsed as  
47 additional insureds under a hospital professional liability policy which  
48 is offered through a voluntary attending physician ("channeling")  
49 program previously permitted by the superintendent of financial services  
50 during the period of such excess coverage for such occurrences. During  
51 such period, such policy for excess coverage or such equivalent excess  
52 coverage shall, when combined with the physician's or dentist's primary  
53 malpractice insurance coverage or coverage provided through a voluntary  
54 attending physician ("channeling") program, total an aggregate level of  
55 two million three hundred thousand dollars for each claimant and six  
56 million nine hundred thousand dollars for all claimants from all such

1 policies with respect to occurrences in each of such years provided,  
2 however, if the cost of primary malpractice insurance coverage in excess  
3 of one million dollars, but below the excess medical malpractice insur-  
4 ance coverage provided pursuant to this act, exceeds the rate of nine  
5 percent per annum, then the required level of primary malpractice insur-  
6 ance coverage in excess of one million dollars for each claimant shall  
7 be in an amount of not less than the dollar amount of such coverage  
8 available at nine percent per annum; the required level of such coverage  
9 for all claimants under that policy shall be in an amount not less than  
10 three times the dollar amount of coverage for each claimant; and excess  
11 coverage, when combined with such primary malpractice insurance cover-  
12 age, shall increase the aggregate level for each claimant by one million  
13 dollars and three million dollars for all claimants; and provided  
14 further, that, with respect to policies of primary medical malpractice  
15 coverage that include occurrences between April 1, 2002 and June 30,  
16 2002, such requirement that coverage be in amounts no less than one  
17 million three hundred thousand dollars for each claimant and three  
18 million nine hundred thousand dollars for all claimants for such occur-  
19 rences shall be effective April 1, 2002.

20 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,  
21 amending the civil practice law and rules and other laws relating to  
22 malpractice and professional medical conduct, as amended by section 16  
23 of part H of chapter 57 of the laws of 2017, is amended to read as  
24 follows:

25 (3)(a) The superintendent of financial services shall determine and  
26 certify to each general hospital and to the commissioner of health the  
27 cost of excess malpractice insurance for medical or dental malpractice  
28 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988  
29 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July  
30 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,  
31 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June  
32 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995  
33 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July  
34 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,  
35 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June  
36 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002  
37 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July  
38 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,  
39 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June  
40 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009  
41 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July  
42 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and  
43 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June  
44 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,  
45 2016 and June 30, 2017, ~~and~~ between July 1, 2017 and June 30, 2018,  
46 and between July 1, 2018 and June 30, 2019 allocable to each general  
47 hospital for physicians or dentists certified as eligible for purchase  
48 of a policy for excess insurance 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.

51 (b) The superintendent of financial services shall determine and  
52 certify to each general hospital and to the commissioner of health the  
53 cost of excess malpractice insurance or equivalent excess coverage for  
54 medical or dental malpractice occurrences between July 1, 1987 and June  
55 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
56 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July



1 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
2 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
3 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
4 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
5 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
6 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
7 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
8 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
9 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
10 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June  
11 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
12 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July  
13 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,  
14 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June  
15 30, 2016, [and] between July 1, 2016 and June 30, 2017, [and] between  
16 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,  
17 2019 allocable to each general hospital for physicians or dentists  
18 certified as eligible for purchase of a policy for excess insurance  
19 coverage or equivalent excess coverage by such general hospital in  
20 accordance with subdivision 2 of this section, and may amend such deter-  
21 mination and certification as necessary. The superintendent of financial  
22 services shall determine and certify to each general hospital and to the  
23 commissioner of health the ratable share of such cost allocable to the  
24 period July 1, 1987 to December 31, 1987, to the period January 1, 1988  
25 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to  
26 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989  
27 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to  
28 the period July 1, 1990 to December 31, 1990, to the period January 1,  
29 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,  
30 to the period January 1, 1992 to June 30, 1992, to the period July 1,  
31 1992 to December 31, 1992, to the period January 1, 1993 to June 30,  
32 1993, to the period July 1, 1993 to December 31, 1993, to the period  
33 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December  
34 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period  
35 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June  
36 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period  
37 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December  
38 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period  
39 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June  
40 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period  
41 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December  
42 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period  
43 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,  
44 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,  
45 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to  
46 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007  
47 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the  
48 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and  
49 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the  
50 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and  
51 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the  
52 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June  
53 30, 2017, and to the period July 1, 2017 [and] to June 30, 2018, and to  
54 the period July 1, 2018 to June 30, 2019.

55 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section  
56 18 of chapter 266 of the laws of 1986, amending the civil practice law



1 and rules and other laws relating to malpractice and professional  
2 medical conduct, as amended by section 17 of part H of chapter 57 of the  
3 laws of 2017, are amended to read as follows:

4 (a) To the extent funds available to the hospital excess liability  
5 pool pursuant to subdivision 5 of this section as amended, and pursuant  
6 to section 6 of part J of chapter 63 of the laws of 2001, as may from  
7 time to time be amended, which amended this subdivision, are insuffi-  
8 cient to meet the costs of excess insurance coverage or equivalent  
9 excess coverage for coverage periods during the period July 1, 1992 to  
10 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during  
11 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995  
12 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,  
13 during the period July 1, 1997 to June 30, 1998, during the period July  
14 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,  
15 2000, during the period July 1, 2000 to June 30, 2001, during the period  
16 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to  
17 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during  
18 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004  
19 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,  
20 during the period July 1, 2006 to June 30, 2007, during the period July  
21 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,  
22 2009, during the period July 1, 2009 to June 30, 2010, during the period  
23 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June  
24 30, 2012, during the period July 1, 2012 to June 30, 2013, during the  
25 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to  
26 June 30, 2015, during the period July 1, 2015 ~~[and]~~ to June 30, 2016,  
27 during the period July 1, 2016 ~~[and]~~ to June 30, 2017, ~~[and]~~ during the  
28 period July 1, 2017 ~~[and]~~ to June 30, 2018, and during the period July  
29 1, 2018 to June 30, 2019 allocated or reallocated in accordance with  
30 paragraph (a) of subdivision 4-a of this section to rates of payment  
31 applicable to state governmental agencies, each physician or dentist for  
32 whom a policy for excess insurance coverage or equivalent excess cover-  
33 age is purchased for such period shall be responsible for payment to the  
34 provider of excess insurance coverage or equivalent excess coverage of  
35 an allocable share of such insufficiency, based on the ratio of the  
36 total cost of such coverage for such physician to the sum of the total  
37 cost of such coverage for all physicians applied to such insufficiency.

38 (b) Each provider of excess insurance coverage or equivalent excess  
39 coverage covering the period July 1, 1992 to June 30, 1993, or covering  
40 the period July 1, 1993 to June 30, 1994, or covering the period July 1,  
41 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,  
42 1996, or covering the period July 1, 1996 to June 30, 1997, or covering  
43 the period July 1, 1997 to June 30, 1998, or covering the period July 1,  
44 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,  
45 2000, or covering the period July 1, 2000 to June 30, 2001, or covering  
46 the period July 1, 2001 to October 29, 2001, or covering the period  
47 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to  
48 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or  
49 covering the period July 1, 2004 to June 30, 2005, or covering the peri-  
50 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to  
51 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or  
52 covering the period July 1, 2008 to June 30, 2009, or covering the peri-  
53 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to  
54 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or  
55 covering the period July 1, 2012 to June 30, 2013, or covering the peri-  
56 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to

1 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or  
2 covering the period July 1, 2016 to June 30, 2017, or covering the peri-  
3 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to  
4 June 30, 2019 shall notify a covered physician or dentist by mail,  
5 mailed to the address shown on the last application for excess insurance  
6 coverage or equivalent excess coverage, of the amount due to such  
7 provider from such physician or dentist for such coverage period deter-  
8 mined in accordance with paragraph (a) of this subdivision. Such amount  
9 shall be due from such physician or dentist to such provider of excess  
10 insurance coverage or equivalent excess coverage in a time and manner  
11 determined by the superintendent of financial services.

12 (c) If a physician or dentist liable for payment of a portion of the  
13 costs of excess insurance coverage or equivalent excess coverage cover-  
14 ing the period July 1, 1992 to June 30, 1993, or covering the period  
15 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to  
16 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or  
17 covering the period July 1, 1996 to June 30, 1997, or covering the peri-  
18 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to  
19 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or  
20 covering the period July 1, 2000 to June 30, 2001, or covering the peri-  
21 od July 1, 2001 to October 29, 2001, or covering the period April 1,  
22 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,  
23 2003, or covering the period July 1, 2003 to June 30, 2004, or covering  
24 the period July 1, 2004 to June 30, 2005, or covering the period July 1,  
25 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,  
26 2007, or covering the period July 1, 2007 to June 30, 2008, or covering  
27 the period July 1, 2008 to June 30, 2009, or covering the period July 1,  
28 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,  
29 2011, or covering the period July 1, 2011 to June 30, 2012, or covering  
30 the period July 1, 2012 to June 30, 2013, or covering the period July 1,  
31 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,  
32 2015, or covering the period July 1, 2015 to June 30, 2016, or covering  
33 the period July 1, 2016 to June 30, 2017, or covering the period July 1,  
34 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,  
35 2019 determined in accordance with paragraph (a) of this subdivision  
36 fails, refuses or neglects to make payment to the provider of excess  
37 insurance coverage or equivalent excess coverage in such time and manner  
38 as determined by the superintendent of financial services pursuant to  
39 paragraph (b) of this subdivision, excess insurance coverage or equiv-  
40 alent excess coverage purchased for such physician or dentist in accord-  
41 ance with this section for such coverage period shall be cancelled and  
42 shall be null and void as of the first day on or after the commencement  
43 of a policy period where the liability for payment pursuant to this  
44 subdivision has not been met.

45 (d) Each provider of excess insurance coverage or equivalent excess  
46 coverage shall notify the superintendent of financial services and the  
47 commissioner of health or their designee of each physician and dentist  
48 eligible for purchase of a policy for excess insurance coverage or  
49 equivalent excess coverage covering the period July 1, 1992 to June 30,  
50 1993, or covering the period July 1, 1993 to June 30, 1994, or covering  
51 the period July 1, 1994 to June 30, 1995, or covering the period July 1,  
52 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,  
53 1997, or covering the period July 1, 1997 to June 30, 1998, or covering  
54 the period July 1, 1998 to June 30, 1999, or covering the period July 1,  
55 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,  
56 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-

ing the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019 that has made payment to such provider of excess insurance coverage or equivalent excess coverage in accordance with paragraph (b) of this subdivision and of each physician and dentist who has failed, refused or neglected to make such payment.

(e) A provider of excess insurance coverage or equivalent excess coverage shall refund to the hospital excess liability pool any amount allocable to the period July 1, 1992 to June 30, 1993, and to the period July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001, and to the period April 1, 2002 to June 30, 2002, and to the period July 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30, 2004, and to the period July 1, 2004 to June 30, 2005, and to the period July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and to the period July 1, 2014 to June 30, 2015, and to the period July 1, 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and to the period July 1, 2017 to June 30, 2018, and to the period July 1, 2018 to June 30, 2019 received from the hospital excess liability pool for purchase of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to October 29, 2001, and covering the period April 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30, 2009, and covering the period July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30, 2011, and covering the period

1 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to  
2 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,  
3 and covering the period July 1, 2014 to June 30, 2015, and covering the  
4 period July 1, 2015 to June 30, 2016, and covering the period July 1,  
5 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,  
6 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-  
7 cian or dentist where such excess insurance coverage or equivalent  
8 excess coverage is cancelled in accordance with paragraph (c) of this  
9 subdivision.

