

STATE OF NEW YORK

7507--B

IN SENATE

January 18, 2018

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

AN ACT to amend the public health law, in relation to the general hospital indigent care pool; to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs; to amend the public health law, in relation to payments to rural hospitals designated as critical access hospitals; to amend the public authorities law, in relation to authorizing the Westchester health care corporation to enter into agreements for the creation and operation of a health care delivery system network and to amend the public health law, in relation to reimbursement rates for certain residential health care facilities (Part A); to amend the social services law, in relation to assisted living program providers licensed in the state; to amend the public health law, in relation to eligibility for medical assistance; to amend the public health law, in relation to payments for home and community based long term care services; 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; to amend the public health law, in relation to requiring the department of health to oversee the appropriateness of services provided to certain high needs patients; to authorize the commissioner of health to conduct a study of home and community based services available to Medicaid recipients in rural areas; to amend the public health law, in relation to medical assistance payments for care in hospice residences; to amend the public health law, in relation to the public health priority initiative; to amend the public health law, in relation to restricting the altering of case-mix adjustments; to amend the public health law, in relation to a review of licensed home care service agencies; and to amend the social services law, in relation to the provision of services to certain persons suffering from traumatic brain injuries or qualifying for nursing home diversion and transition services (Part B); to amend the public health law and

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

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the social services law, in relation to health homes and penalties for managed care providers; to amend the social services law, in relation to the statewide patient centered medical home program; to amend the public health law, in relation to the multipayer patient centered medical home program; and to amend the social services law in relation to school-based health centers (Part C); to amend the social services law and the public health law, in relation to drug coverage; to amend the public health law, in relation to enacting the drug take back act; to amend the public health law, in relation to prescribing opioids to a minor; to amend the public health law, in relation to limiting the initial prescription of a controlled substance for the alleviation of acute pain from a seven-day supply to a three-day supply and requiring the commissioner of health to develop guidelines for the prescribing of opioid antagonists; to amend the social services law, in relation to limiting medical assistance coverage for opioids; to amend the insurance law, in relation to limiting coverage for opioids; to amend the public health law, in relation to establishing an opioid alternative pilot project; to amend the public health law, in relation to requiring hospital and emergency room physicians to notify a patient's prescriber that such patient is being treated for a controlled substance overdose; to amend the public health law in relation to the labeling of opioids; to amend the public health law, in relation to children and recovering mothers; to amend the public health law, in relation to establishing the infant recovery centers pilot program; to amend the public health law, in relation to requiring facilities to screen newborns for neonatal abstinence syndrome through toxicological screening of infants' meconium or urine; and providing for the repeal of such provisions upon expiration thereof; to amend the insurance law, in relation to providing that coverage for outpatient diagnosis and treatment of substance use disorder shall not be subject to preauthorization; to amend the mental hygiene law and the education law, in relation to integrated care and the location of pharmacies; to amend the public health law, in relation to audits of pharmacies; to amend the public health law, in relation to prohibited activities by pharmacy benefit managers; and providing for the repeal of certain provisions upon expiration thereof (Part D); to amend the social services law, in relation to reimbursement of transportation costs and reimbursement of emergency transportation services (Part E); intentionally omitted (Part F); to amend the public health law, in relation to authorizing the establishment of limited service clinics (Part G); intentionally omitted (Part H); to amend the social services law and the public health law, in relation to managed care organizations (Part I); to amend the state finance law, in relation to establishing a medicaid false claims act reserve fund (Part J); authorizing the department of health to require certain health care providers to report on costs incurred; 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; to amend chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to certain time periods; to amend the public health law, in relation to the kidney disease outreach and education program; and to repeal section 6 of part S of chapter 57 of the laws of 2017 relating to authorizing the commissioner of health to sell accounts receivables balances owed to the state by Medicaid providers to financial insti-

tutions (Part K); to amend the social services law, in relation to the child health insurance program; to amend the insurance law, in relation to the definition of small group and in relation to meetings and reports of the New York state health care quality and cost containment commission; to amend the insurance law, in relation to clarifying that continuing care retirement communities are not subject to department of financial services cybersecurity regulations; and to repeal section 7 of chapter 12 of the laws of 2016 relating to directing the superintendent of financial services to contract with an independent entity to conduct an assessment regarding the impact of the prohibition on the sale of stop loss, catastrophic and reinsurance coverage to the small group market relating thereto (Part L); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part M); to amend part C of chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services, in relation to the determination thereof; and to repeal certain provisions thereof relating to eligible programs (Part N); intentionally omitted (Part O); to amend the public health law, in relation to the health force retraining program; and to repeal subdivision 9 of section 2803 of such law relating to hospital audits (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); to amend the public health law, in relation to granting schools access to a student's blood lead test results in the statewide immunization information system; lead screening of child care or pre-school enrollees and kindergarten students; and appointments to the advisory council on lead poisoning prevention; and to amend the public health law, in relation to requiring the department of health to establish a statewide plan for lead service line replacement (Part R); to amend the public health law, in relation to authorizing collaborative programs for community paramedicine services (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the public health law, in relation to the definitions of telehealth provider, originating site and remote patient monitoring; and to amend the social services law, in relation to telehealth under medical assistance (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; to amend chapter 56 of the laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to rates of payments and to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings; and to amend the public health law, in relation to professional misconduct proceedings and the effectiveness of certain provisions thereof (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; and establishing a mental health professions task force (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 and to providing funding to increase salaries and related fringe benefits to direct care workers, direct support professionals and clinical workers employed by not-for-profits funded by the office for people with developmental disabilities, the office of mental health and the office of alcoholism and substance abuse services (Part AA); to amend the public health law and the penal law, in relation to expanding the list of controlled substances; and to repeal paragraph 6 of subdivision (c) of schedule II of section 3306 of the public health law, relating thereto (Part BB); intentionally omitted (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 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 the effectiveness of such provisions; 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 the effectiveness of such provisions; 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 the effectiveness of such provisions (Part DD); to amend the social services law and the elder law, in relation to providing protective services to certain individuals (Part EE); to amend the mental hygiene law, in relation to treatment of sex offenders in certain facilities (Part FF); to amend the mental hygiene law, in relation to prohibiting the collocation of certain facilities (Part GG); to amend the mental hygiene law, in relation to notice to local governments of the potential for significant service reductions at certain state-operated hospitals (Part HH); to amend the mental hygiene law, in relation to notification of the closure or transfer of a state-operated individualized residential alternative; 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 extending the effectiveness thereof (Part II); to amend the mental hygiene law, in relation to authorizing the office of alcoholism and substance abuse services to provide funding to substance use disorder and/or compulsive gambling programs operated by for profit agencies (Part JJ); to amend the mental hygiene law, in relation to opioid overdose reversal and peer to peer support services (Part KK); to amend the mental hygiene law, in relation to prohibiting deceptive acts and practices for substance use disorder treatment (Part LL); to amend the mental

hygiene law, in relation to establishing the family support and recovery services demonstration program; and providing for the repeal of such provisions upon expiration thereof (Part MM); to amend the mental hygiene law, in relation to alcohol and drug free housing (Part NN); to amend the mental hygiene law, in relation to establishing protocols for assisted outpatient treatment for substance abuse (Part OO); to amend the mental hygiene law, in relation to requiring the commissioner of alcoholism and substance abuse services to include a report for services to persons with substance use or compulsive gambling disorders in the statewide comprehensive plan of services for persons with mental disabilities (Part PP); to amend the mental hygiene law, in relation to directing the office of alcoholism and substance abuse, services to provide an ombudsman for substance use disorder insurance coverage (Part QQ); to amend the mental hygiene law, in relation to implementing a jail-based substance use disorder treatment and transition services (Part RR); to amend the public health law, in relation to establishing an emergent contaminant contingency fund; to amend the public health law, in relation to the promulgation of regulations for tests for water contaminants by small public water suppliers; to amend the public health law, in relation to public water system coordination summits; and to amend the public health law, in relation to authorizing a voluntary public water system consolidation study (Part SS); and to amend the public health law, in relation to the cancer detection and education program; to amend the public health law, in relation to the implementation of an electronic death registration system; to amend the public health law, in relation to a court ordered guardianship demonstration program; to amend the public health law, in relation to grants for not-for-profit corporations which provide family intervention services relating to Alzheimer's disease; to direct the New York state department of health to conduct a study on the high incidence of asthma and related pulmonary disorders in the boroughs of Brooklyn and Manhattan in the city of New York and to prepare a remedial plan; to direct a study of the impact of insurance laws relating to fertility and in vitro fertilization benefits; to amend the public buildings law, in relation to requiring the establishment of lactation rooms in certain public buildings; to amend the insurance law, in relation to requiring donated breast milk to be covered by certain insurance policies; to amend the executive law, in relation to standards requiring assembly group A occupancies and mercantile group M occupancies to have diaper changing stations available for use by both male and female occupants; and to amend the public buildings law, in relation to requiring full family service restroom facilities in public buildings; to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams; to amend the public health law and the executive law, in relation to establishing a sexual assault survivor bill of rights; and to amend the executive law, in relation to maintenance of sexual assault evidence, establishing a victim's right to notice prior to destruction and requiring a study relating to the feasibility of establishing a statewide tracking system for sexual offense evidence kits; and to amend the public health law, in relation to establishing the sexual assault forensic examination telemedicine pilot program (Part TT)

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

12 PART A

13 Section 1. Intentionally omitted.

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

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

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

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

42 (ii) Annual distributions pursuant to such regulations for the two
43 thousand thirteen through two thousand [~~eighteen~~] twenty calendar years
44 shall be in accord with the following:

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

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

51 (iii)(A) Such regulations shall establish transition adjustments to
52 the distributions made pursuant to clauses (A) and (B) of subparagraph
53 (ii) of this paragraph such that no facility experiences a reduction in
54 indigent care pool payments pursuant to this subdivision that is greater

1 than the percentages, as specified in clause (C) of this subparagraph as
2 compared to the average distribution that each such facility received
3 for the three calendar years prior to two thousand thirteen pursuant to
4 this section and section twenty-eight hundred seven-w of this article.

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

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

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

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

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

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

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

45 § 3. Intentionally omitted.

46 § 3-a. Subdivision 14-a of section 2807 of the public health law is
47 amended by adding a new paragraph (c) to read as follows:

48 (c) Notwithstanding any contrary provision of law, the commissioner
49 shall not take any action with the purpose of reducing payment for
50 general hospital emergency services visits provided to patients eligible
51 for medical assistance pursuant to title eleven of article five of the
52 social services law, including such patients enrolled in organizations
53 operating in accordance with the provisions of article forty-four of
54 this chapter or in health maintenance organizations organized and oper-
55 ating in accordance with article forty-three of the insurance law.

56 § 4. Intentionally omitted.

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

4 (h) speech therapy, and when provided at the direction of a physician
5 or nurse practitioner, physical therapy including related rehabilitative
6 services and occupational therapy; provided, however, that speech thera-
7 py[~~, physical therapy~~] and occupational therapy each shall be limited to
8 coverage of twenty visits per year; physical therapy shall be limited to
9 coverage of forty visits per year; such limitation shall not apply to
10 persons with developmental disabilities or, notwithstanding any other
11 provision of law to the contrary, to persons with traumatic brain inju-
12 ry;

13 § 6. Subdivision 2-a of section 2807 of the public health law is
14 amended by adding a new paragraph (j) to read as follows:

15 (j) Notwithstanding any other provision of this subdivision or any
16 other provision of law to the contrary and, subject to an appropriation
17 therefor, on and after April first, two thousand nineteen, rates of
18 payment for diagnostic and treatment center services, emergency
19 services, general hospital inpatient and outpatient services, ambulatory
20 surgical services and referred ambulatory services, provided by a rural
21 hospital designated as a critical access hospital in accordance with
22 title XVIII of the federal social security act shall be equal to one
23 hundred one percent of the reasonable costs of a facility in providing
24 such services to patients eligible for payments made in accordance with
25 this subdivision. Reasonable costs shall be determined in a manner
26 consistent with that used to determine payment for outpatient critical
27 access hospital services provided to beneficiaries of title XVIII of the
28 federal social security act. For facilities without adequate cost expe-
29 rience, such rates shall be based on budgeted costs subsequently
30 adjusted to one hundred one percent of reasonable actual costs.

31 § 7. Notwithstanding any inconsistent provision of law or regulation,
32 the commissioner of health shall not alter the weights under the ambula-
33 tory patient group methodology unless such alteration is part of a
34 rebasing of all the weights assigned to ambulatory patient groups.

35 § 8. Section 3306 of the public authorities law is amended by adding a
36 new subdivision 8 to read as follows:

37 8. As set forth in section thirty-three hundred one of this title, the
38 creation and operation of the Westchester County Health Care Corporation
39 is for the benefit of the residents of the state of New York and the
40 county of Westchester, including persons in need of health care services
41 without the ability to pay, and is a state, county, and public purpose.
42 The corporation has advised that it intends to engage in certain colla-
43 borative activities with and limited to, health care providers in the
44 eight lower Hudson valley counties of Westchester, Rockland, Dutchess,
45 Orange, Ulster, Putnam, Sullivan, and Delaware, as set forth in section
46 thirty-three hundred one of this title, for the purpose of promoting,
47 and only to the extent necessary to promote, improved quality of and
48 access to health care services and improved clinical outcomes, consist-
49 ing of: (a) development of a non-exclusive joint health information
50 technology platform; (b) development of a joint set of clinical quality
51 standards; (c) coordination and integration of clinical service to
52 reduce redundancy and increase efficiency; (d) joint discussions with
53 rural hospitals regarding the possibility of coordinating and integrat-
54 ing clinical services; and (e) joint purchasing of services, supplies
55 and equipment related to the provisions of health care services. To
56 promote improved quality of and access to health care services and

1 improved clinical outcomes, and consistent with the corporation's furth-
2 erance of its health care purposes through the exercise of the special
3 powers exercised pursuant to this section and the general powers exer-
4 cised pursuant to this title, it is the policy of the state to supplant
5 competition for the purpose of immunizing the planning and implementa-
6 tion of the enumerated activities by the corporation in collaboration
7 with any one of the aforementioned entities from liability under the
8 federal and state antitrust laws; provided, however, that nothing in
9 this subdivision shall be construed to extend such declaration of policy
10 to any activities other than those specifically enumerated and described
11 in this subdivision, which remain subject to any and all applicable
12 state and federal antitrust laws; and provided further that such decla-
13 ration of policy shall not apply to any activities that improperly
14 restrict competitive labor markets in violation of all applicable state
15 and federal antitrust laws.

16 § 9. Section 4403-f of the public health law is amended by adding a
17 new subdivision 8-a to read as follows:

18 8-a. Rates for certain residential health care facilities. Notwith-
19 standing any other provision of law or regulation to the contrary, any
20 residential health care facility established pursuant to article twen-
21 ty-eight of this chapter located in a county with a population of more
22 than seventy-two thousand and less than seventy-five thousand persons
23 based on the two thousand ten federal census shall be reimbursed by any
24 managed long term care plan, approved pursuant to this section and
25 contracting with the department, at a rate of no less than one hundred
26 four percent of the average rate of reimbursement in existence on March
27 first, two thousand eighteen for such county.

28 § 9-a. Subdivision 2-c of section 2808 of the public health law is
29 amended by adding a new paragraph (g) to read as follows:

30 (g) Notwithstanding any other provision of law or regulation to the
31 contrary, any residential health care facility established pursuant to
32 this article located in a county with a population of more than seven-
33 ty-two thousand and less than seventy-five thousand persons based on the
34 two thousand ten federal census, and operating between one hundred ten
35 and one hundred thirty beds, being reimbursed by the department on a
36 fee-for-services basis, shall be reimbursed at a rate of no less than
37 one hundred seventeen percent of the fee-for-service rate of reimburse-
38 ment calculated pursuant to this section for that facility for inpatient
39 services provided on or after March first, two thousand eighteen.

40 § 10. This act shall take effect immediately; provided, however, that
41 the implementation of the provisions of section six of this act shall be
42 subject to the appropriation of moneys specifically for the purposes
43 thereof; and provided, further, that the amendments to section 4403-f of
44 the public health law made by section nine of this act, shall not affect
45 the repeal of such section and shall be deemed repealed therewith.

46

PART B

47 Section 1. Intentionally omitted.

48 § 2. Subdivision 3 of section 461-1 of the social services law, as
49 added by chapter 165 of the laws of 1991, subparagraph (iii) of para-
50 graph (a) as amended by chapter 438 of the laws of 1994, paragraphs (b),
51 (c), (e) and (f) as amended by section 82 of part A of chapter 58 of the
52 laws of 2010, paragraph (d) as amended by chapter 591 of the laws of
53 1999, paragraph (g) as amended by chapter 397 of the laws of 2012, para-
54 graph (h) as added by section 20 of part B of chapter 58 of the laws of

1 2007, paragraph (i) as amended by section 67 of part C of chapter 60 of
2 the laws of 2014, and paragraph (j) as added by section 70 of part A of
3 chapter 56 of the laws of 2013, is amended to read as follows:

4 3. Assisted living program approval. (a) An eligible applicant propos-
5 ing to operate an assisted living program or increase the number of beds
6 within an existing program shall submit an application to the [~~depart-~~
7 ~~ment. Upon receipt, the department shall transmit a copy of the applica-~~
8 ~~tion and accompanying documents to the~~] department of health. [~~Such~~] To
9 the extent applicable, such application shall be in a format and a quan-
10 tity determined by the department of health and shall include, but not
11 be limited to:

12 (i) a copy of or an application for an adult care facility operating
13 certificate;

14 (ii) a copy of or an application for a home care services agency
15 license or a copy of a certificate for a certified home health agency or
16 authorization as a long term home health care program;

17 (iii) a copy of a proposed contract with a social services district or
18 in a social services district with a population of one million or more,
19 a copy of a proposed contract with the social services district or the
20 department;

21 (iv) if the applicant is not a long term home health care program or
22 certified home health agency, a copy of a proposed contract with a long
23 term home health care program or certified home health agency for the
24 provisions of services in accordance with article thirty-six of the
25 public health law; and

26 (v) a detailed description of the proposed program including budget,
27 staffing and services.

28 (b) If the application for the proposed program includes an applica-
29 tion for licensure as a home care service agency, the department of
30 health shall forward the application for the proposed program and accom-
31 panying documents to the public health and health planning council for
32 its written approval in accordance with the provisions of section thir-
33 ty-six hundred five of the public health law.

34 (c) An application for an assisted living program shall not be
35 approved unless the commissioner is satisfied as to:

36 (i) the character, competence and standing in the community of the
37 operator of the adult care facility;

38 (ii) the financial responsibility of the operator of the adult care
39 facility;

40 (iii) that the buildings, equipment, staff, standards of care and
41 records of the adult care facility to be employed in the operation
42 comply with applicable law, rule and regulation;

43 (iv) the commissioner of health is satisfied that the licensed home
44 care agency has received the written approval of the public health and
45 health planning council as required by paragraph (b) of this subdivision
46 and the equipment, personnel, rules, standards of care, and home care
47 services provided by the licensed home care agency and certified home
48 health agency or long term home health care program are fit and adequate
49 and will be provided in the manner required by article thirty-six of the
50 public health law and the rules and regulations thereunder; and

51 [~~the commissioner and~~] the commissioner of health [~~are~~] is satis-
52 fied as to the public need for the assisted living program beds being
53 proposed after giving consideration to the specific population being
54 served and relative concentration of assisted living program beds in
55 existence in the area to be served. In approving applications for

1 assisted living program beds, the commissioner of health shall give
2 priority to applicants which:

3 (1) are an existing assisted living provider who is seeking approval
4 for less than ten beds under the department's expedited review process
5 and whose average occupancy over the prior twelve month period is great-
6 er than ninety percent;

7 (2) are in counties where there are two or fewer operational assisted
8 living program providers and where existing providers in such counties
9 have occupancy over the prior twelve month period in excess of eighty-
10 five percent; or

11 (3) are in counties where existing assisted living program beds which
12 provide services predominantly to individuals over the age of sixty-five
13 have an average occupancy in excess of eighty-five percent over the
14 prior twelve month period.

15 (d) The department of health shall not approve an application for an
16 assisted living program or an expansion of an existing program for any
17 eligible applicant who does not meet the requirements of this article,
18 including but not limited to, an eligible applicant who is already or
19 within the past ten years has been an incorporator, director, sponsor,
20 principal stockholder, member or owner of any adult care facility which
21 has been issued an operating certificate by the board or the department,
22 or of a halfway house, hostel or other residential facility or institu-
23 tion for the care, custody or treatment of the mentally disabled which
24 is subject to approval by an office of the department of mental hygiene,
25 or of any residential health care facility or home care agency as
26 defined in the public health law, unless the department, in conjunction
27 with the department of health, finds by substantial evidence as to each
28 such applicant that a substantially consistent high level of care has
29 been rendered in each such facility or institution under which such
30 person is or was affiliated. For the purposes of this paragraph, there
31 may be a finding that a substantially consistent high level of care has
32 been rendered despite a record of violations of applicable rules and
33 regulations, if such violations (i) did not threaten to directly affect
34 the health, safety or welfare of any patient or resident, and (ii) were
35 promptly corrected and not recurrent.

36 (e) The commissioner of health shall provide written notice of
37 approval or disapproval of portions of the proposed application concern-
38 ing a licensed home care agency, certified home health agency or long
39 term home health care program, and, where applicable, of the approval or
40 disapproval of the public health and health planning council [~~to the~~
41 ~~commissioner~~]. If an application receives all the necessary approvals,
42 the commissioner of health shall notify the applicant in writing. The
43 commissioner's written approval shall constitute authorization to oper-
44 ate an assisted living program.

45 (f) No assisted living program may be operated without the written
46 approval of [~~the department,~~] the department of health and, where appli-
47 cable, the public health and health planning council.

48 (g) Notwithstanding any other provision of law to the contrary, any
49 assisted living program having less than seventy-five authorized bed
50 slots, located in a county with a population of more than one hundred
51 ten thousand and less than one hundred fifty thousand persons based upon
52 the decennial federal census for the year two thousand, and which at any
53 point in time is unable to accommodate individuals awaiting placement
54 into the assisted living program, shall be authorized to increase the
55 number of assisted living beds available for a specified period of time
56 as part of a demonstration program by up to thirty percent of its

1 approved bed level; provided, however, that such program shall otherwise
2 satisfy all other assisted living program requirements as set forth in
3 this section. In addition, any program which receives such authorization
4 and which at any point on or after July first, two thousand five is
5 unable to accommodate individuals awaiting placement into the assisted
6 program, shall be authorized to further increase the number of assisted
7 living beds available as part of this demonstration program by up to
8 twenty-five percent of its bed level as of July first, two thousand
9 five; provided, however, that such program shall otherwise satisfy all
10 other assisted living program requirements as set forth in this section.

11 (h) The commissioner is authorized to add one thousand five hundred
12 assisted living program beds to the gross number of assisted living
13 program beds having been determined to be available as of April first,
14 two thousand seven.

15 (i) (a) The commissioner of health is authorized to add up to six
16 thousand assisted living program beds to the gross number of assisted
17 living program beds having been determined to be available as of April
18 first, two thousand nine. Nothing herein shall be interpreted as prohib-
19 iting any eligible applicant from submitting an application for any
20 assisted living program bed so added. The commissioner of health shall
21 not be required to review on a comparative basis applications submitted
22 for assisted living program beds made available under this paragraph.
23 The commissioner of health shall only authorize the addition of six
24 thousand beds pursuant to a seven year plan ending prior to January
25 first, two thousand seventeen.

26 (b) The commissioner of health shall provide an annual written report
27 to the chair of the senate standing committee on health and the chair of
28 the assembly health committee no later than January first of each year.
29 Such report shall include, but not be limited to, the number of assisted
30 living program beds made available pursuant to this section by county,
31 the total number of assisted living program beds by county, the number
32 of vacant assisted living program beds by county, and any other informa-
33 tion deemed necessary and appropriate.

34 (j) The commissioner of health is authorized to add up to four thou-
35 sand five hundred assisted living program beds to the gross number of
36 assisted living program beds having been determined to be available as
37 of April first, two thousand twelve. Applicants eligible to submit an
38 application under this paragraph shall be limited to adult homes estab-
39 lished pursuant to section four hundred sixty-one-b of this article
40 with, as of September first, two thousand twelve, a certified capacity
41 of eighty beds or more in which twenty-five percent or more of the resi-
42 dent population are persons with serious mental illness as defined in
43 regulations promulgated by the commissioner of health. The commissioner
44 of health shall not be required to review on a comparative basis appli-
45 cations submitted for assisted living program beds made available under
46 this paragraph.

47 (k)(i) For periods on and after April first, two thousand eighteen,
48 the commissioner of health is authorized to issue up to one thousand
49 assisted living program beds. Applicants under this subparagraph shall
50 be able to submit such applications for beds beginning no later than
51 September first, two thousand eighteen;

52 (ii) For periods on and after April first, two thousand twenty, the
53 commissioner of health is authorized to issue up to an additional one
54 thousand assisted living program beds. Applicants under this subpara-
55 graph shall be able to submit such applications for beds beginning no
56 later than September first, two thousand twenty;

1 (iii) For periods on and after April first, two thousand twenty-two,
2 the commissioner of health is authorized to issue assisted living
3 program beds for any eligible applicant that satisfactorily demonstrates
4 the public need for such beds in the area to be served and meets all
5 other applicable requirements of this section. Demonstrated public need
6 shall be determined on a case by case basis whenever the commissioner is
7 satisfied public need exists at the time and place and under circum-
8 stances proposed by the applicant; provided, however, the prior bed
9 authorizations in paragraphs (h), (i), and (j) of this subdivision shall
10 continue in full force and effect.

11 (l) Notwithstanding any other provision of law to the contrary, the
12 department shall develop an expedited review and approval process for
13 applications for up to nine additional beds to an existing assisted
14 living program qualified as being in good standing under section four
15 hundred sixty-one-b of this article. In no event shall the review by the
16 department of health of an application under the expedited approval
17 process exceed ninety days.

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

26 § 3. Intentionally omitted.

27 § 4. Intentionally omitted.

28 § 5. Clauses 11 and 12 of subparagraph (v) of paragraph (b) of subdivi-
29 sion 7 of section 4403-f of the public health law, as amended by
30 section 48 of part A of chapter 56 of the laws of 2013, are amended and
31 three new clauses 13, 14 and 15 are added to read as follows:

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

35 (12) Native Americans~~[-]~~;

36 (13) a person participating in a long term inpatient rehabilitation
37 program for head injured nursing home residents;

38 (14) a person participating in a specialized program for nursing home
39 residents requiring behavioral interventions; and

40 (15) a person who is permanently placed in a nursing home for a
41 consecutive period of three months or more, provided however such person
42 shall be notified they are being designated permanently placed and shall
43 have the right to appeal their designation. Implementation of this
44 provision shall include policies and procedures to ensure Americans with
45 Disabilities Act and federal Olmstead compliance.

46 § 5-a. Paragraph (c) of subdivision 18 of section 364-j of the social
47 services law, as added by section 55 of part B of chapter 57 of the laws
48 of 2015, is amended to read as follows:

49 (c) (i) In setting such reimbursement methodologies, the department
50 shall consider costs borne by the managed care program to ensure that
51 each plan receives actuarially sound and adequate rates of payment to
52 ensure quality of care for its enrollees. The department of health shall
53 require the independent actuary selected pursuant to paragraph (b) of
54 this subdivision to provide a complete actuarial memorandum, along with
55 all actuarial assumptions made and all other data, materials and method-
56 ologies used in the development of rates, to managed care providers

1 thirty days prior to submission of such rates to the centers for medi-
2 care and medicaid services for approval. Managed care providers may
3 request additional review of the actuarial soundness of the rate setting
4 process and/or methodology.

5 (ii) In fulfilling the requirements of this paragraph, the department
6 of health, in consultation with the independent actuary, the affected
7 managed care providers and other interested parties, shall develop and
8 utilize statistically validated assessment tools to determine the care
9 needs of individuals enrolled in managed care plans, which shall involve
10 consideration of variables including, but not limited to, physical and
11 behavioral functioning, activities of daily living and instrumental
12 activities of daily living, and primary or secondary diagnoses of cogni-
13 tive impairment or mental illness.

14 (iii) The department shall establish separate rate cells to reflect
15 the costs of care for specific high-need and/or high-cost enrollees of
16 managed care providers operating on a full capitation basis and in
17 managed long term care plans operating in accordance with the provisions
18 of section forty-four hundred three-f of the public health law. By June
19 thirtieth, two thousand eighteen the commissioner shall submit to the
20 Centers for Medicare and Medicaid Services a state plan amendment or
21 other appropriate approval of a capitated rate which includes a separate
22 rate cell or cells and shall also include policies and procedures to
23 ensure Americans with Disabilities Act and federal Olmstead compliance
24 for covering the cost of care for each of the following:

25 (A) individuals in managed care providers operating on a full capita-
26 tion basis and individuals in managed long term care plans that are
27 either already residing in a skilled nursing home or are placed in a
28 skilled nursing home;

29 (B) individuals in managed long term care plans, who remain in the
30 community and who daily receive live-in or twelve hours or more of
31 personal care or home health services;

32 (C) individuals in fully-capitated plans who satisfy the criteria for
33 inclusion in a health and recovery plan for persons with serious mental
34 illness, but have not been enrolled in such a plan; and

35 (D) such other individuals who, based on the assessment of their care
36 needs, their diagnosis or other factors, are determined to present
37 uniquely high-needs and are likely to generate high costs, as may be
38 identified by the department.