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

14 § 40. The superintendent of financial services shall establish rates  
15 for policies providing coverage for physicians and surgeons medical  
16 malpractice for the periods commencing July 1, 1985 and ending June 30,  
17 ~~2018~~ 2019; provided, however, that notwithstanding any other provision  
18 of law, the superintendent shall not establish or approve any increase  
19 in rates for the period commencing July 1, 2009 and ending June 30,  
20 2010. The superintendent shall direct insurers to establish segregated  
21 accounts for premiums, payments, reserves and investment income attrib-  
22 utable to such premium periods and shall require periodic reports by the  
23 insurers regarding claims and expenses attributable to such periods to  
24 monitor whether such accounts will be sufficient to meet incurred claims  
25 and expenses. On or after July 1, 1989, the superintendent shall impose  
26 a surcharge on premiums to satisfy a projected deficiency that is  
27 attributable to the premium levels established pursuant to this section  
28 for such periods; provided, however, that such annual surcharge shall  
29 not exceed eight percent of the established rate until July 1, ~~2018~~  
30 2019, at which time and thereafter such surcharge shall not exceed twen-  
31 ty-five percent of the approved adequate rate, and that such annual  
32 surcharges shall continue for such period of time as shall be sufficient  
33 to satisfy such deficiency. The superintendent shall not impose such  
34 surcharge during the period commencing July 1, 2009 and ending June 30,  
35 2010. On and after July 1, 1989, the surcharge prescribed by this  
36 section shall be retained by insurers to the extent that they insured  
37 physicians and surgeons during the July 1, 1985 through June 30, ~~2018~~  
38 2019 policy periods; in the event and to the extent physicians and  
39 surgeons were insured by another insurer during such periods, all or a  
40 pro rata share of the surcharge, as the case may be, shall be remitted  
41 to such other insurer in accordance with rules and regulations to be  
42 promulgated by the superintendent. Surcharges collected from physicians  
43 and surgeons who were not insured during such policy periods shall be  
44 apportioned among all insurers in proportion to the premium written by  
45 each insurer during such policy periods; if a physician or surgeon was  
46 insured by an insurer subject to rates established by the superintendent  
47 during such policy periods, and at any time thereafter a hospital,  
48 health maintenance organization, employer or institution is responsible  
49 for responding in damages for liability arising out of such physician's  
50 or surgeon's practice of medicine, such responsible entity shall also  
51 remit to such prior insurer the equivalent amount that would then be  
52 collected as a surcharge if the physician or surgeon had continued to  
53 remain insured by such prior insurer. In the event any insurer that  
54 provided coverage during such policy periods is in liquidation, the  
55 property/casualty insurance security fund shall receive the portion of  
56 surcharges to which the insurer in liquidation would have been entitled.

1 The surcharges authorized herein shall be deemed to be income earned for  
2 the purposes of section 2303 of the insurance law. The superintendent,  
3 in establishing adequate rates and in determining any projected defi-  
4 ciency pursuant to the requirements of this section and the insurance  
5 law, shall give substantial weight, determined in his discretion and  
6 judgment, to the prospective anticipated effect of any regulations  
7 promulgated and laws enacted and the public benefit of stabilizing  
8 malpractice rates and minimizing rate level fluctuation during the peri-  
9 od of time necessary for the development of more reliable statistical  
10 experience as to the efficacy of such laws and regulations affecting  
11 medical, dental or podiatric malpractice enacted or promulgated in 1985,  
12 1986, by this act and at any other time. Notwithstanding any provision  
13 of the insurance law, rates already established and to be established by  
14 the superintendent pursuant to this section are deemed adequate if such  
15 rates would be adequate when taken together with the maximum authorized  
16 annual surcharges to be imposed for a reasonable period of time whether  
17 or not any such annual surcharge has been actually imposed as of the  
18 establishment of such rates.

19 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of  
20 chapter 63 of the laws of 2001, amending chapter 266 of the laws of  
21 1986, amending the civil practice law and rules and other laws relating  
22 to malpractice and professional medical conduct, relating to the effec-  
23 tiveness of certain provisions of such chapter, as amended by section 19  
24 of part H of chapter 57 of the laws of 2017, are amended to read as  
25 follows:

26 § 5. The superintendent of financial services and the commissioner of  
27 health shall determine, no later than June 15, 2002, June 15, 2003, June  
28 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,  
29 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,  
30 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, ~~and~~  
31 June 15, 2018, and June 15, 2019 the amount of funds available in the  
32 hospital excess liability pool, created pursuant to section 18 of chap-  
33 ter 266 of the laws of 1986, and whether such funds are sufficient for  
34 purposes of purchasing excess insurance coverage for eligible partic-  
35 ipating physicians and dentists during the period July 1, 2001 to June  
36 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,  
37 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,  
38 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,  
39 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,  
40 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,  
41 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,  
42 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,  
43 2016, or July 1, 2016 to June 30, 2017, or ~~to~~ July 1, 2017 to June 30,  
44 2018, or July 1, 2018 to June 30, 2019 as applicable.

45 (a) This section shall be effective only upon a determination, pursu-  
46 ant to section five of this act, by the superintendent of financial  
47 services and the commissioner of health, and a certification of such  
48 determination to the state director of the budget, the chair of the  
49 senate committee on finance and the chair of the assembly committee on  
50 ways and means, that the amount of funds in the hospital excess liabil-  
51 ity pool, created pursuant to section 18 of chapter 266 of the laws of  
52 1986, is insufficient for purposes of purchasing excess insurance cover-  
53 age for eligible participating physicians and dentists during the period  
54 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July  
55 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,  
56 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007



1 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to  
2 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June  
3 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,  
4 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,  
5 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,  
6 2018, or July 1, 2018 to June 30, 2019 as applicable.

7 (e) The commissioner of health shall transfer for deposit to the  
8 hospital excess liability pool created pursuant to section 18 of chapter  
9 266 of the laws of 1986 such amounts as directed by the superintendent  
10 of financial services for the purchase of excess liability insurance  
11 coverage for eligible participating physicians and dentists for the  
12 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,  
13 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,  
14 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
15 2007, as applicable, and the cost of administering the hospital excess  
16 liability pool for such applicable policy year, pursuant to the program  
17 established in chapter 266 of the laws of 1986, as amended, no later  
18 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June  
19 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,  
20 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,  
21 2015, June 15, 2016, June 15, 2017, [~~and~~] June 15, 2018, and June 15,  
22 2019 as applicable.

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

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

52 § 7. This act shall take effect immediately.

53 PART N

54 Intentionally Omitted



## PART O

Section 1. Intentionally omitted.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

§ 7. Intentionally omitted.

§ 8. Intentionally omitted.

§ 9. Intentionally omitted.

§ 10. Intentionally omitted.

§ 11. Intentionally omitted.

§ 12. Intentionally omitted.

§ 13. Intentionally omitted.

§ 14. Intentionally omitted.

§ 15. Intentionally omitted.

§ 16. Intentionally omitted.

§ 17. Providers of early intervention services shall receive a two percent increase in rates of reimbursement for early intervention services provided that for payments made for early intervention services to persons eligible for medical assistance pursuant to title eleven of article five of the social services law, the two percent increase shall be subject to the availability of federal financial participation.

§ 17-a. The public health law is amended by adding a new section 2807-o to read as follows:

§ 2807-o. Early intervention services pool. 1. Definitions. The following words or phrases as used in this section shall have the following meanings:

(a) "Early intervention services" shall mean services delivered to an eligible child, pursuant to an individualized family service plan under the early intervention program.

(b) "Early intervention program" shall mean the early intervention program for toddlers with disabilities and their families as created by title two-A of article twenty-five of this chapter.

(c) "Municipality" shall mean any county outside of the city of New York or the city of New York.

2. Payments for early intervention services. (a) The commissioner shall, from funds allocated for such purpose under paragraph (g) of subdivision six of section twenty-eight hundred seven-s of this article, make payments to municipalities and the state for the delivery of early intervention services.

(b) Payments under this subdivision shall be made to municipalities and the state by the commissioner. Each municipality and the state of New York shall receive a share of such payments equal to its proportionate share of the total approved statewide dollars not reimbursable by the medical assistance program paid to providers of early intervention services by the state and municipalities on account of early intervention services in the last complete state fiscal year for which such data is available.

§ 17-b. Subdivision 6 of section 2807-s of the public health law is amended by adding two new paragraphs (g) and (h) to read as follows:

(g) A further gross statewide amount for the state fiscal year two thousand nineteen and each state fiscal year thereafter shall be twenty-five million dollars.

1 (h) The amount specified in paragraph (g) of this subdivision shall be  
2 allocated under section twenty-eight hundred seven-o of this article  
3 among the municipalities and the state of New York based on each munici-  
4 pality's share and the state's share of early intervention program  
5 expenditures not reimbursable by the medical assistance program for the  
6 latest twelve month period for which such data is available.

7 § 17-c. Subdivision 7 of section 2807-s of the public health law is  
8 amended by adding a new paragraph (d) to read as follows:

9 (d) funds shall be added to the funds collected by the commissioner  
10 for distribution in accordance with section twenty-eight hundred seven-o  
11 of this article, in the following amount: fifteen million dollars for  
12 the period beginning April first, two thousand nineteen, and continuing  
13 each state fiscal year thereafter.

14 § 17-d. Subdivision 1 of section 2557 of the public health law, as  
15 amended by section 4 of part C of chapter 1 of the laws of 2002, is  
16 amended to read as follows:

17 1. The approved costs for an eligible child who receives an evaluation  
18 and early intervention services pursuant to this title shall be a charge  
19 upon the municipality wherein the eligible child resides or, where the  
20 services are covered by the medical assistance program, upon the social  
21 services district of fiscal responsibility with respect to those eligi-  
22 ble children who are also eligible for medical assistance. All approved  
23 costs shall be paid in the first instance and at least quarterly by the  
24 appropriate governing body or officer of the municipality upon vouchers  
25 presented and audited in the same manner as the case of other claims  
26 against the municipality. Notwithstanding the insurance law or regu-  
27 lations thereunder relating to the permissible exclusion of payments for  
28 services under governmental programs, no such exclusion shall apply with  
29 respect to payments made pursuant to this title. Notwithstanding the  
30 insurance law or any other law or agreement to the contrary, benefits  
31 under this title shall be considered secondary to ~~[any plan of insurance~~  
32 ~~or state government benefit]~~ the medical assistance program under which  
33 an eligible child may have coverage. ~~[Nothing in this section shall~~  
34 ~~increase or enhance coverages provided for within an insurance contract~~  
35 ~~subject to the provisions of this title.]~~

36 § 17-e. Subdivision 2 of section 2557 of the public health law, as  
37 amended by section 9-a of part A of chapter 56 of the laws of 2012, is  
38 amended to read as follows:

39 2. The department shall reimburse the approved costs paid by a munici-  
40 pality for the purposes of this title, other than those reimbursable by  
41 the medical assistance program ~~[or by third party payors]~~, in an amount  
42 of fifty percent of the amount expended in accordance with the rules and  
43 regulations of the commissioner; provided, however, that in the  
44 discretion of the department and with the approval of the director of  
45 the division of the budget, the department may reimburse municipalities  
46 in an amount greater than fifty percent of the amount expended. Such  
47 state reimbursement to the municipality shall not be paid prior to April  
48 first of the year in which the approved costs are paid by the munici-  
49 pality, provided, however that, subject to the approval of the director  
50 of the budget, the department may pay such state aid reimbursement to  
51 the municipality prior to such date.