39 § 5-b. The public health law is amended by adding a new section 3614-f
40 to read as follows:

41 § 3614-f. Payments for home and community based long term care
42 services. The payment of claims submitted under contracts and/or agree-
43 ments with insurers under the medical assistance program for home and
44 community based long term care services provided under this article and
45 by fiscal intermediaries operating pursuant to section three hundred
46 sixty-five-f of the social services law shall provide that any funds
47 appropriated to compensate for minimum wage pursuant to section six
48 hundred fifty-two of the labor law, shall not be subject to managed care
49 risk adjustment on insurers established pursuant to subdivision eight of
50 section four thousand four hundred three-f of this chapter. In addition,
51 the distribution of any such funds shall be provided by insurers in
52 amendments to existing contracts with home and community based long term
53 care services provided under this article and by fiscal intermediaries
54 operating pursuant to section three hundred sixty-five-f of the social
55 services law ninety days prior to the effective date of any such law or
56 regulation impacting wages. Insurers shall provide such funds in an

1 amount that supplements any current contracts and/or agreements and
2 shall not use such funds to supplant payments for existing services
3 under the Medicaid assistance program. Such insurers shall include but
4 not be limited to Medicaid managed care plans and Medicaid managed long
5 term care plans.

6 § 5-c. Section 4403-f of the public health law is amended by adding a
7 new subdivision 11-b to read as follows:

8 11-b. Where individuals with high needs are transferred involuntarily
9 between managed long term care plans, the department shall provide over-
10 sight to assure continuity of services and direct care providers. Where
11 the transition is related to the closure of acquisition of a plan
12 specializing in high need individuals, the department shall review any
13 prior audit to ascertain the appropriateness of services provided by the
14 plan that is closing or being acquired, and shall promptly conduct a
15 follow-up audit of services provided during the first year after the
16 closure of acquisition to assure that the services provided to such
17 individuals remain substantially comparable to or greater than those
18 services they received prior to the transfer. The follow-up audit shall
19 be a public document. Such transfer shall not diminish any of such an
20 individual's rights relating to continuity of care, utilization review,
21 or fair hearing appeals.

22 § 6. Intentionally omitted.

23 § 7. Intentionally omitted.

24 § 8. Intentionally omitted.

25 § 8-a. Paragraph (e) of subdivision 1 of section 367-a of the social
26 services law, as amended by section 41 of part D of chapter 56 of the
27 laws of 2012, is amended to read as follows:

28 (e) Amounts payable under this title for medical assistance in the
29 form of clinic services pursuant to article twenty-eight of the public
30 health law and article sixteen of the mental hygiene law provided to
31 eligible persons diagnosed with a developmental disability or a traumati-
32 ic brain injury who are also beneficiaries under part B of title XVIII
33 of the federal social security act, or provided to persons diagnosed
34 with a developmental disability or a traumatic brain injury who are
35 qualified medicare beneficiaries under part B of title XVIII of such act
36 shall not be less than the approved medical assistance payment level
37 less the amount payable under part B.

38 § 9. The commissioner of health, in consultation with the rural health
39 council, shall conduct a study of home and community based services
40 available to recipients of the Medicaid program in rural areas of the
41 state. Such study shall include a review and analysis of factors affect-
42 ing such availability, including but not limited to transportation
43 costs, costs of direct care personnel including home health aides,
44 personal care attendants and other direct service personnel, opportu-
45 nities for telehealth services, and technological advances to improve
46 efficiencies. Consistent with the results of the study, the commissioner
47 of health is authorized to provide a targeted Medicaid rate enhancement
48 to fee-for-service personal care rates and rates under Medicaid waiver
49 programs such as the nursing home transition and diversion waiver and
50 the traumatic brain injury program waiver, in an aggregate amount of
51 three million dollars minus the cost of conducting the study; provided
52 further, that nothing in this section shall be deemed to affect payment
53 for the costs of the study and any related Medicaid rate enhancement if
54 federal participation is not available for such costs.

55 § 9-a. Section 4012 of the public health law is amended by adding a
56 new subdivision 5 to read as follows:

1 5. (a) Medicaid payments to hospice residences shall be in an amount
2 equal to ninety-four percent of the weighted average medical assistance
3 fee for service rate reimbursed to residential health care facilities
4 located in the managed long term care region that the hospice residence
5 is located. Such average medical assistance rate shall be inclusive of
6 specialty units, the room and board furnished by the hospice residence,
7 cash receipts assessments and the case mix of the residential health
8 care facilities located in the managed long term care region that such
9 hospice is located. Such average medical assistance rate shall also be
10 inclusive of an efficiency factor of 1.1 multiplied by such weighted
11 average rate; recruitment and retention monies; and any adjustments made
12 for minimum wage, as such adjustments are applied to the residential
13 health care facilities located in the managed long term care region in
14 which the hospice residence is located.

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

22 § 9-b. The public health law is amended by adding a new section 3620-a
23 to read as follows:

24 § 3620-a. Public health priority initiative. 1. The commissioner shall
25 facilitate and support home care agency roles within the health care
26 continuum for addressing public health priorities in the state, and
27 promoting health improvement and cost savings. The commissioner shall
28 undertake these purposes through: incorporation of home care in the
29 department's prevention, primary care, and public health strategies;
30 education and promotion of evidence-based, best practices that may be
31 adopted by home care in priority public health areas; adoption of
32 departmental policies and guidance to assist home care response and
33 intervention; supplemental rate financing; staff training; regulatory
34 and procedural flexibility for prioritization of public health response;
35 data sharing; promotion of public health priority collaboratives with
36 home care and continuum partners; and other means the commissioner
37 determines appropriate. Effective April first, two thousand eighteen,
38 the commissioner, with the approval of the state budget director, is
39 authorized to determine and make available for reinvestment to partic-
40 ipating providers through increases in provider reimbursement, a portion
41 of cost savings achieved from such public health initiatives through
42 home care; provided, however, provider participation under this section
43 shall be on a voluntary basis.

44 2. Priority public health areas under this section may include but not
45 be limited to: public education, screening and early intervention for
46 sepsis; medication management, especially in care transitions and for
47 poly-pharmacy populations; asthma and other respiratory condition
48 management and home environmental assessment; falls prevention screen-
49 ing, education and prevention; opioid management and overuse or abuse
50 prevention, including alternatives in pain management; cardiovascular
51 health; health care disparities; high risk prenatal and post-partum
52 care; palliative care, and other priority areas in population health
53 which the commissioner may designate.

54 3. In implementing this section, the commissioner shall seek the
55 advice of representatives of home care providers, state associations
56 representative of home care, state associations representative of physi-

1 cians, state association representative of county public health services
2 and others with home care and/or public health expertise whom the
3 commissioner may designate.

4 4. The commissioner shall collect and report to the legislature data
5 on the activities and impact of home care public health initiatives,
6 including a determination of system savings derived/costs avoided, and
7 shall make recommendations for further support of the goals of this
8 section.

9 § 9-c. Notwithstanding any inconsistent provision of law, rule or
10 regulation to the contrary, residential health care facility (RHCf)
11 rates of payment determined pursuant to article 28 of the public health
12 law for services provided on or after October 1, 2012, in facilities
13 which exclusively provide extensive nursing, medical, psychological and
14 counseling support services to children with diverse and complex
15 medical, emotional and social problems, including long-term inpatient
16 rehabilitation services for traumatic brain-injured children, and are
17 located in a city with a population of one million or more shall be
18 based on the operating rate promulgated in RHCf rate appeal number 12451
19 dated May 24, 2013 and as adjusted by the allowable trend factor on
20 January 1 of each subsequent year.

21 § 9-d. 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) For periods on and after April first, two thousand eighteen, case-
24 mix adjustments authorized under paragraph (b) of this subdivision shall
25 not be altered, modified or adjusted on the basis of revised regulatory
26 limitations on the level of such adjustments or on reviews, audits or
27 collection or submission protocols of the minimum data set; provided,
28 however, that this paragraph shall not apply to audits performed by the
29 office of the Medicaid inspector general nor to reviews or audits for
30 the purposes of investigating fraud or abuse under Medicaid rules and
31 regulations.

32 § 9-e. Section 3612 of the public health law is amended by adding a
33 new subdivision 8 to read as follows:

34 8. (a) The department, in consultation with the public health and
35 planning council, shall conduct a review of licensed home care services
36 agencies. Such review shall take into account considerations of access,
37 availability of workforce personnel, unique community needs, efficiency
38 and affordability, regional needs and variations, an analysis of average
39 number of contracts per plan based on region, and such other factors as
40 may be determined by the department and council.

41 (b) Following the review, the department and the council shall by
42 October first, two thousand eighteen establish:

43 (i) a transition plan designed to limit disruption to managed long
44 term care plan enrollees, providers and the managed long term care
45 market taking into consideration regional needs and variations;

46 (ii) specific limitations on the number of contracts between managed
47 long term care plans and licensed home care services agencies in Nassau
48 county, Suffolk county, Westchester county and a city with a population
49 of one million or more which shall not exceed seventy-five contracts by
50 October first, two thousand eighteen, sixty contracts by October first,
51 two thousand nineteen and fifty contracts by two thousand twenty;

52 (iii) provisions permitting managed long term care plans that cover
53 all regions of the state to contract with the maximum allowable number
54 of licensed home care services agencies allowable in each region;

55 (iv) a requirement that in applicable regions, a percentage of managed
56 long term care contracts with licensed home care services agencies be

1 with qualified quality incentive vital access provider pool providers or
2 providers who otherwise demonstrate a commitment to quality; and

3 (v) a requirement that a licensed home care services agency that is
4 contracted to provide fiscal intermediary services on behalf of a
5 consumer directed personal assistance program have both designations
6 considered part of the contract with the managed long term care plan.

7 (c) The department and the council shall also review licensed home
8 care services in upstate regions and provide recommendations on whether
9 proportional limits are necessary in the regions.

10 (d) The department and the council shall also provide recommendations
11 on incentives to encourage consolidation of such agencies and plans
12 including, but not limited to regional state financial assistance, an
13 expedited certificate of need process for mergers and acquisitions of
14 licensed home care services agencies, and other changes in the licensure
15 or certificate of need process to facilitate the change in ownership,
16 control, merger or acquisitions of such agencies or plans. During the
17 period of such review, the department shall impose a moratorium on the
18 approvals of additional licensed home care services agencies serving
19 medical assistance beneficiaries, however, the commissioner may approve
20 additional agencies if it is in the interest of public health and safe-
21 ty. All licensed home care services agencies licensed as of April first,
22 two thousand eighteen shall not engage in marketing practices until the
23 review is complete and the department has submitted its report pursuant
24 to paragraph (e) of this subdivision.

25 (e) The department shall report to the governor, the temporary presi-
26 dent of the senate and the minority leader of the senate, and the speak-
27 er of the assembly and the minority leader of the assembly on the
28 results of reviews required by this section by September first, two
29 thousand eighteen.

30 (f) Notwithstanding any other law, rule or regulation no limitations
31 shall be imposed on the number of contracts between managed long term
32 care plans licensed pursuant to section forty-four hundred three-f of
33 this chapter and certified home health care agencies or licensed home
34 care services agencies until the requirements of paragraph (e) of this
35 subdivision are met.

36 § 9-f. Paragraph (d-2) of subdivision 3 of section 364-j of the
37 social services law, as added by section 20-a of part B of chapter 59 of
38 the laws of 2016, is amended to read as follows:

39 (d-2) Services provided pursuant to waivers, granted pursuant to
40 subsection (c) of section 1915 of the federal social security act, to
41 persons suffering from traumatic brain injuries or qualifying for nurs-
42 ing home diversion and transition services, shall not be provided to
43 medical assistance recipients through managed care programs [~~until at~~
44 ~~least January first, two thousand eighteen~~] established pursuant to this
45 section, and shall continue to be provided outside of managed care
46 programs and in accordance with such waiver programs as they existed on
47 January first, two thousand fifteen; provided, further that the commis-
48 sioner of health is hereby directed to take any action required, includ-
49 ing but not limited to filing waivers and waiver extensions as necessary
50 with the federal government, to continue the provision of such services.

51 § 10. This act shall take effect immediately; provided, however, that
52 the amendments to paragraph (b) of subdivision 7 of section 4403-f of
53 the public health law made by section five of this act shall not affect
54 the expiration of such paragraph pursuant to subdivision (i) of section
55 111 of part H of chapter 59 of the laws of 2011, as amended, and shall
56 be deemed to expire therewith; provided, further, that the amendments to

1 paragraph (b) of subdivision 7 of section 4403-f of the public health
2 law made by section five of this act and the amendments to section
3 4403-f of the public health law made by section five-c of this act shall
4 not affect the repeal of such section pursuant to chapter 659 of the
5 laws of 1997, as amended, and shall be deemed repealed therewith;
6 provided, further, that the amendments to section 364-j of the social
7 services law, made by section five-a and nine-f of this act shall not
8 affect the expiration and repeal of such section and shall expire and be
9 deemed repealed therewith.

10

PART C

11 Section 1. Intentionally omitted.

12 § 2. Intentionally omitted.

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

16 6. "Provider" shall mean (a) any residential health care facility
17 licensed under article twenty-eight of this chapter; or any certified
18 home health agency, licensed home care services agency or long term home
19 health care program certified under article thirty-six of this chapter;
20 any hospice program certified pursuant to article forty of this chapter;
21 or any adult home, enriched housing program or residence for adults
22 licensed under article seven of the social services law; or (b) a health
23 home, or any subcontractor of such health home, who contracts with or is
24 approved or otherwise authorized by the department to provide health
25 home services to all those enrolled pursuant to a diagnosis of a devel-
26 opmental disability as defined in subdivision twenty-two of section 1.03
27 of the mental hygiene law and enrollees who are under twenty-one years
28 of age under section three hundred sixty-five-1 of the social services
29 law, or any entity that provides home and community based services to
30 enrollees who are under twenty-one years of age under a demonstration
31 program pursuant to section eleven hundred fifteen of the federal social
32 security act.