52 § 17-f. The section heading of section 2559 of the public health law,  
53 as added by chapter 428 of the laws of 1992, is amended to read as  
54 follows:

55 ~~[Third party insurance and medical]~~ Medical assistance program  
56 payments.

§ 17-g. Subdivision 3 of section 2559 of the public health law, as added by chapter 428 of the laws of 1992, paragraphs (a), (c) and (d) as amended by section 11 of part A of chapter 56 of the laws of 2012 and paragraph (b) as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

3. (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 limit specified in the insured's policy.~~

~~(i) Parents shall provide the municipality and service coordinator information on any insurance policy, plan or contract under which an eligible child has coverage.~~

~~(ii)]~~ Parents shall provide the municipality and the service coordinator with a written referral from a primary care provider as documentation, for eligible children, of the medical necessity of early intervention services.

~~[(iii) providers]~~ (b) Providers shall utilize the department's fiscal agent and data system for claiming payment for evaluations and services rendered under the early intervention program.

~~[(b) The commissioner, in consultation with the director of budget and the superintendent of financial services, shall promulgate regulations providing public reimbursement for deductibles and copayments which are imposed under an insurance policy or health benefit plan to the extent that such deductibles and copayments are applicable to early intervention services.~~

~~(c) Payments made for early intervention services under an insurance policy or health benefit plan, including payments made by the medical assistance program or other governmental third party payor, which are provided as part of an IFSP pursuant to section twenty five hundred forty five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of the chapter of the laws of nineteen hundred ninety two which added this title.~~

~~(d)]~~ (c) A municipality, or its designee, and a provider shall be subrogated, to the extent of the expenditures by such municipality or for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from ~~[third party reimbursement]~~ the medical assistance program. The provider shall submit notice to the insurer or plan administrator of his or her exercise of such right of subrogation upon the provider's assignment as the early intervention service provider for the child. The right of subrogation does not attach to benefits paid or provided ~~[under any health insurance policy or health benefits plan]~~ prior to receipt of written notice of the exercise of subrogation rights ~~[by the insurer or plan administrator providing such benefits]~~. Notwithstanding any inconsistent provision of this title, except as provided for herein, no third party payor other than the medical assistance program shall be required to reimburse for early intervention services provided under this title.

§ 17-h. Subdivision 3 of section 2543 of the public health law is REPEALED.

§ 17-i. Section 3235-a of the insurance law is REPEALED.

§ 17-j. Subparagraph (F) of paragraph 25 of subsection (i) of section 3216 of the insurance law is REPEALED.

§ 17-k. Subparagraph (F) of paragraph 17 of subsection (1) of section 3221 of the insurance law is REPEALED.

§ 17-l. Paragraph 6 of subsection (ee) of section 4303 of the insurance law is REPEALED.

§ 18. This act shall take effect immediately; provided, however, that the amendments to section 2807-s of the public health law made by sections seventeen-b and seventeen-c of this act shall not affect the expiration of such section and shall be deemed to expire therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the commissioner of health, on or before such effective date.

#### PART P

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

Nine million one hundred twenty thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, and two million two hundred eighty thousand dollars for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, nine million one hundred twenty thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, and up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand ~~twenty~~ eighteen, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section to be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be available for distribution as follows:

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

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

§ 3. Intentionally omitted.

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

## PART Q

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

§ 2825-f. Health care facility transformation program: statewide III.  
1. A statewide health care facility transformation program is hereby established under the joint administration of the commissioner and the president of the dormitory authority of the state of New York for the purpose of strengthening and protecting continued access to health care services in communities. The program shall provide funding in support of capital projects, debt retirement, working capital or other non-capital projects that facilitate health care transformation activities including, but not limited to, merger, consolidation, acquisition or other activities intended to: (a) create financially sustainable systems of care; (b) preserve or expand essential health care services; (c) modernize obsolete facility physical plants and infrastructure; (d) foster participation in value based payments arrangements including, but not limited to, contracts with managed care plans and accountable care organizations; (e) for residential health care facilities, increase the quality of resident care or experience; or (f) improve health information technology infrastructure, including telehealth, to strengthen the acute, post-acute, primary care, and long-term care continuum. Grants shall not be available to support general operating expenses. The issuance of any bonds or notes hereunder shall be subject to section sixteen hundred eighty-r of the public authorities law and the approval of the director of the division of the budget, and any projects funded through the issuance of bonds or notes hereunder shall be approved by the New York state public authorities control board, as required under section fifty-one of the public authorities law.

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

3. Notwithstanding section one hundred sixty-three of the state finance law or any inconsistent provision of law to the contrary, up to five hundred and twenty-five million dollars of the funds appropriated for this program shall be awarded without a competitive bid or request for proposal process for grants to health care providers (hereafter "applicants"). Provided, however, that a minimum of: (a) seventy-five million dollars of total awarded funds shall be made to community-based health care providers, which for purposes of this section shall be defined as a diagnostic and treatment center licensed or granted an



operating certificate under this article; a mental health clinic licensed or granted an operating certificate under article thirty-one of the mental hygiene law; a substance use disorder treatment clinic licensed or granted an operating certificate under article thirty-two of the mental hygiene law; a primary care provider; a home care provider certified or licensed pursuant to article thirty-six of this chapter; a facility granted an operating certificate under article sixteen of the mental hygiene law; and (b) forty-five million dollars of the total awarded funds shall be made to residential health care facilities.

4. Notwithstanding any inconsistent subdivision of this section or any other provision of law to the contrary, the commissioner, with the approval of the director of the budget, may expend up to twenty million dollars of the funds appropriated for this program for awards made pursuant to paragraphs (l) and (m) of subdivision three of section four hundred sixty-one-1 of the social services law.

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

(a) the extent to which the proposed project will contribute to the integration of health care services or the long term sustainability of the applicant or preservation of essential health services in the community or communities served by the applicant;

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

(c) the geographic distribution of funds;

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

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

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

(g) the extent to which the proposed project benefits Medicaid enrollees and uninsured individuals;

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

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

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

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

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

## PART R

Intentionally Omitted

## PART S

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

## SUBPART A

Section 1. Intentionally omitted.

## SUBPART B

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

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. No provision of this article or any other provision of law

1 shall be construed to: (a) limit the volume of mental health or  
2 substance use disorder services that can be provided by a provider of  
3 primary care services licensed under this article and authorized to  
4 provide integrated services in accordance with regulations issued by the  
5 commissioner in consultation with the commissioner of the office of  
6 mental health and the commissioner of the office of alcoholism and  
7 substance abuse services, including regulations issued pursuant to  
8 subdivision seven of section three hundred sixty-five-1 of the social  
9 services law or part L of chapter fifty-six of the laws of two thousand  
10 twelve; (b) require a provider licensed pursuant to article thirty-one  
11 of the mental hygiene law or certified pursuant to article thirty-two of  
12 the mental hygiene law to obtain an operating certificate from the  
13 department if such provider has been authorized to provide integrated  
14 services in accordance with regulations issued by the commissioner in  
15 consultation with the commissioner of the office of mental health and  
16 the commissioner of the office of alcoholism and substance abuse  
17 services, including regulations issued pursuant to subdivision seven of  
18 section three hundred sixty-five-1 of the social services law or part L  
19 of chapter fifty-six of the laws of two thousand twelve.

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

22 (f) No provision of this article or any other provision of law shall  
23 be construed to require a provider licensed pursuant to article twenty-  
24 eight of the public health law or certified pursuant to article thirty-  
25 two of this chapter to obtain an operating certificate from the office  
26 of mental health if such provider has been authorized to provide inte-  
27 grated services in accordance with regulations issued by the commis-  
28 sioner of the office of mental health in consultation with the commis-  
29 sioner of the department of health and the commissioner of the office of alco-  
30 holism and substance abuse services, including regulations issued pursu-  
31 ant to subdivision seven of section three hundred sixty-five-1 of the  
32 social services law or part L of chapter fifty-six of the laws of two  
33 thousand twelve.

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

37 (b) (i) Methadone, or such other controlled substance designated by  
38 the commissioner of health as appropriate for such use, may be adminis-  
39 tered to an addict, as defined in section thirty-three hundred two of  
40 the public health law, by individual physicians, groups of physicians  
41 and public or private medical facilities certified pursuant to article  
42 twenty-eight or thirty-three of the public health law as part of a chem-  
43 ical dependence program which has been issued an operating certificate  
44 by the commissioner pursuant to subdivision (b) of section 32.09 of this  
45 article, provided, however, that such administration must be done in  
46 accordance with all applicable federal and state laws and regulations.  
47 Individual physicians or groups of physicians who have obtained authori-  
48 zation from the federal government to administer buprenorphine to  
49 addicts may do so without obtaining an operating certificate from the  
50 commissioner. (ii) No provision of this article or any other provision  
51 of law shall be construed to require a provider licensed pursuant to  
52 article twenty-eight of the public health law or article thirty-one of  
53 this chapter to obtain an operating certificate from the office of alco-  
54 holism and substance abuse services if such provider has been authorized  
55 to provide integrated services in accordance with regulations issued by  
56 the commissioner of alcoholism and substance abuse services in consulta-

tion with the commissioner of the department of health and the commissioner of the office of mental health, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-1 of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

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

#### SUBPART C

Section 1. Article 29-G of the public health law is REPEALED.

§ 2. The section heading and subdivision 2 of section 367-u of the social services law, the section heading as added by section 63-c of part C of chapter 58 of the laws of 2007, subdivision 2 as amended by chapter 6 of the laws of 2015, are amended to read as follows:

Payment for [home] telehealth services.

2. (a) Subject to federal financial participation and the approval of the director of the budget, [~~the commissioner shall not exclude from the payment of medical assistance funds the delivery of health care services through telehealth, as defined in subdivision four of section two thousand nine hundred ninety-nine ee of the public health law~~] medical assistance shall not exclude from coverage a service that is otherwise covered under medical assistance because the service is delivered via telehealth. Such services shall meet the requirements of federal law, rules and regulations for the provision of medical assistance pursuant to this title.

(b) For purposes of this subdivision, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an individual while such individual is located at a site that is different from the site where the health care provider is located.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.

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

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

#### PART T

Section 1. Subdivision (a) of section 31 of part B of 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

1 the commissioner of health to impose penalties on managed care plans for  
2 reporting late or incorrect encounter data, is amended to read as  
3 follows:

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

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

10 6-a. section fifty-seven of this act shall expire and be deemed  
11 repealed on ~~[December 31, 2018]~~ March 31, 2023; provided that the amend-  
12 ments made by such section to subdivision 4 of section 366-c of the  
13 social services law shall apply with respect to determining initial and  
14 continuing eligibility for medical assistance, including the continued  
15 eligibility of recipients originally determined eligible prior to the  
16 effective date of this act, and provided further that such amendments  
17 shall not apply to any person or group of persons if it is subsequently  
18 determined by the Centers for Medicare and Medicaid services or by a  
19 court of competent jurisdiction that medical assistance with federal  
20 financial participation is available for the costs of services provided  
21 to such person or persons under the provisions of subdivision 4 of  
22 section 366-c of the social services law in effect immediately prior to  
23 the effective date of this act.

24 § 3. Section 2 of part II of chapter 54 of the laws of 2016, amending  
25 part C of chapter 58 of the laws of 2005 authorizing reimbursements for  
26 expenditures made by or on behalf of social services districts for  
27 medical assistance for needy persons and administration thereof relating  
28 to authorizing the commissioner of health to establish a statewide Medi-  
29 caid integrity and efficiency initiative, is amended to read as follows:

30 § 2. This act shall take effect immediately and shall expire and be  
31 deemed repealed ~~[two years after it shall have become a law]~~ March 31,  
32 2023.

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

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

42 § 5. Intentionally omitted.

43 § 5-a. Paragraph (e) of subdivision 7 of section 367-a of the social  
44 services law, as added by section 1 of part B of chapter 57 of the laws  
45 of 2015, the opening paragraph as amended by section 12 and subparagraph  
46 (iv) as amended by section 13 of part B of chapter 59 of the laws of  
47 2016, is amended to read as follows:

48 (e) During the period from April first, two thousand fifteen through  
49 March thirty-first, two thousand ~~[seventeen]~~ twenty, the commissioner  
50 may, in lieu of a managed care provider, negotiate directly and enter  
51 into an agreement with a pharmaceutical manufacturer for the provision  
52 of supplemental rebates relating to pharmaceutical utilization by enrol-  
53 lees of managed care providers pursuant to section three hundred sixty-  
54 four-j of this title and may also negotiate directly and enter into such  
55 an agreement relating to pharmaceutical utilization by medical assist-  
56 ance recipients not so enrolled. Such rebates shall be limited to drug



1 utilization in the following classes: antiretrovirals approved by the  
2 FDA for the treatment of HIV/AIDS and hepatitis C agents for which the  
3 pharmaceutical manufacturer has in effect a rebate agreement with the  
4 federal secretary of health and human services pursuant to 42 U.S.C. §  
5 1396r-8, and for which the state has established standard clinical  
6 criteria. No agreement entered into pursuant to this paragraph shall  
7 have an initial term or be extended beyond March thirty-first, two thou-  
8 sand twenty.

9 (i) The manufacturer shall not pay supplemental rebates to a managed  
10 care provider, or any of a managed care provider's agents, including but  
11 not limited to any pharmacy benefit manager on the two classes of drugs  
12 subject to this paragraph when the state is collecting supplemental  
13 rebates and standard clinical criteria are imposed on the managed care  
14 provider.

15 (ii) The commissioner shall establish adequate rates of reimbursement  
16 which shall take into account both the impact of the commissioner nego-  
17 tiating such rebates and any limitations imposed on the managed care  
18 provider's ability to establish clinical criteria relating to the utili-  
19 zation of such drugs. In developing the managed care provider's  
20 reimbursement rate, the commissioner shall identify the amount of  
21 reimbursement for such drugs as a separate and distinct component from  
22 the reimbursement otherwise made for prescription drugs as prescribed by  
23 this section.

24 (iii) The commissioner shall submit a report to the temporary presi-  
25 dent of the senate and the speaker of the assembly annually by December  
26 thirty-first. The report shall analyze the adequacy of rates to managed  
27 care providers for drug expenditures related to the classes under this  
28 paragraph.

29 (iv) Nothing in this paragraph shall be construed to require a pharma-  
30 ceutical manufacturer to enter into a supplemental rebate agreement with  
31 the commissioner relating to pharmaceutical utilization by enrollees of  
32 managed care providers pursuant to section three hundred sixty-four-j of  
33 this title or relating to pharmaceutical utilization by medical assist-  
34 ance recipients not so enrolled.

35 (v) All clinical criteria, including requirements for prior approval,  
36 and all utilization review determinations established by the state as  
37 described in this paragraph for either of the drug classes subject to  
38 this paragraph shall be developed using evidence-based and peer-reviewed  
39 clinical review criteria in accordance with article two-A of the public  
40 health law, as applicable.

41 (vi) All prior authorization and utilization review determinations  
42 related to the coverage of any drug subject to this paragraph shall be  
43 subject to article forty-nine of the public health law, section three  
44 hundred sixty-four-j of this title, and article forty-nine of the insur-  
45 ance law, as applicable. Nothing in this paragraph shall diminish any  
46 rights relating to access, prior authorization, or appeal relating to  
47 any drug class or drug afforded to a recipient under any other provision  
48 of law.

49 § 6. This act shall take effect immediately; provided, however, that  
50 the amendments to paragraph (e) of subdivision 7 of section 367-a of the  
51 social services law made by section five-a of this act shall not affect  
52 the repeal of such paragraph and shall be deemed repealed therewith.

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

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

8 § 2. This act shall take effect immediately.

9 PART V

10 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,  
11 amending the mental hygiene law and the state finance law relating to  
12 the community mental health support and workforce reinvestment program,  
13 the membership of subcommittees for mental health of community services  
14 boards and the duties of such subcommittees and creating the community  
15 mental health and workforce reinvestment account, as amended by section  
16 3 of part G of chapter 60 of the laws of 2014, is amended to read as  
17 follows:

18 § 7. This act shall take effect immediately and shall expire March 31,  
19 ~~[2018]~~ 2021 when upon such date the provisions of this act shall be  
20 deemed repealed.

21 § 2. This act shall take effect immediately.

22 PART W

23 Intentionally Omitted

24 PART X

25 Section 1. Section 3 of part A of chapter 111 of the laws of 2010  
26 amending the mental hygiene law relating to the receipt of federal and  
27 state benefits received by individuals receiving care in facilities  
28 operated by an office of the department of mental hygiene, as amended by  
29 section 1 of part LL of chapter 58 of the laws of 2015, is amended to  
30 read as follows:

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

33 § 2. This act shall take effect immediately.

34 PART Y

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

38 10. (a) A person without a license from: performing assessments ~~[such~~  
39 ~~as], including but not limited to,~~ basic information collection, gather-  
40 ing of demographic data, and informal observations, screening and refer-  
41 ral used for ~~[general]~~ eligibility for a program or service and deter-  
42 mining the functional status of an individual for the purpose of  
43 determining need for services ~~[unrelated to a behavioral health diagno-~~  
44 ~~sis or treatment plan. Such licensure shall not be required to create,~~  
45 ~~develop or implement a service plan unrelated to a behavioral health~~  
46 ~~diagnosis or treatment plan];~~ advising individuals regarding benefits  
47 they may be eligible for; providing general advice and guidance and  
48 assisting individuals or groups with difficult day to day problems such

1 as finding employment, locating sources of assistance, and organizing  
2 community groups to work on a specific problem; providing peer services;  
3 or to provide substance use disorder treatment services or re-entry  
4 services to incarcerated individuals in state and local correctional  
5 facilities.

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

29 (c)(i) A person without a license from participating as a member of a  
30 multi-disciplinary team to [~~implement~~] assist in the development of or  
31 implementation of a behavioral health services or treatment plan;  
32 provided [~~however,~~] that such team shall include one or more profes-  
33 sionals licensed under this article or articles one hundred thirty-one,  
34 one hundred thirty-nine, one hundred fifty-four or one hundred sixty-  
35 three of this chapter who must approve and oversee implementation of  
36 such treatment plan and who must directly observe each patient either in  
37 person or by electronic means, prior to the rendering of a diagnosis;  
38 and provided, further, that the activities performed by members of the  
39 team shall be consistent with the scope of practice for each team member  
40 licensed or authorized under title VIII of this chapter, and those who  
41 are not so authorized may not engage in the following restricted prac-  
42 tices: the diagnosis of mental, emotional, behavioral, addictive and  
43 developmental disorders and disabilities; patient assessment and evalu-  
44 ating; the provision of psychotherapeutic treatment; the provision of  
45 treatment other than psychotherapeutic treatment; [~~and/or~~] or the devel-  
46 opment and implementation of assessment-based treatment plans as defined  
47 in section seventy-seven hundred one of this [~~chapter~~] title.

48 (ii) For the purposes of this subdivision "assist" shall include the  
49 provision of services in accordance with subparagraph (i) of this para-  
50 graph that do not require clinical assessment, evaluation, interpreta-  
51 tion or other professional judgment of a licensed professional. Such  
52 services may include, but not be limited to:

53 (1) Helping an individual with the completion of forms or question-  
54 naires;

1 (2) Reviewing existing case records and collecting general background  
2 information about an individual which may be used by the licensed  
3 professional or multi-disciplinary team;

4 (3) Gathering and reporting information about previous behavioral  
5 health interventions, hospitalizations, diagnosis, or prior treatment  
6 for review by the licensed professional and multi-disciplinary team;

7 (4) Discussing with the individual his or her situation, needs,  
8 concerns, and thoughts in order to help identify services that support  
9 the individual's goals, independence, and quality of life;

10 (5) Providing advice, information, and assistance to individuals and  
11 family members to identify needs and available resources in the communi-  
12 ty to help meet the needs of the individual or family member;

13 (6) Engaging in immediate and long term problem solving, engaging in  
14 the development of social skills, or providing general help in areas  
15 including, but not limited to, housing, employment, child care, parent-  
16 ing, community based services, and finances;

17 (7) Distributing paper copies of self-administered tests for the indi-  
18 vidual to complete when such tests do not require the observation and  
19 judgment of a licensed professional;

20 (8) Monitoring treatment in accordance with the treatment plan and  
21 providing verbal or written reports to the multi-disciplinary team;

22 (9) Identifying gaps in services and coordinating access to or arrang-  
23 ing services for individuals such as home care, community based  
24 services, housing, employment, transportation, child care, vocational  
25 training, or health care;

26 (10) Offering education programs that provide information about  
27 disease identification and recommended treatments that may be provided,  
28 and how to access such treatment;

29 (11) Reporting on behavior, actions, and responses to treatment as  
30 part of a multi-disciplinary team;

31 (12) Using de-escalation techniques as authorized; and

32 (13) Advocating with educational, judicial or other systems to ensure  
33 protection of the individual's rights and access to appropriate  
34 services.

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

39 12. Any person who is employed prior to July first, two thousand twen-  
40 ty in a program or service operated, regulated, funded, or approved by  
41 the department of mental hygiene or the office of children and family  
42 services, or a local government unit as that term is defined in section  
43 41.03 of the mental hygiene law or a social services district as defined  
44 in section sixty-one of the social services law from performing services  
45 within the practice of psychology, as defined in this article, provided  
46 that such person maintains such employment with such entity within the  
47 context of such employment. Any person who commences employment in such  
48 program or service after July first, two thousand twenty shall be appro-  
49 priately licensed under this article.

50 § 2. Subdivision 1 of section 7701 of the education law, as amended by  
51 chapter 230 of the laws of 2004, is amended to read as follows:

52 1. Practice of licensed master social work.

53 (a) The practice of licensed master social work shall mean the profes-  
54 sional application of social work theory, principles, and the methods to  
55 prevent, assess, evaluate, formulate and implement a plan of action  
56 based on client needs and strengths, and intervene to address mental,

1 social, emotional, behavioral, developmental, and addictive disorders,  
2 conditions and disabilities, and of the psychosocial aspects of illness  
3 and injury experienced by individuals, couples, families, groups, commu-  
4 nities, organizations, and society.

5 (b) Licensed master social workers engage in the administration of  
6 tests and measures of psychosocial functioning, social work advocacy,  
7 case management, counseling, consultation, research, administration and  
8 management, and teaching.

9 (c) Licensed master social workers provide [~~all forms of~~] administra-  
10 tive supervision [~~other than~~] but not supervision of the practice of  
11 licensed clinical social work as defined in subdivision two of this  
12 section.

13 (d) Licensed master social workers practice licensed clinical social  
14 work in facility settings or other supervised settings approved by the  
15 department under supervision in accordance with the commissioner's regu-  
16 lations.

17 § 3. Paragraph (f) of subdivision 1 of section 7702 of the education  
18 law, as amended by chapter 230 of the laws of 2004, is amended and two  
19 new paragraphs (m) and (n) are added to read as follows:

20 (f) [~~Assist~~] General advice and guidance, and assisting individuals or  
21 groups with difficult day to day problems such as finding employment,  
22 locating sources of assistance, and organizing community groups to work  
23 on a specific problem.

24 (m) Provide peer services.