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

36 (b) Residential health care facilities licensed pursuant to article
37 twenty-eight of this chapter and certified home health care agencies and
38 long-term home health care programs certified or approved pursuant to
39 article thirty-six of this chapter or a health home, or any subcontrac-
40 tor of such health home, who contracts with or is approved or otherwise
41 authorized by the department to provide health home services to all
42 those enrolled pursuant to a diagnosis of a developmental disability as
43 defined in subdivision twenty-two of section 1.03 of the mental hygiene
44 law and enrollees who are under twenty-one years of age under section
45 three hundred sixty-five-1 of the social services law, or any entity
46 that provides home and community based services to enrollees who are
47 under twenty-one years of age under a demonstration program pursuant to
48 section eleven hundred fifteen of the federal social security act, may,
49 subject to the availability of federal financial participation, claim as
50 reimbursable costs under the medical assistance program, costs reflect-
51 ing the fee established pursuant to law by the division of criminal
52 justice services for processing a criminal history information check,
53 the fee imposed by the federal bureau of investigation for a national
54 criminal history check, and costs associated with obtaining the finger-

1 prints, provided, however, that for the purposes of determining rates of
2 payment pursuant to article twenty-eight of this chapter for residential
3 health care facilities, such reimbursable fees and costs shall be
4 reflected as timely as practicable in such rates within the applicable
5 rate period.

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

9 10. Notwithstanding subdivision eleven of section eight hundred
10 forty-five-b of the executive law, a certified home health agency,
11 licensed home care services agency or long term home health care program
12 certified, licensed or approved under article thirty-six of this chapter
13 or a home care services agency exempt from certification or licensure
14 under article thirty-six of this chapter, a hospice program under arti-
15 cle forty of this chapter, or an adult home, enriched housing program or
16 residence for adults licensed under article seven of the social services
17 law, or a health home, or any subcontractor of such health home, who
18 contracts with or is approved or otherwise authorized by the department
19 to provide health home services to all enrollees enrolled pursuant to a
20 diagnosis of a developmental disability as defined in subdivision twen-
21 ty-two of section 1.03 of the mental hygiene law and enrollees who are
22 under twenty-one years of age under section three hundred sixty-five-1
23 of the social services law, or any entity that provides home and commu-
24 nity based services to enrollees who are under twenty-one years of age
25 under a demonstration program pursuant to section eleven hundred fifteen
26 of the federal social security act may temporarily approve a prospective
27 employee while the results of the criminal history information check and
28 the determination are pending, upon the condition that the provider
29 conducts appropriate direct observation and evaluation of the temporary
30 employee, while he or she is temporarily employed, and the care recipi-
31 ent. The results of such observations shall be documented in the tempo-
32 rary employee's personnel file and shall be maintained. For purposes of
33 providing such appropriate direct observation and evaluation, the
34 provider shall utilize an individual employed by such provider with a
35 minimum of one year's experience working in an agency certified,
36 licensed or approved under article thirty-six of this chapter or an
37 adult home, enriched housing program or residence for adults licensed
38 under article seven of the social services law, a health home, or any
39 subcontractor of such health home, who contracts with or is approved or
40 otherwise authorized by the department to provide health home services
41 to those enrolled pursuant to a diagnosis of a developmental disability
42 as defined in subdivision twenty-two of section 1.03 of the mental
43 hygiene law and enrollees who are under twenty-one years of age under
44 section three hundred sixty-five-1 of the social services law, or any
45 entity that provides home and community based services to enrollees who
46 are under twenty-one years of age under a demonstration program pursuant
47 to section eleven hundred fifteen of the federal social security act. If
48 the temporary employee is working under contract with another provider
49 certified, licensed or approved under article thirty-six of this chap-
50 ter, such contract provider's appropriate direct observation and evalu-
51 ation of the temporary employee, shall be considered sufficient for the
52 purposes of complying with this subdivision.

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

1 3. For purposes of this section, the term "provider" or "provider
2 agency" shall mean: an authorized agency; the office of children and
3 family services; juvenile detention facilities subject to the certifi-
4 cation of the office of children and family services; programs estab-
5 lished pursuant to article nineteen-H of the executive law; non-residen-
6 tial or residential programs or facilities licensed or operated by the
7 office of mental health or the office for people with developmental
8 disabilities except family care homes; licensed child day care centers,
9 including head start programs which are funded pursuant to title V of
10 the federal economic opportunity act of nineteen hundred sixty-four, as
11 amended; early intervention service established pursuant to section
12 twenty-five hundred forty of the public health law; preschool services
13 established pursuant to section forty-four hundred ten of the education
14 law; school-age child care programs; special act school districts as
15 enumerated in chapter five hundred sixty-six of the laws of nineteen
16 hundred sixty-seven, as amended; programs and facilities licensed by the
17 office of alcoholism and substance abuse services; residential schools
18 which are operated, supervised or approved by the education department;
19 health homes, or any subcontract or of such health homes, who contracts
20 with or is approved or otherwise authorized by the department of health
21 to provide health home services to all those enrolled pursuant to a
22 diagnosis of a developmental disability as defined in subdivision twen-
23 ty-two of section 1.03 of the mental hygiene law and enrollees who are
24 under twenty-one years of age under section three hundred sixty-five-1
25 of this chapter, or any entity that provides home and community based
26 services to enrollees who are under twenty-one years of age under a
27 demonstration program pursuant to section eleven hundred fifteen of the
28 federal social security act; publicly-funded emergency shelters for
29 families with children, provided, however, for purposes of this section,
30 when the provider or provider agency is a publicly-funded emergency
31 shelter for families with children, then all references in this section
32 to the "potential for regular and substantial contact with individuals
33 who are cared for by the agency" shall mean the potential for regular
34 and substantial contact with children who are served by such shelter;
35 and any other facility or provider agency, as defined in subdivision
36 four of section four hundred eighty-eight of this chapter, in regard to
37 the employment of staff, or use of providers of goods and services and
38 staff of such providers, consultants, interns and volunteers.

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

42 (a) The following persons and officials are required to report or
43 cause a report to be made in accordance with this title when they have
44 reasonable cause to suspect that a child coming before them in their
45 professional or official capacity is an abused or maltreated child, or
46 when they have reasonable cause to suspect that a child is an abused or
47 maltreated child where the parent, guardian, custodian or other person
48 legally responsible for such child comes before them in their profes-
49 sional or official capacity and states from personal knowledge facts,
50 conditions or circumstances which, if correct, would render the child an
51 abused or maltreated child: any physician; registered physician assist-
52 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
53 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
54 psychologist; registered nurse; social worker; emergency medical techni-
55 cian; licensed creative arts therapist; licensed marriage and family
56 therapist; licensed mental health counselor; licensed psychoanalyst;

1 licensed behavior analyst; certified behavior analyst assistant; hospi-
 2 tal personnel engaged in the admission, examination, care or treatment
 3 of persons; a Christian Science practitioner; school official, which
 4 includes but is not limited to school teacher, school guidance counse-
 5 lor, school psychologist, school social worker, school nurse, school
 6 administrator or other school personnel required to hold a teaching or
 7 administrative license or certificate; full or part-time compensated
 8 school employee required to hold a temporary coaching license or profes-
 9 sional coaching certificate; social services worker; employee of a pub-
 10 licly-funded emergency shelter for families with children; director of a
 11 children's overnight camp, summer day camp or traveling summer day camp,
 12 as such camps are defined in section thirteen hundred ninety-two of the
 13 public health law; day care center worker; school-age child care worker;
 14 provider of family or group family day care; employee or volunteer in a
 15 residential care facility for children that is licensed, certified or
 16 operated by the office of children and family services; or any other
 17 child care or foster care worker; mental health professional; substance
 18 abuse counselor; alcoholism counselor; all persons credentialed by the
 19 office of alcoholism and substance abuse services; employees of a health
 20 home or health home care management agency contracting with a health
 21 home as designated by the department of health and authorized under
 22 section three hundred sixty-five-1 of this chapter or such employees who
 23 provide home and community based services under a demonstration program
 24 pursuant to section eleven hundred fifteen of the federal social securi-
 25 ty act; peace officer; police officer; district attorney or assistant
 26 district attorney; investigator employed in the office of a district
 27 attorney; or other law enforcement official.

28 § 8. Intentionally omitted.

29 § 9. Section 364-m of the social services law is amended by adding a
 30 new subdivision 4-a to read as follows:

31 4-a. Notwithstanding any statute, rule, regulation, or administrative
 32 directive issued by the department of health to the contrary, consistent
 33 with the other provisions of this section, the commissioner of health
 34 shall continue to make payments pursuant to subdivision four of this
 35 section at the same rates of payment made during state fiscal year two
 36 thousand seventeen.

37 § 10. Section 2959-a of the public health law is amended by adding a
 38 new subdivision 7-a to read as follows:

39 7-a. Notwithstanding any statute, rule, regulation, or administrative
 40 directive issued by the department to the contrary, consistent with the
 41 other provisions of this section, the commissioner shall continue to
 42 make payments pursuant to subdivision seven of this section at the same
 43 rates of payment made during state fiscal year two thousand seventeen.

44 § 11. This act shall take effect immediately; provided, however, that
 45 the amendments to subdivision 6 of section 2899 of the public health law
 46 made by section three of this act shall take effect on the same date and
 47 in the same manner as section 8 of chapter 471 of the laws of 2016, as
 48 amended, takes effect and shall not affect the expiration of such subdi-
 49 vision and shall be deemed expired therewith; provided further, however,
 50 that the amendments to section 364-m of the social services law made by
 51 section nine of this act shall not affect the repeal of such section and
 52 shall be deemed repealed therewith.

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

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

13 § 2. Intentionally omitted.

14 § 3. Intentionally omitted.

15 § 4. Intentionally omitted.

16 § 5. Intentionally omitted.

17 § 6. Intentionally omitted.

18 § 7. Intentionally omitted.

19 § 8. Section 280 of the public health law, as added by section 1 of
20 part D of chapter 57 of the laws of 2017, is amended to read as follows:

21 § 280. Medicaid drug cap. 1. The legislature hereby finds and declares
22 that there is a significant public interest for the Medicaid program to
23 manage drug costs in a manner that ensures patient access while provid-
24 ing financial stability for the state and participating providers.
25 Since two thousand eleven, the state has taken significant steps to
26 contain costs in the Medicaid program by imposing a statutory limit on
27 annual growth. Drug expenditures, however, continually outpace other
28 cost components causing significant pressure on the state, providers,
29 and patient access operating under the Medicaid [~~global-cap~~] program. It
30 is therefore intended that the department establish a Medicaid drug cap
31 as a separate component within the Medicaid [~~global-cap~~] program as part
32 of a focused and sustained effort to balance the growth of drug expendi-
33 tures with the growth of total Medicaid expenditures.

34 2. The commissioner shall establish a year to year department of
35 health [~~state-funds~~] state funds Medicaid drug [~~expending~~] expenditure
36 growth target as follows:

37 (a) for state fiscal year two thousand seventeen--two thousand eigh-
38 teen, be limited to the ten-year [~~rolling~~] average of the medical compo-
39 nent of the consumer price index, as published by the United States
40 department of labor, bureau of statistics, for the ten year period
41 ending six months prior to the start of the coming fiscal year, plus
42 five percent and minus a pharmacy savings target of fifty-five million
43 dollars; and

44 (b) for state fiscal year two thousand eighteen--two thousand nine-
45 teen, be limited to the ten-year [~~rolling~~] average of the medical compo-
46 nent of the consumer price index, as published by the United States
47 department of labor, bureau of statistics, for the ten year period
48 ending six months prior to the start of the coming fiscal year, plus
49 four percent and minus a pharmacy savings target of eighty-five million
50 dollars.

51 3. The department and the division of the budget shall assess on a
52 quarterly basis the projected total amount to be expended in the year on
53 a cash basis by the Medicaid program for each drug, and the projected
54 annual amount of state funds Medicaid drug expenditures on a cash basis
55 for all drugs, which shall not be a component of the projected depart-
56 ment of health state funds Medicaid expenditures calculated for purposes

1 of sections ninety-one and ninety-two of part H of chapter fifty-nine of
2 the laws of two thousand eleven. For purposes of this section, state
3 funds Medicaid drug expenditures [~~include~~] are the sum of the amounts
4 expended for drugs in both the Medicaid fee-for-service program and the
5 wholesale acquisition cost for drugs utilized by recipients in Medicaid
6 managed care programs, minus the amount of any required federal penal-
7 ties, drug rebates or supplemental drug rebates [~~received-by~~] due to the
8 department, including rebates pursuant to subdivision five of this
9 section with respect to rebate targets. The department and the division
10 of the budget shall report quarterly to the drug utilization review
11 board the projected state funds Medicaid drug expenditures including the
12 amounts, in aggregate thereof, attributable to the net cost of: changes
13 in the utilization of drugs by Medicaid recipients; changes in the
14 number of Medicaid recipients; changes in the wholesale acquisition cost
15 of name brand drugs and changes in the wholesale acquisition cost of
16 generic drugs. The information contained in the report shall not be
17 publicly released in a manner that allows for the identification of an
18 individual drug or manufacturer or that is likely to compromise the
19 financial, competitive, or proprietary nature of the information.

20 (a) In the event the director of the budget determines, based on Medi-
21 caid drug expenditures for the previous quarter or other relevant infor-
22 mation, that the total department of health state funds Medicaid drug
23 expenditure is projected to exceed the annual growth limitation imposed
24 by subdivision two of this section, the commissioner may identify and
25 refer drugs to the drug utilization review board established by section
26 three hundred sixty-nine-bb of the social services law for a recommenda-
27 tion as to whether a target supplemental Medicaid rebate should be paid
28 by the manufacturer of the drug to the department and the target amount
29 of the rebate.

30 (b) If the department intends to refer a drug to the drug utilization
31 review board pursuant to paragraph (a) of this subdivision, the depart-
32 ment shall notify the manufacturer of such drug and shall attempt to
33 reach agreement with the manufacturer on a rebate for the drug prior to
34 referring the drug to the drug utilization review board for review.

35 (c) In the event that the commissioner and the manufacturer have
36 previously agreed to a supplemental rebate for a drug pursuant to para-
37 graph (b) of this subdivision or paragraph (e) of subdivision seven of
38 section three hundred sixty-seven-a of the social services law, the drug
39 shall not be referred to the drug utilization review board for any
40 further supplemental rebate for the duration of the previous rebate
41 agreement.

42 (d) The department shall consider a drug's actual cost to the state,
43 including current rebate amounts, prior to seeking an additional rebate
44 pursuant to paragraph (b) or (c) of this subdivision and shall take into
45 consideration whether the manufacturer of the drug is providing signif-
46 icant discounts relative to other drugs covered by the Medicaid program.

47 (e) The commissioner shall be authorized to take the actions described
48 in this section only so long as total Medicaid drug expenditures are
49 projected to exceed the annual growth limitation imposed by subdivision
50 two of this section.

51 4. In determining whether to recommend a target supplemental rebate
52 for a drug, the drug utilization review board shall consider the actual
53 cost of the drug to the Medicaid program, including federal and state
54 rebates, and may consider, among other things:

55 (a) the drug's impact on the Medicaid drug spending growth target and
56 the adequacy of capitation rates of participating Medicaid managed care

1 plans, and the drug's affordability and value to the Medicaid program;
2 or

3 (b) significant and unjustified increases in the price of the drug; or
4 (c) whether the drug may be priced disproportionately to its therapeutic
5 benefits.

6 5. (a) If the drug utilization review board recommends a target rebate
7 amount on a drug referred by the commissioner, the commissioner shall
8 require a supplemental rebate to be paid by the drug's manufacturer in
9 an amount not to exceed such target rebate amount. With respect to a
10 rebate required in state fiscal year two thousand seventeen--two thousand
11 eighteenth, the rebate requirement shall apply beginning with the
12 month of April, two thousand seventeen, without regard to the date the
13 department enters into the rebate agreement with the manufacturer.

14 (b) The supplemental rebate required by paragraph (a) of this subdivision
15 shall apply to drugs dispensed to enrollees of managed care providers
16 pursuant to section three hundred sixty-four-j of the social
17 services law and to drugs dispensed to Medicaid recipients who are not
18 enrollees of such providers.

19 (c) If the drug utilization review board recommends a target rebate
20 amount for a drug and the department is unable to negotiate a rebate
21 from the manufacturer in an amount that is at least seventy-five percent
22 of the target rebate amount, the commissioner is authorized to waive the
23 provisions of paragraph (b) of subdivision three of section two hundred
24 seventy-three of this article and the provisions of subdivisions twenty-
25 five and twenty-five-a of section three hundred sixty-four-j of the
26 social services law with respect to such drug; however, this waiver
27 shall not be implemented in situations where it would prevent access by
28 a Medicaid recipient to a drug which is the only treatment for a particular
29 disease or condition. Under no circumstances shall the commissioner
30 be authorized to waive such provisions with respect to more than two
31 drugs in a given time.

32 (d) Where the department and a manufacturer enter into a rebate agreement
33 pursuant to this section, which may be in addition to existing
34 rebate agreements entered into by the manufacturer with respect to the
35 same drug, no additional rebates shall be required to be paid by the
36 manufacturer to a managed care provider or any of a managed care provider's
37 agents, including but not limited to any pharmacy benefit manager,
38 while the department is collecting the rebate pursuant to this section.

39 (e) In formulating a recommendation concerning a target rebate amount
40 for a drug, the drug utilization review board may consider:

41 (i) publicly available information relevant to the pricing of the
42 drug;

43 (ii) information supplied by the department relevant to the pricing of
44 the drug;

45 (iii) information relating to value-based pricing;

46 (iv) the seriousness and prevalence of the disease or condition that
47 is treated by the drug;

48 (v) the extent of utilization of the drug;

49 (vi) the effectiveness of the drug in treating the conditions for
50 which it is prescribed, or in improving a patient's health, quality of
51 life, or overall health outcomes;

52 (vii) the likelihood that use of the drug will reduce the need for
53 other medical care, including hospitalization;

54 (viii) the average wholesale price, wholesale acquisition cost, retail
55 price of the drug, and the cost of the drug to the Medicaid program
56 minus rebates received by the state;

1 (ix) in the case of generic drugs, the number of pharmaceutical
2 manufacturers that produce the drug;

3 (x) whether there are pharmaceutical equivalents to the drug; and

4 (xi) information supplied by the manufacturer, if any, explaining the
5 relationship between the pricing of the drug and the cost of development
6 of the drug and/or the therapeutic benefit of the drug, or that is
7 otherwise pertinent to the manufacturer's pricing decision; any such
8 information provided shall be considered confidential and shall not be
9 disclosed by the drug utilization review board in a form that identifies
10 a specific manufacturer or prices charged for drugs by such manufactur-
11 er.

12 6. (a) If the drug utilization review board recommends a target rebate
13 amount and the department is unsuccessful in entering into a rebate
14 agreement with the manufacturer of the drug satisfactory to the depart-
15 ment, the drug manufacturer shall in that event be required to provide
16 to the department, on a standard reporting form developed by the depart-
17 ment, the following information:

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

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

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

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

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

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

37 (vii) the average rebates and discounts provided per payer type in the
38 State; and

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

41 (b) All information disclosed pursuant to paragraph (a) of this subdi-
42 vision shall be considered confidential and shall not be disclosed by
43 the department in a form that identifies a specific manufacturer or
44 prices charged for drugs by such manufacturer.

45 7. (a) If, after taking into account all rebates and supplemental
46 rebates received by the department, including rebates received to date
47 pursuant to this section, total Medicaid drug expenditures are still
48 projected to exceed the annual growth limitation imposed by subdivision
49 two of this section, the commissioner of health may: subject [~~drugs~~] any
50 drug of a manufacturer that the drug utilization review board recommends
51 a target rebate amount for that has not entered into a supplemental
52 rebate agreement required by this section to prior approval in accord-
53 ance with existing processes and procedures[~~, which may include all~~
54 ~~drugs of a manufacturer that has not entered into a supplemental rebate~~
55 ~~agreement required by this section~~]; directing managed care plans to
56 remove from their Medicaid formularies those drugs [~~with respect to~~

1 ~~which-a]~~ that the drug utilization review board recommends a target
 2 rebate amount for and the manufacturer has failed to enter into a rebate
 3 agreement required by this section; promoting the use of cost effective
 4 and clinically appropriate drugs other than those of a manufacturer who
 5 has a drug that the drug utilization review board recommends a target
 6 rebate amount and the manufacturer has failed to enter into a rebate
 7 agreement required by this section; allowing [~~manufacturers]~~ a manufac-
 8 turer of a drug that the drug utilization review board recommends a
 9 target rebate amount and the manufacturer has failed to enter into an
 10 agreement to accelerate rebate payments under existing rebate contracts;
 11 and such other actions as authorized by law. The commissioner shall
 12 [~~provide written notice to the legislature]~~ bring any such recommended
 13 action before the drug utilization review board thirty days prior to
 14 taking action pursuant to this paragraph[~~, unless action is necessary in~~
 15 ~~the fourth quarter of a fiscal year to prevent total Medicaid drug~~
 16 ~~expenditures from exceeding the limitation imposed by subdivision two of~~
 17 ~~this section, in which case such notice to the legislature may be less~~
 18 ~~than thirty days].~~

19 (b) The commissioner shall be authorized to take the actions described
 20 in paragraph (a) of this subdivision only so long as total Medicaid drug
 21 expenditures are projected to exceed the annual growth limitation
 22 imposed by subdivision two of this section. In addition, no such actions
 23 shall be deemed to supersede the provisions of paragraph (b) of subdivi-
 24 sion three of section two hundred seventy-three of this article or the
 25 provisions of subdivisions twenty-five and twenty-five-a of section
 26 three hundred sixty-four-j of the social services law, except as allowed
 27 by paragraph (c) of subdivision five of this section; provided further
 28 that nothing in this section shall prevent access by a Medicaid recipi-
 29 ent to a drug which is the only treatment for a particular disease or
 30 condition.

31 8. The commissioner shall report by February first annually to the
 32 drug utilization review board on savings achieved through the drug cap
 33 in the last year. Such report shall provide data on what savings were
 34 achieved through actions pursuant to subsections three, five and seven
 35 of this section, respectively, and what savings were achieved through
 36 other means and how such savings were calculated and implemented.

37 § 8-a. The public health law is amended by adding a new article 2-B to
 38 read as follows:

39 ARTICLE 2-B
 40 DRUG TAKE BACK

41 Section 290. Definitions.

42 291. Drug take back.

43 292. Collection.

44 293. Violations.

45 294. Jurisdiction.

46 § 290. Definitions. As used in this article, unless the context clear-
 47 ly requires otherwise:

48 1. "Authorized collector" means: (a) a person, company, corporation or
 49 other entity that is registered with the United States Drug Enforcement
 50 Administration to collect controlled substances for the purposes of safe
 51 disposal and destruction; (b) a law enforcement agency; (c) a munici-
 52 pality; or (d) a person, company, corporation or other entity authorized
 53 by the department to provide alternative collection methods for covered
 54 drugs that are not controlled substances.

55 2. "Covered drug" means any substance recognized as a drug under 21
 56 USC § 321(g)(1), as amended, that is sold, offered for sale or dispensed

1 in the state, whether directly or through a wholesaler, in any form
2 including prescription and nonprescription drugs, drugs in medical
3 devices and combination products, brand and generic drugs and drugs for
4 veterinary use; provided however, covered drug shall not include: (a)
5 vitamins or supplements; (b) herbal-based remedies and homeopathic
6 drugs, products or remedies; (c) cosmetics, soap (with or without germi-
7 cidal agents), laundry detergent, bleach, household cleaning products,
8 shampoos, sunscreens, toothpaste, lip balm, antiperspirants or other
9 personal care products that are regulated as both cosmetics and nonpres-
10 cription drugs under the Federal Food, Drug, and Cosmetic Act; (d) pet
11 pesticide products contained in pet collars, powders, shampoos, topical
12 applications, or other forms; (e) drugs that are biological products as
13 defined in subdivision twenty-seven of section sixty-eight hundred two
14 of the education law if the manufacturer already provides a take back
15 program; (f) drugs for which a manufacturer provides a take back program
16 as part of a Federal Food and Drug Administration managed risk evalu-
17 ation and mitigation strategy; (g) medical devices or the component part
18 of such devices or accessories if such device or component part contains
19 no covered drug; and (h) drugs that are used solely in a clinical
20 setting.

21 3. "Manufacturer" means a person, company, corporation or other entity
22 engaged in the manufacture of drugs sold in the state.

23 4. "Pharmacies" means all pharmacies registered under section sixty-
24 eight hundred eight of the education law that are part of a group of ten
25 or more establishments that conduct business under the same name, or
26 operate under a common ownership or management, or pursuant to a fran-
27 chise agreement with the same franchisor, and all nonresident pharmacies
28 registered pursuant to section sixty-eight hundred eight-b of the educa-
29 tion law that provide covered drugs to state residents by mail.

30 5. "Drug take back organization" means an organization designated by a
31 manufacturer or a group of manufacturers to act as an agent on behalf of
32 the manufacturer or group of manufacturers to operate and implement a
33 drug take back program as authorized by this article.

34 6. "Wholesaler" means any person, company, corporation or other entity
35 that sells or distributes drugs and covered drugs for resale to an enti-
36 ty in the state other than a consumer.

37 § 291. Drug take back. 1. Any manufacturer of a covered drug shall:

38 (a) operate a drug take back program approved by the department indi-
39 vidually or jointly with other manufacturers;

40 (b) enter into an agreement with a drug take back organization which
41 shall operate a drug take back program approved by the department; or

42 (c) enter into an agreement with the department to operate a drug take
43 back program on its behalf.

44 2. Any manufacturer of a covered drug, individually or jointly, or a
45 drug take back organization contracted by a manufacturer of a covered
46 drug shall within one hundred eighty days from the effective date of
47 this section submit to the department, in a manner and form determined
48 by the department, a proposed drug take back program that meets, at a
49 minimum, the following requirements:

50 (a) Certifies the drug take back program will accept all covered drugs
51 regardless of who produced them;

52 (b) Provides contact information for the person submitting the planned
53 drug take back program with whom the department shall direct all
54 inquiries;

1 (c) Details a pharmacy collection system to provide convenient, ongoing
2 collection services to all persons seeking to dispose of covered
3 drugs pursuant to section two hundred ninety-two of this article;

4 (d) Describes other collection methods by which covered drugs will be
5 collected by authorized collectors;

6 (e) Explains how covered drugs will be safely and securely tracked and
7 handled from collection through final disposal and destruction, policies
8 to ensure security and compliance with all applicable laws and regu-
9 lations including disposal and destruction at a permitted hazardous
10 waste disposal facility meeting federal requirements;

11 (f) Describes the public education and outreach activities that will
12 be undertaken which shall include advertising of collection locations on
13 a website and through use of signage and other written materials, and
14 how effectiveness will be evaluated;

15 (g) Details how the costs of pharmacy collection and other authorized
16 collectors will be reimbursed which shall include costs retroactive to
17 the effective date of this article, and where more than one manufacturer
18 will be involved in the planned drug take back program, a plan for the
19 fair and reasonable manner of allocated costs among the participants in
20 such program such that the costs paid by each manufacturer is reasonably
21 related to the number or value of covered drugs sold in the state; and

22 (h) Provides any further information deemed appropriate by the depart-
23 ment.

24 3. Within thirty days of the effective date of this section, each
25 wholesaler that sells covered drugs in or into the state shall provide
26 the department with a list of manufacturers that produce covered drugs.
27 The department may request updated lists at its discretion.

28 4. A manufacturer, individually or jointly, must pay all administra-
29 tive and operational fees associated with the drug take back program,
30 including the cost of collecting, transporting and disposing of covered
31 drugs from pharmacies and other authorized collectors and the recycling
32 or disposal, or both, of packing collected with the covered drug.
33 Manufacturers shall also pay costs incurred by the state in the adminis-
34 tration and enforcement of the drug take back program. Exclusive of
35 finances and penalties, the state shall only recover its actual cost of
36 administration and enforcement. In instances where manufacturers jointly
37 conduct a drug take back program, the costs of administration and
38 enforcement shall be fairly and reasonably allocated such that the
39 portion of costs is reasonably related to the number or value of covered
40 drugs the manufacturers sell in the state. No manufacturer may charge a
41 point-of-sale or other fee to consumers, or a fee that could be passed
42 on to consumers, to recoup the cost of their drug take back program.

43 5. Within sixty days of receipt of a proposed drug take back program,
44 the department, in consultation with the department of environmental
45 conservation, shall determine whether such proposed drug take back
46 program complies with the requirements of this article and notify the
47 applicant. The department may conduct a noticed public hearing prior to
48 approval. If the drug take back program is approved, the department
49 shall notify the applicant in writing. If the drug take back program is
50 not approved, the department shall notify the applicant in writing and
51 the applicant shall submit a revised drug take back program proposal
52 within thirty days. If the department rejects the subsequent proposal,
53 the manufacturer or manufacturers at issue shall be out of compliance
54 with this article and subject to the enforcement provisions pursuant to
55 section two hundred ninety-four of this article. The department shall

1 provide, and update annually, on its website a list of all manufacturers
2 participating in a drug take back program approved by the department.