25 (n) Collect basic information, gathering of demographic data, and  
26 informal observations, screening and referral used for general eligibil-  
27 ity for a program or service and determining the functional status of an  
28 individual for the purpose of determining the need for services.

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

32 7. (a) Prevent a person without a license from: performing assessments  
33 [~~such as~~], including but not limited to, basic information collection,  
34 gathering of demographic data, and informal observations, screening and  
35 referral used for [~~general~~] eligibility for a program or service and  
36 determining the functional status of an individual for the purpose of  
37 determining need for services [~~unrelated to a behavioral health diagno-~~  
38 ~~sis or treatment plan. Such licensure shall not be required to create,~~  
39 ~~develop or implement a service plan unrelated to a behavioral health~~  
40 ~~diagnosis or treatment plan~~]; advising individuals regarding benefits  
41 they may be eligible for; providing general advice and guidance and  
42 assisting individuals or groups with difficult day to day problems such  
43 as finding employment, locating sources of assistance, and organizing  
44 community groups to work on a specific problem; providing peer services;  
45 or to provide substance use disorder treatment services or re-entry  
46 services to incarcerated individuals in state and local correctional  
47 facilities.

48 (b) Prevent a person without a license from creating, developing or  
49 implementing a service plan or recovery plan that is not a behavioral  
50 health diagnosis or treatment plan. Such service or recovery plans shall  
51 include, but are not limited to, coordinating, evaluating or determining  
52 the need for, or the provision of the following services: job training  
53 and employability[~~7~~]; housing[~~7~~]; homeless services and shelters for  
54 homeless individuals and families; refugee services; residential, day or  
55 community habilitation services; general public assistance[~~7~~]; in home  
56 services and supports or home-delivered meals[~~7~~, ~~investigations conducted~~



~~er assessments made by~~; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans ~~[and]~~, permanency planning activities, and case planning or case management as such terms are defined by regulations by the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development. ~~[A license under this article shall not be required for persons to participate]~~

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to ~~[implement]~~ assist in the development of or implementation of a behavioral health services or treatment plan; provided ~~[however,]~~ that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred sixty-three of this chapter who must approve and oversee implementation of such treatment plan and who must directly observe each patient either in person or by electronic means, prior to the rendering of a diagnosis; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; ~~[and/or]~~ or the development and implementation of assessment-based treatment plans as defined in section seventy-seven hundred one of this article.

(ii) For the purposes of this subdivision "assist" shall include the provision of services in accordance with subparagraph (i) of this paragraph that do not require clinical assessment, evaluation, interpretation or other professional judgment of a licensed professional. Such services may include, but not be limited to:

(1) Helping an individual with the completion of forms or questionnaires;

(2) Reviewing existing case records and collecting general background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) Gathering and reporting information about previous behavioral health interventions, hospitalizations, diagnosis or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) Discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) Providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) Engaging in immediate and long term problem solving, engaging in the development of social skills, or providing general help in areas including but not limited to, housing, employment, child care, parenting, community based services, and finances;

1 (7) Distributing paper copies of self-administered tests for the indi-  
2 vidual to complete when such tests do not require the observation and  
3 judgment of a licensed professional;

4 (8) Monitoring treatment in accordance with the treatment plan and  
5 providing verbal or written reports to the multi-disciplinary team;

6 (9) Identifying gaps in services and coordinating access to or arrang-  
7 ing services for individuals such as home care, community based  
8 services, housing, employment, transportation, child care, vocational  
9 training, or health care;

10 (10) Offering education programs that provide information about  
11 disease identification and recommended treatments that may be provided,  
12 and how to access such treatment;

13 (11) Reporting on behavior, actions, and responses to treatment as  
14 part of a multi-disciplinary team;

15 (12) Using de-escalation techniques as authorized; and

16 (13) Advocating with educational, judicial or other systems to ensure  
17 protection of the individual's rights and access to appropriate  
18 services.

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

23 8. Any person who is employed prior to July first, two thousand twenty  
24 in a program or service operated, regulated, funded, or approved by the  
25 department of mental hygiene, the office of children and family  
26 services, the department of corrections and community supervision, the  
27 office of temporary and disability assistance, the state office for the  
28 aging and the department of health or a local government unit as that  
29 term is defined in section 41.03 of the mental hygiene law or a social  
30 services district as defined in section sixty-one of the social services  
31 law from performing services within the practice of licensed master  
32 social work and licensed clinical social work, as defined in this arti-  
33 cle, provided that such person maintains such employment with such enti-  
34 ty within the context of such employment. Any person who commences  
35 employment in such program or service after July first, two thousand  
36 twenty shall be appropriately licensed under this article.

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

40 8. (a) Prevent a person without a license from: performing assessments  
41 [such as], including but not limited to, basic information collection,  
42 gathering of demographic data, and informal observations, screening and  
43 referral used for [general] eligibility for a program or service and  
44 determining the functional status of an individual for the purpose of  
45 determining need for services [unrelated to a behavioral health diagno-  
46 sis or treatment plan. Such licensure shall not be required to create,  
47 develop or implement a service plan unrelated to a behavioral health  
48 diagnosis or treatment plan]; advising individuals regarding benefits  
49 they may be eligible for; providing general advice and guidance and  
50 assisting individuals or groups with difficult day to day problems such  
51 as finding employment, locating sources of assistance, and organizing  
52 community groups to work on a specific problem; providing peer services;  
53 or to provide substance use disorder treatment services or re-entry  
54 services to incarcerated individuals in state and local correctional  
55 facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability[7]; housing[7]; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance[7]; in home services and supports or home-delivered meals[7]; ~~investigations conducted or assessments made by~~; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans [and], permanency planning activities, and case planning or case management as such terms are defined by regulations in the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development. [~~A license under this article shall not be required for persons to participate~~]

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to ~~implement~~ assist in the development of or implementation of a behavioral health services or treatment plan; provided [~~however,~~] that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred sixty-three of this chapter who must approve and oversee implementation of such treatment plan and who must directly observe each patient either in person or by electronic means, prior to the rendering of a diagnosis; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; [~~and/or~~] or the development and implementation of assessment-based treatment plans as defined in section seventy-seven hundred one of this article.

(ii) For the purposes of this subdivision "assist" shall include the provision of services in accordance with subparagraph (i) of this paragraph that do not require clinical assessment, evaluation, interpretation or other professional judgment of a licensed professional. Such services may include, but not be limited to:

(1) Helping an individual with the completion of forms or questionnaires;

(2) Reviewing existing case records and collecting general background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) Gathering and reporting information about previous behavioral health interventions, hospitalizations, diagnosis or prior treatment for review by the licensed professional and multi-disciplinary team;

1 (4) Discussing with the individual his or her situation, needs,  
2 concerns, and thoughts in order to help identify services that support  
3 the individual's goals, independence, and quality of life;

4 (5) Providing advice, information, and assistance to individuals and  
5 family members to identify needs and available resources in the communi-  
6 ty to help meet the needs of the individual or family member;

7 (6) Engaging in immediate and long term problem solving, engaging in  
8 the development of social skills, or providing general help in areas,  
9 including but not limited to, housing, employment, child care, parent-  
10 ing, community based services, and finances;

11 (7) Distributing paper copies of self-administered tests for the indi-  
12 vidual to complete when such tests do not require the observation and  
13 judgment of a licensed professional;

14 (8) Monitoring treatment in accordance with the treatment plan and  
15 providing verbal or written reports to the multi-disciplinary team;

16 (9) Identifying gaps in services and coordinating access to or arrang-  
17 ing services for individuals such as home care, community based  
18 services, housing, employment, transportation, child care, vocational  
19 training, or health care;

20 (10) Offering education programs that provide information about  
21 disease identification and recommended treatments that may be provided;  
22 and how to access such treatment;

23 (11) Reporting on behavior, actions, and responses to treatment as  
24 part of a multi-disciplinary team;

25 (12) Using de-escalation techniques as authorized; and

26 (13) Advocating with educational, judicial or other systems to ensure  
27 protection of the individual's rights and access to appropriate  
28 services.

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

33 8. Any person who is employed prior to July first, two thousand twenty  
34 in a program or service operated, regulated, funded, or approved by the  
35 department of mental hygiene, the office of children and family  
36 services, the department of corrections and community supervision, the  
37 office of temporary and disability assistance, the state office for the  
38 aging and the department of health or a local government unit as that  
39 term is defined in section 41.03 of the mental hygiene law or a social  
40 services district as defined in section sixty-one of the social services  
41 law from performing services within the practice of licensed master  
42 social work and licensed clinical social work, as defined in this arti-  
43 cle, provided that such person maintains such employment with such enti-  
44 ty within the context of such employment. Any person who commences  
45 employment in such program or service after July first, two thousand  
46 twenty shall be appropriately licensed under this article.

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

50 8. (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~~  
56 ~~shall not be required to create, develop or implement a service plan~~

~~unrelated to a behavioral health diagnosis or treatment plan~~; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; or to select for suitability and provide substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities.

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

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to [~~implement~~] assist in the development of or implementation of a behavioral health services or treatment plan; provided [~~however~~], that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred fifty-four of this chapter who must approve and oversee implementation of such treatment plan and who must directly observe each patient either in person or by electronic means, prior to the rendering of a diagnosis; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; [~~and/or~~] or the development and implementation of assessment-based treatment plans as defined in section seventy-seven hundred one of this chapter.

(ii) For the purposes of this subdivision "assist" shall include the provision of services that do not require assessment, evaluation, interpretation or other professional judgment. Such services may include:

(1) Helping a patient with the completion of forms or questionnaires;



1     (2) Reviewing existing case records and collecting general background  
2     information about a patient which may be used by the licensed profes-  
3     sional or multi-disciplinary team to provide appropriate services;

4     (3) Gathering information about previous mental health interventions,  
5     hospitalizations, emergency interventions and other forms of treatment  
6     for review by the licensed professional;

7     (4) Discussing with the patient his or her situation, needs, concerns,  
8     and thoughts in order to help identify services that support the  
9     patient's goals, independence, and quality of life;

10    (5) Providing advice, information, and assistance to patients and  
11    family members to identify needs and available resources in the communi-  
12    ty to help meet the needs of the patient or family member;

13    (6) Engaging in immediate and long term problem solving, engaging in  
14    the development of social skills, or giving practical help in areas such  
15    as, but not limited to, housing, employment, child care, parenting,  
16    community based services, and finances;

17    (7) Distributing paper copies of self-administered tests for the  
18    patient to complete when such tests do not require the observation and  
19    judgment of a licensed professional;

20    (8) Monitoring treatment in accordance with the treatment plan and  
21    providing verbal or written reports to the multi-disciplinary team;

22    (9) Identifying gaps in necessary services and coordinating access to  
23    or arranging services for patients such as home care, community based  
24    services, housing, employment, transportation, child care, vocational  
25    training, or health care;

26    (10) Offering education programs that provide information about  
27    disease identification and recommended treatments that may be provided  
28    by licensed professionals;

29    (11) Reporting observations about behavior, action, and responses to  
30    treatment as part of a multi-disciplinary team;

31    (12) Using de-escalation techniques to respond appropriately to  
32    dangerous or threatening behaviors and intervening as authorized to  
33    ensure the immediate safety of the patient and others; and

34    (13) Advocating with educational, judicial or other systems to ensure  
35    protection of the individual's rights and access to appropriate  
36    services.