3 6. At least every three years, a manufacturer, jointly or individual-
4 ly, or a drug take back organization shall update its drug take back
5 program and submit an updated proposal to the department. A manufacturer
6 who begins to offer a covered drug in the state after the effective date
7 of this article, shall provide evidence of joining an existing approved
8 drug take back program or submit a proposal for a drug take back program
9 within ninety days following the initial offer for sale of a covered
10 drug. Any proposed change to a drug take back program shall be submitted
11 in writing and approved by the department prior to any change.

12 7. Each approved drug take back program shall report to the department
13 at a date and manner set by the department. The department shall submit
14 an annual report to the governor, speaker of the assembly and temporary
15 president of the senate by January first detailing all program activ-
16 ities, the volume collected by each program, a description of collection
17 activities, the name and location of all collection sites, public educa-
18 tion and outreach activities, and any manufacturer out of compliance or
19 subject to penalties pursuant to section two hundred ninety-four of this
20 article.

21 § 292. Collection. 1. All pharmacies shall provide for the safe
22 collection of drugs, which shall include:

23 (a) Offering drug collection by:

24 (i) On-site collection receptacles meeting federal standards;

25 (ii) Mail-back collection by prepaid envelopes as authorized by feder-
26 al law and regulation; or

27 (iii) Other federal drug enforcement agency approved methods of
28 collection.

29 (b) Signage prominently displayed advertising such drug collection to
30 consumers.

31 2. All drug take back program operators shall notify other potential
32 authorized collectors of the opportunity to serve as an authorized
33 collector for the drug take back program. Participation of authorized
34 collectors besides pharmacies shall be voluntary.

35 3. All costs of pharmacies and other authorized collectors shall be
36 paid or reimbursed by the manufacturer, jointly or individually, as part
37 of the drug take back programs required by this article.

38 § 293. Violations. Violation of this article shall be subject to fines
39 pursuant to section twelve of this chapter. Each day in which the
40 violation continues shall constitute a separate violation.

41 § 294. Jurisdiction. Jurisdiction of all matters pertaining to drug
42 disposal by this article is vested exclusively in the state. Any
43 provision of any local law or ordinance, or any rule or regulation
44 promulgated prior to, or upon the effective date of this section, shall
45 be preempted.

46 § 8-b. Section 3343-b of the public health law, as amended by chapter
47 379 of the laws of 2015, is amended to read as follows:

48 § 3343-b. Safe disposal of unused controlled substances. 1. The
49 department shall oversee a program for the safe disposal of unused
50 controlled substances by consumers in accordance with federal law and
51 article two-B of this chapter. Individual members of the public shall
52 be authorized to voluntarily surrender controlled substances listed on
53 schedule II, III, IV or V of section thirty-three hundred six of this
54 article in a secure manner, without identifying themselves. Safe
55 disposal methods shall be publicized consistent with the prescription
56 pain medication awareness program established pursuant to section thir-

1 ty-three hundred nine-a of this article and article two-B of this chap-
2 ter.

3 2. The surrender of a controlled substance pursuant to this section
4 and article two-B of this chapter shall not constitute the possession,
5 transfer or sale of such controlled substance for purposes of this arti-
6 cle or the penal law.

7 [~~3. Disposal sites shall be operated by law enforcement agencies,
8 pharmacies and other Federal Drug Enforcement Administration authorized
9 collectors on a voluntary basis. Nothing in this section shall require
10 any political subdivision of the state to participate in the program
11 established in this section.~~]

12 § 8-c. The department of health may adopt regulations as necessary to
13 implement and enforce the provisions of title 4 of the public health
14 law.

15 § 8-d. The public health law is amended by adding a new section 3346
16 to read as follows:

17 § 3346. Prescribing opioids to minors. 1. As used in this section, the
18 following terms shall have the following meanings:

19 (a) "another adult authorized to consent to the minor's medical treat-
20 ment" means an adult to whom a minor's parent or guardian has given
21 written authorization to consent to the minor's medical treatment;

22 (b) "medical emergency" means a situation that in a practitioner's
23 good faith medical judgment creates an immediate threat of serious risk
24 to the life or physical health of a minor; and

25 (c) "minor" means an individual under eighteen years of age who is not
26 emancipated. For purposes of this section, an individual under eighteen
27 years of age is emancipated only if the individual has married, has
28 entered the armed services of the United States, has become employed and
29 self-sustaining, or otherwise has become independent from the care and
30 control of the individual's parent, guardian, or custodian.

31 2. Except as provided in subdivision three of this section, before
32 issuing for a minor the first prescription in a single course of treat-
33 ment for a particular compound that is a controlled substance containing
34 an opioid, regardless of whether the dosage is modified during that
35 course of treatment, a practitioner shall:

36 (i) assess whether the minor has ever suffered, or is currently
37 suffering, from mental health or substance abuse disorders and whether
38 the minor has taken or is currently taking prescription drugs for treat-
39 ment of those disorders;

40 (ii) discuss with the minor and the minor's parent, guardian, or
41 another adult authorized to consent to the minor's medical treatment all
42 of the following:

43 (A) the risks of addiction and overdose associated with the controlled
44 substance containing an opioid;

45 (B) the increased risk of addiction to controlled substances of indi-
46 viduals suffering from both mental and substance abuse disorders;

47 (C) the dangers of taking controlled substances containing an opioid
48 with benzodiazepines, alcohol, or other central nervous system depres-
49 sants; and

50 (D) any other information in the patient counseling information
51 section of the labeling for controlled substances containing an opioid
52 required under 21 C.F.R. 201.57(c)(18); and

53 (iii) obtain written consent for the prescription from the minor's
54 parent, guardian, or, subject to subdivision four of this section,
55 another adult authorized to consent to the minor's medical treatment.
56 The practitioner shall record the consent on a form prescribed by the

1 commissioner. The form shall be separate from any other document the
2 practitioner uses to obtain informed consent for other treatment
3 provided to the minor. The form shall contain all of the following:

4 (A) the name and quantity of the controlled substance containing an
5 opioid being prescribed and the amount of the initial dose;

6 (B) a statement indicating that a controlled substance is a drug or
7 other substance that the United States drug enforcement administration
8 has identified as having a potential for abuse;

9 (C) a statement certifying that the practitioner discussed with the
10 minor and the minor's parent, guardian, or another adult authorized to
11 consent to the minor's medical treatment the matters described in
12 subparagraph (ii) of this paragraph;

13 (D) the number of refills, if any, authorized by the prescription; and

14 (E) the signature of the minor's parent, guardian, or another adult
15 authorized to consent to the minor's medical treatment and the date of
16 signing.

17 3. The requirements in subdivision two of this section shall not
18 apply:

19 (a) if the minor's treatment with a controlled substance containing an
20 opioid is associated with or incident to a medical emergency;

21 (b) if in the practitioner's professional judgment, fulfilling the
22 requirements of subdivision two of this section with respect to the
23 minor's treatment would be a detriment to the minor's health or safety;
24 or

25 (c) in other circumstances designated by the commissioner.

26 4. A signed consent form obtained under this section shall be main-
27 tained in the minor's medical record.

28 § 8-e. Paragraph (b) of subdivision 5 of section 3331 of the public
29 health law, as added by section 1 of part C of chapter 71 of the laws of
30 2016, is amended and a new paragraph (d) is added to read as follows:

31 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
32 sion, a practitioner, within the scope of his or her professional opin-
33 ion or discretion, may not prescribe more than a [~~seven-day~~] three-day
34 supply of any schedule II, III, or IV opioid to an ultimate user upon
35 the initial consultation or treatment of such user for acute pain. Upon
36 any subsequent consultations for the same pain, the practitioner may
37 issue, in accordance with paragraph (a) of this subdivision, any appro-
38 priate renewal, refill, or new prescription for the opioid or any other
39 drug.

40 (d) Prior to issuing a prescription for any schedule II, III or IV
41 opioid to an ultimate user upon the initial consultation or treatment of
42 such user for chronic pain, the practitioner shall consider the recom-
43 mendations of the federal centers for disease control and prevention
44 including but not limited to the recommendation that nonpharmacologic
45 therapy and nonopioids pharmacologic therapies are preferred for chronic
46 pain, and that an initial opioid prescription should be immediate
47 release opioids not exceeding fifty morphine milligram equivalents.

48 § 8-f. The public health law is amended by adding a new section 3346
49 to read as follows:

50 § 3346. Guidelines for prescribing of opioid antagonists. 1. The
51 commissioner shall adopt guidelines for the prescribing of opioid antag-
52 onists which shall include, but not be limited to:

53 (a) when opioid antagonists should be prescribed to individuals to
54 whom an opioid medication is also prescribed, which shall at a minimum
55 provide for the prescribing of an opioid antagonist to any individual

1 with a treatment plan that consists of opioid use for more than one
2 month;

3 (b) identifying patients at risk of any opioid overdose and when
4 prescribing an opioid antagonist to that patient or a person in a posi-
5 tion to administer the opioid antagonists is appropriate; and

6 (c) information on how consumers can access opioid antagonists with or
7 without a prescription.

8 2. In adopting these guidelines the commissioner shall consult with
9 the state board of pharmacy as well as materials published by the
10 substance abuse and mental health services administration of the United
11 States department of health and human services, and other appropriate
12 materials including medical journals subject to peer review and publica-
13 tions by medical associations.

14 § 8-g. Subdivision 4 of section 365-a of the social services law is
15 amended by adding a new paragraph (h) to read as follows:

16 (h) opioids prescribed to a patient initiating or being maintained on
17 opioid treatment for pain which has lasted more than one month or past
18 the time of normal tissue healing, unless the medical record contains a
19 written treatment plan that includes: goals for pain management and
20 functional improvement based on diagnosis; information on whether non-o-
21 pioid therapies have been tried and optimized or are contraindicated; a
22 statement that the prescriber has explained to the patient the risks of
23 and alternatives to opioid treatment; an evaluation of the patient for
24 risk factors of harm and misuse of opioids; an assessment of the
25 patient's adherence to treatment with respect to other conditions treat-
26 ed by the same provider; the signature of the patient and/or an attesta-
27 tion by the prescriber that the patient verbally agreed to the treatment
28 plan; and any other information required by the department. Such treat-
29 ment plan shall also include a prescription for an opioid antagonist and
30 information on the administration and use of such opioid antagonists.
31 The treatment plan shall be updated twice within the year immediately
32 following its initiation and annually thereafter. The requirements of
33 this paragraph shall not apply in the case of patients who are being
34 treated for cancer that is not in remission, who are in hospice or other
35 end-of-life care, or whose pain is being treated as part of palliative
36 care practices.

37 § 8-h. Section 4303 of the insurance law is amended by adding a new
38 subsection (rr) to read as follows:

39 (rr) Every contract issued by a corporation subject to the provisions
40 of this article which provides medical, major medical or similar compre-
41 hensive-type coverage shall not be required to cover opioids prescribed
42 to a patient initiating or being maintained on opioid treatment for pain
43 which has lasted more than one month or past the time of normal tissue
44 healing, unless the medical record contains a written treatment plan
45 that includes: goals for pain management and functional improvement
46 based on diagnosis; information on whether non-opioid therapies have
47 been tried and optimized or are contraindicated; a statement that the
48 prescriber has explained to the patient the risks of and alternatives to
49 opioid treatment; an evaluation of the patient for risk factors of harm
50 and misuse of opioids; an assessment of the patient's adherence to
51 treatment with respect to other conditions treated by the same provider;
52 the signature of the patient and/or attestation by the prescriber that
53 the patient verbally agreed to the treatment plan; and any other infor-
54 mation required by the department. Such treatment plan shall also
55 include a prescription for an opioid antagonist and information on the
56 administration and use of such opioid antagonists. The treatment plan

1 shall be updated twice within the year immediately following its initi-
2 ation and annually thereafter. The requirements of this subsection shall
3 not apply in the case of patients who are being treated for cancer that
4 is not in remission, who are in hospice or other end-of-life care, or
5 whose pain is being treated as part of palliative care practices.

6 § 8-i. Section 3216 of the insurance law is amended by adding a new
7 subsection (n) to read as follows:

8 (n) No policy of accident and health insurance delivered or issued for
9 delivery in this state shall provide for reimbursement or coverage of
10 opioids prescribed to a patient initiating or being maintained on opioid
11 treatment for pain which has lasted more than one month or past the time
12 of normal tissue healing, unless the medical record contains a written
13 treatment plan that includes: goals for pain management and functional
14 improvement based on diagnosis; information on whether non-opioid thera-
15 pies have been tried and optimized or are contraindicated; a statement
16 that the prescriber has explained to the patient the risks of and alter-
17 natives to opioid treatment; an evaluation of the patient for risk
18 factors of harm and misuse of opioids; an assessment of the patient's
19 adherence to treatment with respect to other conditions treated by the
20 same provider; the signature of the patient and/or attestation by the
21 prescriber that the patient verbally agreed to the treatment plan; and
22 any other information required by the department. Such treatment plan
23 shall also include a prescription for an opioid antagonist and informa-
24 tion on the administration and use of such opioid antagonists. The
25 treatment plan shall be updated twice within the year immediately
26 following its initiation and annually thereafter. The requirements of
27 this subsection shall not apply in the case of patients who are being
28 treated for cancer that is not in remission, who are in hospice or other
29 end-of-life care, or whose pain is being treated as part of palliative
30 care practices.

31 § 8-j. Section 3221 of the insurance law is amended by adding a new
32 subsection (j-1) to read as follows: (j-1) No policy of group or blanket
33 accident and health insurance delivered or issued for delivery in this
34 state shall provide for reimbursement or coverage of opioids prescribed
35 to a patient initiating or being maintained on opioid treatment for pain
36 which has lasted more than one month or past the time of normal tissue
37 healing, unless the medical record contains a written treatment plan
38 that includes: goals for pain management and functional improvement
39 based on diagnosis; information on whether non-opioid therapies have
40 been tried and optimized or are contraindicated; a statement that the
41 prescriber has explained to the patient the risks of and alternatives to
42 opioid treatment; an evaluation of the patient for risk factors of harm
43 and misuse of opioids; an assessment of the patient's adherence to
44 treatment with respect to other conditions treated by the same provider;
45 the signature of the patient and/or attestation by the prescriber that
46 the patient verbally agreed to the treatment plan; and any other infor-
47 mation required by the department. Such treatment plan shall also
48 include a prescription for an opioid antagonist and information on the
49 administration and use of such opioid antagonists. The treatment plan
50 shall be updated twice within the year immediately following its initi-
51 ation and annually thereafter. The requirements of this subsection shall
52 not apply in the case of patients who are being treated for cancer that
53 is not in remission, who are in hospice or other end-of-life care, or
54 whose pain is being treated as part of palliative care practices.