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

41    9. Any person who is employed prior to July first, two thousand twenty  
42    in a program or service operated, regulated, funded, or approved by the  
43    department of mental hygiene, the office of children and family  
44    services, the department of corrections and community supervision, the  
45    office of temporary and disability assistance, the state office for the  
46    aging and the department of health or a local government unit as that  
47    term is defined in section 41.03 of the mental hygiene law or a social  
48    services district as defined in section sixty-one of the social services  
49    law from performing services within the practice of mental health coun-  
50    seling, marriage and family therapy, creative arts therapy, and psycho-  
51    analysis, as defined in this article, provided that such person main-  
52    tains such employment with such entity within the context of such  
53    employment. Any person who commences employment in such program or  
54    service after July first, two thousand twenty shall be appropriately  
55    licensed under this article.

§ 6. The state education department shall periodically develop formal guidance to identify the tasks and functions restricted to licensed personnel under articles 153, 154 and 163 of the education law.

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

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

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

a. In relation to activities and services provided under article 153 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law. In relation to activities and services provided under article 163 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, pursuant to authority granted by law. This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively. This section shall be deemed repealed July 1, ~~2018~~ 2020.

§ 9. Section 16 of 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 the licensure of certain professions, as amended by section 3 of part J of chapter 59 of the laws of 2016, is amended to read as follows:

§ 16. This act shall take effect immediately; provided that sections thirteen, fourteen and fifteen of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 1, 2010 and such sections shall be deemed repealed July 1, ~~2018~~ 2020; provided further that the amendments to section 9 of chapter 420 of the laws of 2002 amending the education law relating to the profes-

1 sion of social work made by section thirteen of this act shall repeal on  
2 the same date as such section repeals; provided further that the amend-  
3 ments to section 17-a of chapter 676 of the laws of 2002 amending the  
4 education law relating to the practice of psychology made by section  
5 fourteen of this act shall repeal on the same date as such section  
6 repeals.

7 § 10. This act shall take effect immediately.

8 PART Z

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

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

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

21 (x) "nursing facility services" means nursing care and health related  
22 services provided in a nursing facility; a level of care provided in a  
23 hospital which is equivalent to the care which is provided in a nursing  
24 facility; and care, services or supplies provided pursuant to a waiver  
25 granted pursuant to subsection (c) of section 1915 of the federal social  
26 security act or successor federal waiver.

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

29 7-c. The commissioner of health in consultation with the commissioner  
30 of developmental disabilities is authorized to submit the appropriate  
31 waivers, including, but not limited to, those authorized pursuant to  
32 section eleven hundred fifteen of the federal social security act, in  
33 order to achieve the purposes of high-quality and integrated care and  
34 services for a population of persons with developmental disabilities, as  
35 such term is defined in section 1.03 of the mental hygiene law. Such  
36 waiver applications shall be executed in accordance with subdivisions  
37 seven, seven-a and seven-b of this section.

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

41 (a) For purposes of this section an "institutionalized spouse" is a  
42 person (i) who is in a medical institution or nursing facility and  
43 expected to remain in such facility or institution for at least thirty  
44 consecutive days; or (ii) who is receiving care, services and supplies  
45 pursuant to a waiver pursuant to subsection (c) of section nineteen  
46 hundred fifteen of the federal social security act, or successor to such  
47 waiver, or is receiving care, services and supplies in a managed long-  
48 term care plan pursuant to section eleven hundred fifteen of the social  
49 security act; and (iii) who is married to a person who is not in a  
50 medical institution or nursing facility or is not receiving waiver  
51 services described in subparagraph (ii) of this paragraph; provided,  
52 however, that medical assistance shall be furnished pursuant to this  
53 paragraph only if, for so long as, and to the extent that federal finan-  
54 cial participation is available therefor. The commissioner of health

1 shall make any amendments to the state plan for medical assistance, or  
2 apply for any waiver or approval under the federal social security act  
3 that are necessary to carry out the provisions of this paragraph.

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

7 provided, however, that, to the extent required by federal law, the  
8 terms of this subdivision shall not apply to persons who are receiving  
9 care, services and supplies pursuant to the following waivers under  
10 section 1915(c) of the federal social security act: the nursing facility  
11 transition and diversion waiver authorized pursuant to subdivision six-a  
12 of section three hundred sixty-six of this title; the traumatic brain  
13 injury waiver authorized pursuant to section twenty-seven hundred forty  
14 of the public health law, the long term home health care program waiver  
15 authorized pursuant to section three hundred sixty-seven-c of this  
16 title, and the home and community based services waiver for persons with  
17 developmental disabilities, or successor to such waiver, administered by  
18 the office [~~of mental retardation and~~] for people with developmental  
19 disabilities pursuant to an agreement with the federal centers for medi-  
20 care and Medicaid services.

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

24 (4) The provision of home and community based services approved under  
25 a waiver program authorized pursuant to section eleven hundred fifteen  
26 of the federal social security act or subdivision (c) of section nine-  
27 teen hundred fifteen of the federal social security act and subdivisions  
28 seven and seven-a of section three hundred sixty-six of the social  
29 services law, provided that an operating certificate issued pursuant to  
30 this paragraph shall only authorize services in a home or community  
31 setting.

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

35 (2) The review of providers of services, as defined in paragraph four  
36 of subdivision (a) of section 16.03 of this article, shall ensure that  
37 the provider of services complies with all the requirements of the  
38 applicable federal home and community based services waiver program, or  
39 other successor Medicaid waiver program, and applicable federal regu-  
40 lation, subdivisions seven and seven-a of section three hundred sixty-  
41 six of the social services law and rules and regulations adopted by the  
42 commissioner.

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

46 (b) "A patient in need of surrogate decision-making" means a patient  
47 as defined in subdivision twenty-three of section 1.03 of this chapter  
48 who is: a resident of a mental hygiene facility including a resident of  
49 housing programs funded by an office of the department or whose federal  
50 funding application was approved by an office of the department or for  
51 whom such facility maintains legal admission status therefor; or,  
52 receiving home and community-based services for persons with mental  
53 disabilities provided pursuant to section 1915 or 1115 of the federal  
54 social security act; or receiving individualized support services; or,  
55 case management or service coordination funded, approved, or provided by  
56 the office for people with developmental disabilities; and, for whom

1 major medical treatment is proposed, and who is determined by the surro-  
2 gate decision-making committee to lack the ability to consent to or  
3 refuse such treatment, but shall not include minors with parents or  
4 persons with legal guardians, committees or conservators who are legally  
5 authorized, available and willing to make such health care decisions.  
6 Once a person is eligible for surrogate decision-making, such person may  
7 continue to receive surrogate decision-making as authorized by this  
8 section regardless of a change in residential status.

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

14 1-a. sections seventy-three through eighty-a shall expire and be  
15 deemed repealed September 30, [~~2019~~] 2024

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

19 (a-1) If the commissioner and the commissioner of the office for  
20 people with developmental disabilities determine that such organization  
21 lacks the experience required in paragraph (a) of this subdivision, the  
22 organization shall have an affiliation arrangement with an entity or  
23 entities that are controlled by non-profit organizations with experience  
24 serving persons with developmental disabilities, as demonstrated by  
25 criteria to be determined by the commissioner and the commissioner of  
26 the office for people with developmental disabilities, with such crite-  
27 ria including, but not limited to, residential, day, and employment  
28 services such that the affiliated entity will coordinate and plan  
29 services operated, certified, funded, authorized or approved by the  
30 office for people with developmental disabilities or will oversee and  
31 approve such coordination and planning;

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

36 § 97. This act shall take effect immediately, provided, however, that  
37 the amendments to subdivision 4 of section 854 of the general municipal  
38 law made by section seventy of this act shall not affect the expiration  
39 of such subdivision and shall be deemed to expire therewith and provided  
40 further that sections sixty-seven and sixty-eight of this act shall  
41 apply to taxable years beginning on or after January 1, 1998 and  
42 provided further that sections eighty-one through eighty-seven of this  
43 act shall expire and be deemed repealed on December 31, [~~2019~~] 2024 and  
44 provided further, however, that the amendments to section ninety of this  
45 act shall take effect January 1, 1998 and shall apply to all policies,  
46 contracts, certificates, riders or other evidences of coverage of long  
47 term care insurance issued, renewed, altered or modified pursuant to  
48 section 3229 of the insurance law on or after such date.

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

52 (a-1) If the commissioner and the commissioner of the office for  
53 people with developmental disabilities determine that such plan lacks  
54 the experience required in paragraph (a) of this subdivision, the plan  
55 shall have an affiliation arrangement with an entity or entities that  
56 are non-profit organizations or organizations whose shareholders solely



1 consist of non-profit organizations with experience serving persons with  
2 developmental disabilities, as demonstrated by criteria to be determined  
3 by the commissioner and the commissioner of the office for people with  
4 developmental disabilities, with such criteria including, but not limit-  
5 ed to, residential, day and employment services, such that the affil-  
6 iated entity will coordinate and plan services operated, certified,  
7 funded, authorized or approved by the office for people with develop-  
8 mental disabilities or will oversee and approve such coordination and  
9 planning;

10 § 13. Paragraph (d) of subdivision 1 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 (d) "Health and long term care services" means comprehensive health  
14 services and other services as determined by the commissioner and the  
15 commissioner of the office for people with developmental disabilities,  
16 whether provided by state-operated programs or not-for-profit entities,  
17 including, but not limited to, habilitation services, home and communi-  
18 ty-based and institution-based long term care services, and ancillary  
19 services, that shall include medical supplies and nutritional supple-  
20 ments, that are necessary to meet the needs of persons whom the plan is  
21 authorized to enroll[, ~~and may include primary care and acute care if~~  
22 ~~the DISCO is authorized to provide or arrange for such services~~]. Each  
23 person enrolled in a DISCO shall receive health and long term care  
24 services designed to achieve person-centered outcomes, to enable that  
25 person to live in the most integrated setting appropriate to that  
26 person's needs, and to enable that person to interact with nondisabled  
27 persons to the fullest extent possible in social, workplace and other  
28 community settings, provided that all such services are consistent with  
29 such person's wishes to the extent that such wishes are known and in  
30 accordance with such person's needs.

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

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

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

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

46 § 16. Subdivision (c) of section 62 of chapter 165 of the laws of  
47 1991, amending the public health law and other laws relating to estab-  
48 lishing payments for medical assistance, as amended by section 17 of  
49 part D of chapter 57 of the laws of 2015, is amended to read as follows:

50 (c) section 364-j of the social services law, as amended by section  
51 eight of this act and subdivision 6 of section 367-a of the social  
52 services law as added by section twelve of this act shall expire and be  
53 deemed repealed on March 31, [2019] 2024 and provided further, that the  
54 amendments to the provisions of section 364-j of the social services law  
55 made by section eight of this act shall only apply to managed care  
56 programs approved on or after the effective date of this act;

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

(c) No person with a developmental disability who is receiving or applying for medical assistance and who is receiving, or eligible to receive, services operated, funded, certified, authorized or approved by the office, shall be required to enroll in a DISCO, HMO or MLTC in order to receive such services until program features and reimbursement rates are approved by the commissioner and the commissioner of health, and until such commissioners determine that a sufficient number of plans that are authorized to coordinate care for individuals pursuant to this section or that are authorized to operate and to exclusively enroll persons with developmental disabilities pursuant to subdivision twenty-seven of section three hundred sixty-four-j of the social services law are operating in such person's county of residence to meet the needs of persons with developmental disabilities, and that such entities meet the standards of this section. No person shall be required to enroll in a DISCO, HMO or MLTC in order to receive services operated, funded, certified, authorized or approved by the office until there are at least two entities operating under this section in such person's county of residence, unless federal approval is secured to require enrollment when there are less than two such entities operating in such county. Notwithstanding the foregoing or any other law to the contrary, any health care provider: (i) enrolled in the Medicaid program and (ii) rendering hospital services, as such term is defined in section twenty-eight hundred one of the public health law, to an individual with a developmental disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health services plan operating pursuant to section forty-four hundred three-a of the public health law, including, but not limited to, an individual who is enrolled in a plan authorized by section three hundred sixty-four-j or the social services law, shall accept as full reimbursement the negotiated rate or, in the event that there is no negotiated rate, the rate of payment that the applicable government agency would otherwise pay for such rendered hospital services.