1 § 8-k. Subparagraph (v) of paragraph (a) of subdivision 2 of section
2 3343-a of the public health law, as added by section 2 of part A of
3 chapter 447 of the laws of 2012, is amended to read as follows:

4 (v) a practitioner prescribing a controlled substance in the emergency
5 department of a general hospital, provided that the quantity of
6 controlled substance prescribed does not exceed a [~~five~~] three day
7 supply if the controlled substance were used in accordance with the
8 directions for use;

9 § 8-l. The public health law is amended by adding a new section 2827
10 to read as follows:

11 § 2827. Opioid alternative pilot project. There shall be established
12 an opioid alternative pilot project whereby the commissioner, in consul-
13 tation with the commissioner of alcoholism and substance abuse services,
14 shall identify at least five acute care emergency departments in the
15 state to participate in the opioid alternative pilot project. While
16 traditionally opioids have been the primary treatment for acute pain in
17 emergency departments, they are not always necessary or the most effec-
18 tive treatment and the side effects of misuse and addiction can be dead-
19 ly. The opioid alternative pilot project shall be designed to reduce the
20 use of opioids in emergency departments by using a multimodal treatment
21 approach to pain including coordination across providers, pharmacies,
22 clinical staff and administrators, as well as looking at new procedures,
23 methods of treatment and less addictive alternatives. Within one year of
24 the effective date of this section the participants in the project shall
25 report to the commissioner, the speaker of the assembly and the tempo-
26 rary president of the senate on the effectiveness of the opioid alterna-
27 tive pilot project in reducing opioid use and any recommendations for
28 expansions of or alterations to the project.

29 § 8-m. Paragraphs (i) and (j) of subdivision 1 of section 3371 of the
30 public health law, as added by section 4 of part A of chapter 447 of the
31 laws of 2012, are amended to read as follows:

32 (i) to a medical examiner or coroner who is an officer of or employed
33 by a state or local government, pursuant to his or her official duties;
34 [~~and~~]

35 (j) to an individual for the purpose of providing such individual with
36 his or her own controlled substance history or, in appropriate circum-
37 stances, in the case of a patient who lacks capacity to make health care
38 decisions, a person who has legal authority to make such decisions for
39 the patient and who would have legal access to the patient's health care
40 records, if requested from the department pursuant to subdivision six of
41 section thirty-three hundred forty-three-a of this article or from a
42 treating practitioner pursuant to subparagraph (iv) of paragraph (a) of
43 subdivision two of this section; and

44 (k) to a practitioner to inform him or her that a patient is under
45 treatment for a controlled substance overdose by hospital or emergency
46 room practitioner for the purposes of subdivision two of this section.

47 § 8-n. Paragraph (a) of subdivision 2 of section 3371 of the public
48 health law, as amended by chapter 90 of the laws of 2014, is amended to
49 read as follows:

50 (a) a practitioner, or a designee authorized by such practitioner
51 pursuant to paragraph (b) of subdivision two of section thirty-three
52 hundred forty-three-a or section thirty-three hundred sixty-one of this
53 article, for the purposes of: (i) informing the practitioner that a
54 patient may be under treatment with a controlled substance by another
55 practitioner or that a patient is under treatment for a controlled
56 substance overdose; (ii) providing the practitioner with notifications

1 of controlled substance activity as deemed relevant by the department,
2 including but not limited to a notification made available on a monthly
3 or other periodic basis through the registry of controlled substances
4 activity pertaining to his or her patient; (iii) allowing the practi-
5 tioner, through consultation of the prescription monitoring program
6 registry, to review his or her patient's controlled substances history
7 as required by section thirty-three hundred forty-three-a or section
8 thirty-three hundred sixty-one of this article; and (iv) providing to
9 his or her patient, or person authorized pursuant to paragraph (j) of
10 subdivision one of this section, upon request, a copy of such patient's
11 controlled substance history as is available to the practitioner through
12 the prescription monitoring program registry; or

13 § 8-o. Paragraph (a) of subdivision 2 of section 3371 of the public
14 health law, as added by section 5 of part A of chapter 447 of the laws
15 of 2012, is amended to read as follows:

16 (a) a practitioner, or a designee authorized by such practitioner
17 pursuant to paragraph (b) of subdivision two of section thirty-three
18 hundred forty-three-a of this article, for the purposes of: (i) inform-
19 ing the practitioner that a patient may be under treatment with a
20 controlled substance by another practitioner or that a patient is under
21 treatment for a controlled substance overdose; (ii) providing the prac-
22 titioner with notifications of controlled substance activity as deemed
23 relevant by the department, including but not limited to a notification
24 made available on a monthly or other periodic basis through the registry
25 of controlled substances activity pertaining to his or her patient;
26 (iii) allowing the practitioner, through consultation of the
27 prescription monitoring program registry, to review his or her patient's
28 controlled substances history as required by section thirty-three
29 hundred forty-three-a of this article; and (iv) providing to his or her
30 patient, or person authorized pursuant to paragraph (j) of subdivision
31 one of this section, upon request, a copy of such patient's controlled
32 substance history as is available to the practitioner through the
33 prescription monitoring program registry; or

34 § 8-p. The opening paragraph of paragraph (a) of subdivision 2 of
35 section 3343-a of the public health law, as added by section 2 of part A
36 of chapter 447 of the laws of 2012, is amended to read as follows:

37 Every practitioner shall consult the prescription monitoring program
38 registry prior to prescribing or dispensing any controlled substance
39 listed on schedule II, III or IV of section thirty-three hundred six of
40 this article, for the purpose of reviewing a patient's controlled
41 substance history as set forth in such registry and every emergency room
42 or hospital practitioner shall consult the prescription monitoring
43 program registry when treating a patient for a controlled substance
44 overdose and shall notify the patient's prescriber of such overdose;
45 provided, however, that nothing in this section shall preclude an
46 authorized practitioner, other than a veterinarian, from consulting the
47 registry at his or her option prior to prescribing or dispensing any
48 controlled substance. The duty to consult the registry shall not apply
49 to:

50 § 8-q. Subparagraph (iv) of paragraph (a) of subdivision 4 of section
51 3331 of the public health law, as added by chapter 415 of the laws of
52 1981, is amended to read as follows:

53 (iv) the legend, prominently marked or printed in either boldface or
54 upper case lettering: "CONTROLLED SUBSTANCE, DANGEROUS UNLESS USED AS
55 DIRECTED"; provided however, substances listed in subdivisions (b) and
56 (c) of schedule II, subdivisions (d) and (e) of schedule III, subdivi-

1 sions (b) and (f) of schedule IV, and subdivision (b) of schedule V of
2 section 3306 of this article, shall be affixed with a red label with
3 text printed in a large white font to be easily and clearly readable,
4 "OPIOID CONTROLLED SUBSTANCES TAKEN AS DIRECTED MAY LEAD TO ADDICTION";

5 § 8-r. Article 25 of the public health law is amended by adding a new
6 title 4-A to read as follows:

7 TITLE 4-A

8 CHILDREN AND RECOVERING MOTHERS

9 Section 2576. Recovering expectant mothers program.

10 2577. Newborn screening.

11 2578. Provider education.

12 2579. Workgroup.

13 § 2576. Recovering expectant mothers program. There shall be estab-
14 lished a recovering expectant mothers program within the department
15 whereby the commissioner, in consultation with the commissioner of alco-
16 holism and substance abuse services, shall provide guidance, education
17 and assistance to providers caring for recovering expectant mothers,
18 which shall include, but not be limited to:

19 1. establishing, in consultation with relevant health care providers,
20 guidance on universal screening techniques for substance use disorder at
21 prenatal visits. Such guidance shall rely on validated screening tools
22 and questionnaires and utilize language to help reduce stigma;

23 2. providing information regarding use of medication assisted treat-
24 ment for pregnant women, which shall include information regarding
25 buprenorphine training, tools for providers on effective management of
26 women with opioid use disorder in pregnancy, and a referral list of
27 certified providers;

28 3. providing referral information for substance abuse counseling,
29 social support and basic needs referrals, which shall also include guid-
30 ance on referring women to home visiting services that they may be
31 eligible for after birth; and

32 4. developing a system for rapid consultation and referral linkage
33 services for obstetricians and primary care providers statewide who
34 provide care for expectant mothers with substance use disorder.

35 § 2577. Newborn screening. The commissioner, in conjunction with the
36 commissioner of alcoholism and substance abuse services, shall develop
37 guidance for hospitals and midwifery birth centers on neonatal absti-
38 nence syndrome which shall include, but not be limited to, appropriate
39 treatment methods for neonatal abstinence syndrome and information on
40 home visiting services that recovering mothers may be eligible for, as
41 well as other substance abuse services, social supports and basic need
42 referrals in the community.

43 § 2578. Provider education. The commissioner shall develop or approve
44 a continuing medical education course for neonatal nurses, obstetri-
45 cians, midwives, pediatricians, and other health care providers regard-
46 ing treatment of expectant mothers and new mothers suffering from
47 substance use disorder, and the treatment of newborns suffering from
48 neonatal abstinence syndrome, which may include federally approved
49 buprenorphine training, in order to facilitate comprehensive prenatal
50 and postpartum care to this population.

51 § 2579. Workgroup. The commissioner, in conjunction with the commis-
52 sioner of alcoholism and substance abuse services, shall convene a work-
53 group of stakeholders, including but not limited to, hospitals, local
54 health departments, obstetricians, midwives, pediatricians, and
55 substance abuse providers to study and evaluate current barriers and
56 challenges in identifying and treating expectant mothers, newborns, and

1 new parents with substance use disorder. The workgroup shall report on
2 its findings and recommendations to the commissioner, the speaker of the
3 assembly and the temporary president of the senate within one year of
4 the effective date of this section.

5 § 8-s. Title 1 of article 25 of the public health law is amended by
6 adding a new section 2509 to read as follows:

7 § 2509. Infant recovery centers pilot program. There shall be estab-
8 lished an infant recovery centers pilot program whereby the commission-
9 er, in consultation with the commissioner of alcohol and substance abuse
10 services, shall establish at least four infant recovery centers in areas
11 of need in the state. Such centers shall provide cost effective, neces-
12 sary services and enhance the quality of care for targeted populations
13 in order to demonstrate the effectiveness of such program. Eligible
14 infants shall be under one year of age and suffer from withdrawal
15 resulting from in utero exposure to drugs. Such infant withdrawal may be
16 the result of conditions including, but not limited to, neonatal absti-
17 nence syndrome. The program shall provide more appropriate settings and
18 cost effective care for these infants than hospitals, while also provid-
19 ing supports and services to parents preparing to bring their infants
20 home. Access to such supports shall continue for a period after the
21 infant has left a center.

22 The department shall be responsible for monitoring the quality, appro-
23 priateness and effectiveness of the centers and shall report to the
24 legislature within one year of the establishment of the infant recovery
25 centers and again within two years of the effective date of this section
26 on the program's effectiveness.

27 § 8-t. Subdivision (a) of section 2500-a of the public health law, as
28 amended by chapter 184 of the laws of 2013, is amended to read as
29 follows:

30 (a) It shall be the duty of the administrative officer or other person
31 in charge of each institution caring for infants twenty-eight days or
32 less of age and the person required in pursuance of the provisions of
33 section forty-one hundred thirty of this chapter to register the birth
34 of a child, to cause to have administered to every such infant or child
35 in its or his care a test for phenylketonuria, homozygous sickle cell
36 disease, hypothyroidism, branched-chain ketonuria, galactosemia, homo-
37 cystinuria, critical congenital heart defects through pulse oximetry
38 screening, neonatal abstinence syndrome, and such other diseases and
39 conditions as may from time to time be designated by the commissioner in
40 accordance with rules or regulations prescribed by the commissioner.
41 Testing, the recording of the results of such tests, tracking, follow-up
42 reviews and educational activities shall be performed at such times and
43 in such manner as may be prescribed by the commissioner. The commission-
44 er shall promulgate regulations setting forth the manner in which infor-
45 mation describing the purposes of the requirements of this section shall
46 be disseminated to parents or a guardian of the infant tested.

47 § 8-u. Subparagraph (A) of paragraph 31 of subsection (i) of section
48 3216 of the insurance law, as added by chapter 41 of the laws of 2014,
49 is amended to read as follows:

50 (A) Every policy that provides medical, major medical or similar
51 comprehensive-type coverage must provide outpatient coverage for the
52 diagnosis and treatment of substance use disorder, including detoxifica-
53 tion and rehabilitation services. Such coverage shall not be subject to
54 prior authorization and shall not apply financial requirements or treat-
55 ment limitations to outpatient substance use disorder benefits that are
56 more restrictive than the predominant financial requirements and treat-

1 ment limitations applied to substantially all medical and surgical bene-
2 fits covered by the policy. Further, such coverage shall be provided
3 consistent with the federal Paul Wellstone and Pete Domenici Mental
4 Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).

5 § 8-v. Subparagraph (A) of paragraph 7 of subsection (1) of section
6 3221 of the insurance law, as amended by chapter 41 of the laws of 2014,
7 is amended to read as follows:

8 (A) Every policy that provides medical, major medical or similar
9 comprehensive-type coverage must provide outpatient coverage for the
10 diagnosis and treatment of substance use disorder, including detoxifica-
11 tion and rehabilitation services. Such coverage shall not be subject to
12 prior authorization and shall not apply financial requirements or treat-
13 ment limitations to outpatient substance use disorder benefits that are
14 more restrictive than the predominant financial requirements and treat-
15 ment limitations applied to substantially all medical and surgical bene-
16 fits covered by the policy. Further, such coverage shall be provided
17 consistent with the federal Paul Wellstone and Pete Domenici Mental
18 Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).

19 § 8-w. Paragraph 1 of subsection (1) of section 4303 of the insurance
20 law, as amended by chapter 41 of the laws of 2014, is amended to read as
21 follows:

22 (1) Every contract that provides medical, major medical or similar
23 comprehensive-type coverage must provide outpatient coverage for the
24 diagnosis and treatment of substance use disorder, including detoxifica-
25 tion and rehabilitation services. Such coverage shall not be subject to
26 prior authorization and shall not apply financial requirements or treat-
27 ment limitations to outpatient substance use disorder benefits that are
28 more restrictive than the predominant financial requirements and treat-
29 ment limitations applied to substantially all medical and surgical bene-
30 fits covered by the contract. Further, such coverage shall be provided
31 consistent with the federal Paul Wellstone and Pete Domenici Mental
32 Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).

33 § 8-x. The mental hygiene law is amended by adding a new section 7.46
34 to read as follows:

35 § 7.46 Operating certificates.