§ 18. Section 11 of 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, as amended by section 1 of part F of chapter 73 of the laws of 2016, is amended to read as follows:

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

1 § 19. This act shall take effect immediately; provided, however, that  
2 the amendments to subparagraph (vii) of paragraph e of subdivision 3 of  
3 section 364-j of the social services law made by section one of this act  
4 shall not affect the repeal of such section and shall be deemed repealed  
5 therewith; provided further, however, that the amendments to subdivision  
6 4 of section 366-c of the social services law made by section five of  
7 this act shall not affect the expiration of such subdivision and shall  
8 be deemed to expire therewith; provided further, however, that the  
9 amendments to paragraph (a-1) of subdivision 12 of section 4403-f of the  
10 public health law made by section twelve of this act shall not affect  
11 the repeal of such section and shall be deemed to be repealed therewith.

12 PART AA

13 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter  
14 57 of the laws of 2006, relating to establishing a cost of living  
15 adjustment for designated human services programs, as amended by section  
16 1 of part Q of chapter 57 of the laws of 2017, are amended to read as  
17 follows:

18 3-b. Notwithstanding any inconsistent provision of law, beginning  
19 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and  
20 ending March 31, [~~2018~~] 2019, the commissioners shall not include a COLA  
21 for the purpose of establishing rates of payments, contracts or any  
22 other form of reimbursement, provided that the commissioners of the  
23 office for people with developmental disabilities, the office of mental  
24 health, and the office of alcoholism and substance abuse services shall  
25 not include a COLA beginning April 1, 2017 and ending March 31, 2019.

26 3-c. Notwithstanding any inconsistent provision of law, beginning  
27 April 1, [~~2018~~] 2019 and ending March 31, [~~2021~~] 2022, the commissioners  
28 shall develop the COLA under this section using the actual U.S. consumer  
29 price index for all urban consumers (CPI-U) published by the United  
30 States department of labor, bureau of labor statistics for the twelve  
31 month period ending in July of the budget year prior to such state  
32 fiscal year, for the purpose of establishing rates of payments,  
33 contracts or any other form of reimbursement.

34 § 2. This act shall take effect immediately and shall be deemed to  
35 have been in full force and effect on and after April 1, 2018; provided,  
36 however, that the amendments to section 1 of part C of chapter 57 of the  
37 laws of 2006 made by section one of this act shall not affect the repeal  
38 of such section and shall be deemed repealed therewith.

39 PART BB

40 Section 1. Intentionally omitted.

41 § 2. Intentionally omitted.

42 § 3. Intentionally omitted.

43 § 4. Subdivision (b) of schedule I of section 3306 of the public  
44 health law is amended by adding two new paragraphs 56 and 57 to read as  
45 follows:

46 (56) 3,4-dichloro-N-((1-dimethylamino) cyclohexylmethyl)benzamide.  
47 Some trade or other names: AH-7921.

48 (57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fenta-  
49 nyl).

50 § 5. Subdivision (d) of schedule I of section 3306 of the public  
51 health law is amended by adding three new paragraphs 36, 37 and 38 to  
52 read as follows:

1 (36) 5-methoxy-N,N-dimethyltryptamine.

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

3 (38) 5-methoxy-N,N-diisopropyltryptamine. Some trade or other names:  
4 5-MeO-DIPT.

5 § 6. Intentionally omitted.

6 § 7. Schedule I of section 3306 of the public health law is amended by  
7 adding two new subdivisions (g) and (h) to read as follows:

8 (g) Synthetic cannabinoids. Unless specifically excepted or unless  
9 listed in another schedule, any material, compound, mixture, or prepara-  
10 tion, which contains any quantity of the following synthetic cannabinoid  
11 substances, or which contains any of its salts, isomers, and salts of  
12 isomers whenever the existence of such salts, isomers, and salts of  
13 isomers is possible within the specific chemical designation (for  
14 purposes of this paragraph only, the term "isomer" includes the optical,  
15 position and geometric isomers):

16 (1) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) metha-  
17 none. Some trade or other names: UR-144.

18 (2) {1-(5-fluoro-pentyl)-1H-indol-3-yl}(2,2,3,3-tetramethylcyclopropyl)  
19 methanone. Some trade names or other names: 5-fluoro-UR-144, XLR11.

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

22 (4) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate. Some trade or  
23 other names: PB-22; QUPIIC.

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

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

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

30 (8) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazo-  
31 le-3-carboxamide. Some trade or other names: AB-CHMINACA.

32 (9) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxa-  
33 mid. Some trade or other names: AB-PINACA.

34 (10) {1-(5-fluoropentyl)-1H-indazol-3-yl}(naphthalen-1-yl)methanone.  
35 Some trade or other names: THJ-2201.

36 (h) (1) Cannabimimetic agents. Unless specifically exempted or unless  
37 listed in another schedule, any material, compound, mixture, or prepara-  
38 tion that is not approved by the federal food and drug administration  
39 (FDA) which contains any quantity of cannabimimetic agents, or which  
40 contains their salts, isomers, and salts of isomers whenever the exist-  
41 ence of such salts, isomers, and salts of isomers is possible within the  
42 specific chemical designation.

43 (2) As used in this subdivision, the term "cannabimimetic agents"  
44 means any substance that is a cannabinoid receptor type 1 (CB1 receptor)  
45 agonist as demonstrated by binding studies and functional assays within  
46 any of the following structural classes:

47 (i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position  
48 of the phenolic ring by alkyl or alkenyl, whether or not substituted on  
49 the cyclohexyl ring to any extent.

50 (ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substi-  
51 tution at the nitrogen atom of the indole ring, whether or not further  
52 substituted on the indole ring to any extent, whether or not substituted  
53 on the naphthoyl or naphthyl ring to any extent.

54 (iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of  
55 the pyrrole ring, whether or not further substituted in the pyrrole ring

1 to any extent, whether or not substituted on the naphthoyl ring to any  
2 extent.

3 (iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position  
4 of the indene ring, whether or not further substituted in the indene  
5 ring to any extent, whether or not substituted on the naphthyl ring to  
6 any extent.

7 (v) 3-phenylacetylindole or 3-benzoylindole by substitution at the  
8 nitrogen atom of the indole ring, whether or not further substituted in  
9 the indole ring to any extent, whether or not substituted on the phenyl  
10 ring to any extent.

11 (3) Such term includes:

12 (i) 5-(1,1-dimethylheptyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol  
13 (CP-47,497);

14 (ii) 5-(1,1-dimethyloctyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol  
15 (cannabicyclohexanol or CP-47,497 C8-homolog);

16 (iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);

17 (iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);

18 (v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);

19 (vi) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole (JWH-200);

20 (vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

21 (viii) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole (JWH-081);

22 (ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

23 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

24 (xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

25 (xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

26 (xiii) 1-pentyl-3-((4-methoxy)-benzoyl)indole (SR-19 and RCS-4);

27 (xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and  
28 RCS-8); and

29 (xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

30 § 8. This act shall take effect on the ninetieth day after it shall  
31 have become a law.

32 PART CC

33 Section 1. Intentionally omitted.

34 § 2. Intentionally omitted.

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

38 (b) When a licensee has pleaded or been found guilty or convicted of  
39 committing an act constituting a felony under New York state law or  
40 federal law, or the law of another jurisdiction which, if committed  
41 within this state, would have constituted a felony under New York state  
42 law, or when a licensee has been charged with committing an act consti-  
43 tuting a felony under New York state or federal law or the law of another  
44 jurisdiction, where the licensee's alleged conduct, which, if commit-  
45 ted within this state, would have constituted a felony under New York  
46 state law, and in the commissioner's opinion the licensee's alleged  
47 conduct constitutes an imminent danger to the health of the people, or  
48 when the duly authorized professional disciplinary agency of another  
49 jurisdiction has made a finding substantially equivalent to a finding  
50 that the practice of medicine by the licensee in that jurisdiction  
51 constitutes an imminent danger to the health of its people, or when a  
52 licensee has been disciplined by a duly authorized professional disci-  
53 plinary agency of another jurisdiction for acts which if committed in  
54 this state would have constituted the basis for summary action by the



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

20 § 4. This act shall take effect immediately.

21 PART DD

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

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

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

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

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

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

53 (e) administer the immunization or immunizations according to the most  
54 current recommendations by the advisory committee for immunization prac-

1 tices (ACIP), provided however, that a pharmacist may administer any  
2 immunization authorized under this section when specified by a patient  
3 specific order.

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

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

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

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

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

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

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

40 § 2-a. Paragraph a of subdivision 3 of section 2168 of the public  
41 health law, as amended by chapter 420 of the laws of 2014, is amended to  
42 read as follows:

43 (a) (i) Any health care provider who administers any vaccine to a  
44 person less than nineteen years of age or, on or after September first,  
45 two thousand nine, conducts a blood lead analysis of a sample obtained  
46 from a person under eighteen years of age in accordance with paragraph  
47 (h) of subdivision two of this section; and immunizations received by a  
48 person less than nineteen years of age in the past if not already  
49 reported, shall report all such immunizations and the results of any  
50 blood lead analysis to the department in a format prescribed by the  
51 commissioner within fourteen days of administration of such immuniza-  
52 tions or of obtaining the results of any such blood lead analysis.  
53 Health care providers administering immunizations to persons less than  
54 nineteen years of age in the city of New York shall report, in a format  
55 prescribed by the city of New York commissioner of health and mental  
56 hygiene, all such immunizations to the citywide immunization registry.

1 Health care providers who conduct a blood lead analysis on a person  
2 under eighteen years of age and who report the results of such analysis  
3 to the city of New York commissioner of health and mental hygiene pursu-  
4 ant to New York city reporting requirements shall be exempt from this  
5 requirement for reporting blood lead analysis results to the state  
6 commissioner of health; provided, however, blood lead analysis data  
7 collected from physician office laboratories by the commissioner of  
8 health and mental hygiene of the city of New York pursuant to the health  
9 code of the city of New York shall be provided to the department in a  
10 format prescribed by the commissioner.

11 (ii) A pharmacist who administers a vaccine pursuant to subdivision  
12 two of section sixty-eight hundred one of the education law, to a person  
13 less than nineteen years of age, shall report all such immunizations to  
14 the department in a format prescribed by the commissioner within four-  
15 teen days of administration of such immunizations. Pharmacists adminis-  
16 tering immunizations pursuant to subdivision two of section sixty-eight  
17 hundred one of the education law to persons less than nineteen years of  
18 age in the city of New York shall report, in a format prescribed by the  
19 city of New York commissioner of health and mental hygiene, all such  
20 immunizations to the citywide immunization registry.

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

25 § 8. This act shall take effect on the ninetieth day after it shall  
26 have become a law and shall expire and be deemed repealed [~~July 1~~]  
27 December 31, 2019.

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

32 § 5. This act shall take effect on the ninetieth day after it shall  
33 have become a law and shall expire and be deemed repealed [~~July 1~~]  
34 December 31, 2019 provided, that:

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

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

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

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

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

51 § 5. This act shall take effect on the one hundred twentieth day after  
52 it shall have become a law [~~and~~], provided, however, that the provisions  
53 of sections two, three, and four of this act shall expire 7 years after  
54 such effective date when upon such date the provisions of this act shall  
55 be deemed repealed; provided, however, that the amendments to subdivi-  
56 sion 1 of section 6801 of the education law made by section one of this

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

8 § 6. This act shall take effect immediately; provided, however the  
9 amendments to section 6801 of the education law made by section one of  
10 this act shall not affect the expiration of such section and shall be  
11 deemed to expire therewith; provided, further, that the amendments to  
12 subdivision 22 of section 6802 of the education law made by section two  
13 of this act shall not affect the expiration of such section and shall be  
14 deemed to expire therewith.

## PART EE

16 Section 1. Subdivision (d) of section 13.17 of the mental hygiene law,  
17 as added by section 1 of part Q of chapter 59 of the laws of 2016, is  
18 amended to read as follows:

19 (d) In the event of a closure or transfer of a state-operated individ-  
20 ualized residential alternative (IRA), the commissioner shall:

21 1. provide appropriate and timely notification to the temporary presi-  
22 dent of the senate, and the speaker of the assembly, and to appropriate  
23 representatives of impacted labor organizations. Such notification to  
24 the representatives of impacted labor organizations shall be made as  
25 soon as practicable, but no less than [~~forty-five~~] one hundred eighty  
26 days prior to commencing such closure or transfer except in the case of  
27 exigent circumstances impacting the health, safety, or welfare of the  
28 residents of the IRA as determined by the office. Provided, however,  
29 that nothing herein shall limit the ability of the office to effectuate  
30 such closure or transfer; and

31 2. make reasonable efforts to confer with the affected workforce and  
32 any other party he or she deems appropriate to inform such affected  
33 workforce, the residents of the IRA, and their family members, where  
34 appropriate, of the proposed closure or transfer plan.

35 § 2. Section 2 of part Q of chapter 59 of the laws of 2016, amending  
36 the mental hygiene law relating to the closure or transfer of a state-  
37 operated individualized residential alternative, is amended to read as  
38 follows:

39 § 2. This act shall take effect immediately and shall expire and be  
40 deemed repealed March 31, [~~2018~~] 2022.

41 § 3. This act shall take effect immediately, provided, however, that  
42 the amendments to subdivision (d) of section 13.17 of the mental hygiene  
43 law made by section one of this act shall not affect the repeal of such  
44 subdivision and shall be deemed repealed therewith.

## PART FF

46 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the  
47 insurance law and the public health law relating to the New York state  
48 health insurance continuation assistance demonstration project, as  
49 amended by section 1 of part NN of chapter 58 of the laws of 2017, is  
50 amended to read as follows:

51 § 4. This act shall take effect on the sixtieth day after it shall  
52 have become a law; provided, however, that this act shall remain in

effect until July 1, ~~2018~~ 2019 when upon such date the provisions of this act shall expire and be deemed repealed; provided, further, that a displaced worker shall be eligible for continuation assistance retroactive to July 1, 2004.

§ 2. This act shall take effect immediately.

PART GG

Section 1. Paragraph 28 of subsection (i) of section 3216 of the insurance law, as amended by chapter 11 of the laws of 2012, is amended to read as follows:

(28) (A) Definitions. For the purpose of this paragraph:

(1) "Same reimbursement amount" shall mean that any coverage described under subparagraph (B) of this paragraph shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(2) "Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(B) Any policy that provides coverage for prescription drugs shall permit each insured to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the insured's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [~~in advance, through a contractual network agreement,~~] to the same reimbursement amount[~~, as well as the same applicable terms and conditions,~~] that the insurer has established for the network participating mail order or other non-retail pharmacy. In such a case, the policy shall not impose a co-payment fee or other condition on any insured who elects to purchase prescription drugs from a network participating non-mail order retail pharmacy which is not also imposed on insureds electing to purchase drugs from a network participating mail order or other non-retail pharmacy.

§ 2. Paragraph 18 of subsection (1) of section 3221 of the insurance law, as amended by chapter 11 of the laws of 2012, is amended to read as follows:

(18) (A) Definitions. For the purpose of this paragraph:

(1) "Same reimbursement amount" shall mean that any coverage described under subparagraph (B) of this paragraph shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(2) "Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(B) Any insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state that provides cover-



age for prescription drugs shall permit each insured to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the insured's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [~~in advance, through a contractual network agreement,~~] to the same reimbursement amount[~~, as well as the same applicable terms and conditions,~~] that the insurer has established for the network participating mail order or other non-retail pharmacy. In such a case, the policy shall not impose a co-payment fee or other condition on any insured who elects to purchase drugs from a network participating non-mail order retail pharmacy which is not also imposed on insureds electing to purchase drugs from a network participating mail order or other non-retail pharmacy; provided, however, that the provisions of this section shall not supersede the terms of a collective bargaining agreement or apply to a policy that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

§ 3. Subsection (kk) of section 4303 of the insurance law, as amended by chapter 11 of the laws of 2012 and as relettered by section 55 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(kk) (1) Definitions. For the purpose of this subsection:

(A) "Same reimbursement amount" shall mean that any coverage described under paragraph two of this subsection shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the health benefit plan regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(B) "Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(2) Any contract issued by a medical expense indemnity corporation, a hospital service corporation or a health services corporation that provides coverage for prescription drugs shall permit each covered person to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the covered person's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [~~in advance, through a contractual network agreement,~~] to the same reimbursement amount[~~, as well as the same applicable terms and conditions,~~] that the corporation has established for the network participating mail order or other non-retail pharmacy. In such a case, the contract shall not impose a copayment fee or other condition on any covered person who elects to purchase drugs from a network participating non-mail order retail pharmacy which is not also imposed on covered persons electing to purchase drugs from a network participating mail order or other non-retail pharmacy; provided, however, that the provisions of this section shall not supersede the terms of a collective bargaining agreement or apply to a contract that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

§ 4. This act shall take effect immediately.

Section 1. The mental hygiene law is amended by adding a new section 33.27 to read as follows:

§ 33.27 Independent behavioral health ombudsman.

(a) There is hereby established the office of the independent behavioral health ombudsman under the purview of the office of alcoholism and substance abuse services and the office of mental health for the purpose of assisting individuals with a substance use disorder and/or mental illness in accessing appropriate behavioral health services.

(b) The behavioral health ombudsman shall assist: (i) individuals and their families with filing and resolving complaints regarding a denial of benefits, care, coverage or an alleged violation of state or federal parity laws; (ii) both insured and uninsured individuals and their families with understanding their rights to coverage and necessary treatment; and (iii) treatment providers with in-depth training and educational materials on how to navigate insurance coverage as well as how to address barriers to care.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART II

Section 1. The public health law is amended by adding a new section 4410-a to read as follows:

§ 4410-a. Disposition of charitable asset. 1. This section applies to any transaction with respect to a health care corporation subject to article thirty-two or forty-three of the insurance law or this article involving:

(a) any sale, lease, transfer, exchange, option, conveyance, gift, joint venture, merger, consolidation or disposition of all or a material portion of the assets of the health care corporation;

(b) any transfer of control, responsibility or governance over all or substantially all of the assets of the health care corporation; or

(c) continuation of the corporate existence of the applicant by reconstituting the corporate form of the applicant from a not-for-profit corporation to a business corporation by the filing of a restated certificate of incorporation regardless of whether such changes occur in one transaction or in a series of transactions.

2. All money and other assets received by or on behalf of the state or any state governmental entity related to any transaction under this section shall be immediately deposited in the health care stabilization account under section ninety-two-gg of the state finance law, to be spent, used or disposed of only under law or appropriation referring to this section. This subdivision shall not preclude investment of any money in the account under the state finance law, provided that the proceeds of such investment shall be deposited in the account.

3. If any provision or application of this section conflicts with sections four thousand three hundred one or seven thousand three hundred seventeen of the insurance law, this section shall apply. This section shall be deemed to comply with sections five hundred ten, five hundred eleven and five hundred eleven-a of the not-for-profit corporation law.

4. Funds or assets in the health care stabilization account shall be used or disposed of for health, health care and health coverage purposes, subject to appropriation and in accordance with a memorandum of understanding signed by the governor, the temporary president of the senate and the speaker of the assembly, or their designated representatives.

1 5. If any provision of this section, or any application of any  
2 provision of this section, is held to be invalid, or to violate or be  
3 inconsistent with any federal law or regulation, that shall not affect  
4 the validity or effectiveness of any other provision of this section, or  
5 of any other application of any provision of this section, which can be  
6 given effect without that provision or application; and to that end, the  
7 provisions and applications of this section are severable.

8 § 2. The state finance law is amended by adding a new section 92-gg to  
9 read as follows:

10 § 92-gg. Health care stabilization account. 1. There is hereby estab-  
11 lished in the joint custody of the comptroller and the commissioner of  
12 taxation and finance a fund to be known as the "health care stabiliza-  
13 tion account."

14 2. The health care stabilization account shall consist of all moneys  
15 and assets deposited to such fund pursuant to section forty-four hundred  
16 ten-a of the public health law and any other monies credited, deposited  
17 or transferred thereto.

18 3. All moneys and assets in such fund shall be subject to the require-  
19 ment of section forty-four hundred ten-a of the public health law and  
20 shall only be used or disposed of for health, health care and health  
21 coverage purposes, subject to appropriation and in accordance with a  
22 memorandum of understanding signed by the governor, the temporary presi-  
23 dent of the senate and the speaker of the assembly, or their designated  
24 representatives. Notwithstanding any inconsistent provision of law,  
25 funds shall not be transferred from such fund without the execution of  
26 such memorandum of understanding.

27 § 3. This act shall take effect immediately.

28 PART JJ

29 Section 1. Section 3-d of part B of chapter 58 of the laws of 2010,  
30 amending chapter 474 of the laws of 1996, amending the education law and  
31 other laws relating to rates for residential health care facilities, in  
32 relation to reimbursement, is REPEALED.

33 § 2. 1. Notwithstanding any provision of law, rule or regulation to  
34 the contrary, and subject to the availability of federal financial  
35 participation, for periods on and after April 1, 2010, payments made to  
36 managed care providers sponsored by or otherwise having entered into  
37 health care services contract with a public benefit corporation located  
38 in a city of more than one million persons which provide coverage to  
39 Medicaid patients in accordance with section 364-j of the social  
40 services law may, at the election of the social services district, be  
41 increased up to the maximum amount permitted under title XIX of the  
42 social security act for the benefit of such public benefit corporation;  
43 provided, however that, notwithstanding the social services district  
44 Medicaid cap provisions of part C of chapter 58 of the laws of 2005,  
45 such social services district shall be responsible for payment of one  
46 hundred percent of the non-federal share of such increase, and provided  
47 further, however, that such payment increases shall not be applied to  
48 payments related to the Medicaid advantage program or the HIV special  
49 needs plan. Social services district funding of the non-federal share of  
50 any such payments shall be deemed to be voluntary for purposes of the  
51 increased federal medical assistance percentage provisions of the Ameri-  
52 can Recovery and Reinvestment Act of 2009; provided however that, in the  
53 event the federal Centers for Medicare and Medicaid Services determines  
54 that such non-federal share payments are not voluntary payments for

1 purposes of such Act, the provisions of this section shall be null and  
2 void.

3 2. Notwithstanding any contrary provision of law, the social services  
4 district in which such public benefit corporation is primarily located  
5 shall be responsible for the increase to payments as determined in  
6 accordance with this section for services covered by such managed care  
7 provider in accordance with section 365-a of the social services law,  
8 regardless of whether another social services district or the department  
9 of health may otherwise be responsible for furnishing medical assistance  
10 to the eligible persons receiving such services.

11 § 3. This act shall take effect immediately.

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

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