36 (a) The commissioner or the commissioner of the office of alcoholism
37 and substance abuse services shall not deny an operating certificate
38 pursuant to section 31.02 or 32.05 of this chapter to a facility provid-
39 ing out-patient or non-residential services for the mentally disabled or
40 individuals suffering from chemical abuse or dependence that includes a
41 pharmacy within the facility, provided that the pharmacy:

42 (1) conforms with paragraph g of subdivision two of section sixty-
43 eight hundred eight of the education law;

44 (2) is not operated by the facility;

45 (3) does not share revenue of the pharmacy with the facility; and

46 (4) does not require or otherwise coerce patients to utilize such
47 pharmacy.

48 (b) Furthermore, patients, clinic staff and other individuals may
49 traverse the common waiting area within the clinic space to access such
50 pharmacy, and the pharmacy need not have a separate public entrance
51 leading from outside of the building to such pharmacy. Nothing in this
52 subdivision shall prevent the facility from collecting rent from the
53 operator of such pharmacy if such pharmacy is leasing space from the
54 facility.

1 § 8-y. Paragraphs g and h of subdivision 2 of section 6808 of the
2 education law are relettered paragraphs h and i and a new paragraph g is
3 added to read as follows:

4 g. A pharmacy within a facility providing out-patient or non-residen-
5 tial services for the mentally disabled or individuals suffering from
6 chemical abuse or dependence. When a pharmacy is operated within a
7 facility providing out-patient or non-residential services for the
8 mentally disabled or individuals suffering from chemical abuse or
9 dependence under an operating certificate issued by the commissioners of
10 the office of mental health or the office of alcoholism and substance
11 abuse services pursuant to section 31.02 or 32.05 of the mental hygiene
12 law, the area comprising the pharmacy shall be secured, preventing
13 unauthorized access to the pharmacy and drugs when a pharmacist is not
14 on duty. Identification of the area within the pharmacy by use of the
15 words "drugs", "medicines", "drug store", or "pharmacy" or similar terms
16 shall be restricted to the area licensed by the department as a pharma-
17 cy. Patients, clinic staff and other individuals may traverse the common
18 waiting area within the clinic space to access such pharmacy, and such
19 pharmacy need not have a separate public entrance leading from outside
20 of the building to such pharmacy.

21 § 8-z. Intentionally omitted.

22 § 8-aa. The public health law is amended by adding a new section 280-c
23 to read as follows:

24 § 280-c. Pharmacy audits by pharmacy benefit managers. 1. Defi-
25 initions. As used in this section, the following terms shall have the
26 following meanings:

27 (a) "Pharmacy benefit manager" shall have the same meaning as in
28 section two hundred eighty-a of this article.

29 (b) "Pharmacy" shall mean a pharmacy that has contracted with a phar-
30 macy benefit manager for the provision of pharmacy services.

31 2. When conducting an audit of a pharmacy's records, a pharmacy bene-
32 fit manager shall:

33 (a) not conduct an on-site audit of a pharmacy at any time during the
34 first three calendar days of a month;

35 (b) notify the pharmacy or its contracting agent no later than fifteen
36 days before the date of initial on-site audit. Such notification to the
37 pharmacy or its contracting agent shall be in writing delivered either
38 (i) by mail or common carrier, return receipt requested, or (ii) elec-
39 tronically with electronic receipt confirmation, addressed to the super-
40 vising pharmacist of record and pharmacy corporate office where applica-
41 ble, at least fifteen days before the date of an initial on-site audit;

42 (c) limit the audit period to twenty-four months after the date a
43 claim is submitted to or adjudicated by the pharmacy benefit manager;

44 (d) include in the written advance notice of an on-site audit the list
45 of specific prescription numbers to be included in the audit that may or
46 may not include the final two digits of the prescription numbers;

47 (e) use the written and verifiable records of a hospital, physician or
48 other authorized practitioner, which are transmitted by any means of
49 communication, to validate the pharmacy records in accordance with state
50 and federal law;

51 (f) limit the number of prescriptions audited to no more than one
52 hundred randomly selected in a twelve-month period, except in cases of
53 fraud;

54 (g) provide the pharmacy or its contracting agent with a copy of the
55 preliminary audit report within forty-five days after the conclusion of
56 the audit;

1 (h) be allowed to conduct a follow-up audit on-site if a remote or
2 desk audit reveals the necessity for a review of additional claims;

3 (i) in the case of invoice audits, accept as validation invoices from
4 any wholesaler registered with the department of education from which
5 the pharmacy has purchased prescription drugs or, in the case of durable
6 medical equipment or sickroom supplies, invoices from an authorized
7 distributor other than a wholesaler;

8 (j) provide the pharmacy or its contracting agent with the ability to
9 provide documentation to address a discrepancy or audit finding,
10 provided that such documentation must be received by the pharmacy bene-
11 fit manager no later than the forty-fifth day after the preliminary
12 audit report was provided to the pharmacy or its contracting agent. The
13 pharmacy benefit manager shall consider a reasonable request from the
14 pharmacy for an extension of time to submit documentation to address or
15 correct any findings in the report; and

16 (k) provide the pharmacy or its contracting agent with the final audit
17 report no later than sixty days after the initial audit report was
18 provided to the pharmacy or its contracting agent.

19 3. Any claim that was retroactively denied for a clerical error, typo-
20 graphical error, scrivener's error or computer error shall be paid if
21 the prescription was properly and correctly dispensed, unless a pattern
22 of such errors exists, fraudulent billing is alleged or the error
23 results in actual financial loss to the entity. A clerical error is an
24 error that does not result in actual financial harm to the covered enti-
25 ty or consumer and does not include the dispensing of an incorrect dose,
26 amount or type of medication or dispensing a prescription drug to the
27 wrong person.

28 4. This section shall not apply to:

29 (a) audits in which suspected fraudulent activity or other intentional
30 or willful misrepresentation is evidenced by a physical review, review
31 of claims data or statements, or other investigative methods; or

32 (b) audits of claims paid for by federally funded programs; or

33 (c) concurrent reviews or desk audits that occur within three business
34 days of transmission of a claim and where no chargeback or recoupment is
35 demandd.

36 § 8-bb. Section 280-a of the public health law is amended by adding
37 two new subdivisions 3 and 4 to read as follows:

38 3. No pharmacy benefit manager shall, with respect to contracts
39 between such pharmacy benefit manager and a pharmacy or, alternatively,
40 such pharmacy benefit manager and a pharmacy's contracting agent, such
41 as a pharmacy services administrative organization:

42 (a) prohibit or penalize a pharmacist or pharmacy from disclosing to
43 an individual purchasing a prescription medication information regard-
44 ing:

45 (1) the cost of the prescription medication to the individual, or

46 (2) the availability of any therapeutically equivalent alternative
47 medications or alternative methods of purchasing the prescription medi-
48 cation, including but not limited to, paying a cash price; or

49 (b) charge or collect from an individual a copayment that exceeds the
50 total submitted charges by the pharmacy for which the pharmacy is paid.
51 If an individual pays a copayment, the pharmacy shall retain the adjudi-
52 cated costs and the pharmacy benefit manager shall not redact or recoup
53 the adjudicated cost.

54 4. Any provision of a contract that violates the provisions of this
55 section shall be deemed to be void and unenforceable.

56 § 8-cc. Intentionally omitted.

1 § 8-dd. Intentionally omitted.

2 § 8-ee. Intentionally omitted.

3 § 8-ff. Intentionally omitted.

4 § 8-gg. Intentionally omitted.

5 § 8-hh. Intentionally omitted.

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

7 (a) the amendments to paragraph (d) of subdivision 9 of section 367-a
8 of the social services law made by section one of this act shall not
9 affect the expiration of such subdivision and shall expire therewith;

10 (b) the amendments to subdivision 1 of section 292 of the public
11 health law, as added by section eight-a of this act, shall take effect
12 on the one hundred eightieth day after it shall have become a law;

13 (c) the provisions of sections eight-d, eight-e, eight-f, eight-g,
14 eight-k, eight-l, eight-r, and eight-bb of this act shall take effect on
15 the ninetieth day after it shall have become a law;

16 (d) sections eight-h, eight-i and eight-j of this act shall take
17 effect on the first of January next succeeding the date on which this
18 act shall have become a law and shall apply to all policies issued,
19 modified or renewed on and after such date;

20 (e) the amendments to paragraph (a) of subdivision 2 of section 3371
21 of the public health law, as amended by section eight-n of this act
22 shall be subject to the expiration and reversion of such subdivision
23 pursuant to section 12 of chapter 90 of the laws of 2014, as amended,
24 when upon such date the provisions of section eight-o of this act shall
25 take effect;

26 (f) sections eight-q and eight-t of this act shall take effect on the
27 one hundred eightieth day after it shall have become a law;

28 (g) the provisions of section eight-s of this act shall expire and be
29 deemed repealed 4 years after such date;

30 (h) the provisions of section eight-t of this act shall expire and be
31 deemed repealed on March 31, 2023;

32 (i) the provisions of sections eight-u, eight-v, and eight-w of this
33 act shall apply to policies and contracts issued, renewed, modified,
34 altered or amended on or after such date;

35 (j) the provisions of section eight-aa of this act shall take effect
36 on the sixtieth day after it shall have become a law; and

37 (k) effective immediately, the addition, amendment and/or repeal of
38 any rule or regulation necessary for the implementation of this act on
39 its effective date are authorized to be made and completed on or before
40 such effective date.

41

PART E

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

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

~~1 [enrollees of managed long term care plans issued certificates of~~
~~2 authority under section forty-four hundred three-f of the public health~~
~~3 law]; adult day health care programs located at a licensed residential~~
~~4 health care facility as defined by section twenty-eight hundred one of~~
~~5 the public health law or any approved extension site thereof; partic-~~
~~6 ipants of a program designated as a program of all-inclusive care for~~
~~7 the elderly (PACE) as authorized by federal public law 105-33, subtitle~~
~~8 1 of title IV of the balanced budget act of 1997; and enrollees of a~~
~~9 managed long term care plan issued a certificate of authority under~~
~~10 section forty-four hundred three-f of the public health law that elects~~
~~11 to provide or arrange for transportation services directly. The commis-~~
~~12 sioner shall offer managed long term care plans other than programs of~~
~~13 all-inclusive care for the elderly, and adult day health care programs~~
~~14 the option to arrange transportation directly or utilize a transporta-~~
~~15 tion manager or managers selected by the commissioner.~~ Any transporta-
16 tion manager or managers selected by the commissioner to manage trans-
17 portation services shall have proven experience in coordinating
18 transportation services in a geographic and demographic area similar to
19 the area in New York state within which the contractor would manage the
20 provision of services under this section. Such a contract or contracts
21 may include responsibility for: review, approval and processing of
22 transportation orders; management of the appropriate level of transpor-
23 tation based on documented patient medical need; and development of new
24 technologies leading to efficient transportation services. If the
25 commissioner elects to assume such responsibility from a local social
26 services district, the commissioner shall examine and, if appropriate,
27 adopt quality assurance measures that may include, but are not limited
28 to, global positioning tracking system reporting requirements and
29 service verification mechanisms. Any and all reimbursement rates devel-
30 oped by transportation managers under this subdivision shall be subject
31 to the review and approval of the commissioner.

32 § 2. Intentionally omitted.

33 § 3. Intentionally omitted.

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

41 PART F

42 Intentionally Omitted

43 PART G

44 Section 1. Section 2801-a of the public health law is amended by
45 adding a new subdivision 17 to read as follows:

46 17. (a) Diagnostic or treatment centers established to provide health
47 care services within the space of a retail business operation, such as a
48 pharmacy or a store open to the general public, or within space used by
49 an employer for providing health care services to its employees, may be
50 operated by legal entities formed under the laws of the state of New
51 York: (i) whose stockholders or members, as applicable, are not natural
52 persons; (ii) whose principal stockholders and members, as applicable,

1 and controlling persons comply with all applicable requirements of this
2 section; and (iii) that demonstrate, to the satisfaction of the public
3 health and health planning council, sufficient experience and expertise
4 in delivering high quality health care services, and further demonstrate
5 a commitment to operate limited services clinics in medically under-
6 served areas of the state. Such diagnostic and treatment centers shall
7 be referred to in this section as "limited services clinics".

8 (b) For purposes of paragraph (a) of this subdivision, the public
9 health and health planning council shall adopt and amend rules and regu-
10 lations, notwithstanding any inconsistent provision of this section, to
11 address any matter it deems pertinent to the establishment of limited
12 services clinics. Such rules and regulations shall include, but not be
13 limited to, provisions governing or relating to: (i) any direct or indi-
14 rect changes or transfers of ownership interests or voting rights in
15 such entities or their stockholders or members, as applicable; (ii)
16 public health and health planning council approval of any change in
17 controlling interests, principal stockholders, controlling persons,
18 parent company or sponsors; (iii) oversight of the operator and its
19 shareholders or members, as applicable, including local governance of
20 the limited services clinics; and (iv) the character and competence and
21 qualifications of, and changes relating to, the directors and officers
22 of the operator and its principal stockholders, controlling persons,
23 parent company or sponsors.

24 (c) The following provisions of this section shall not apply to limit-
25 ed services clinics: (i) paragraph (a) of subdivision three of this
26 section; (ii) paragraph (b) of subdivision three of this section, relat-
27 ing to stockholders and members other than principal stockholders and
28 principal members; (iii) paragraph (c) of subdivision four of this
29 section, relating to the disposition of stock or voting rights; and (iv)
30 paragraph (e) of subdivision four of this section, relating to the
31 ownership of stock or membership.

32 (d) A limited services clinic shall be deemed to be a "health care
33 provider" for the purposes of title two-D of article two of this chap-
34 ter. A prescriber practicing in a limited service clinic shall not be
35 deemed to be in the employ of a pharmacy or practicing in a hospital for
36 purposes of subdivision two of section sixty-eight hundred seven of the
37 education law.

38 (e) The commissioner shall promulgate regulations setting forth opera-
39 tional and physical plant standards for limited services clinics, which
40 may be different from the regulations otherwise applicable to diagnostic
41 or treatment centers, including, but not limited to:

42 (i) requiring that limited services clinics attain and maintain
43 accreditation and requiring timely reporting to the Department if a
44 limited services clinic loses its accreditation;

45 (ii) designating or limiting the treatments and services that may be
46 provided, including:

47 (A) limiting the scope of services to the following, provided that
48 such services shall not include monitoring or treatment and services
49 over prolonged periods:

50 (1) the provision of treatment and services to patients for minor
51 acute episodic illnesses or conditions;

52 (2) episodic preventive and wellness treatments and services such as
53 immunizations; and

54 (3) treatment and services for minor traumas that are not reasonably
55 likely to be life threatening or potentially disabling if ambulatory
56 care within the capacity of the limited services clinic is provided;

1 (B) prohibiting the provision of services to patients twenty-four
2 months of age or younger;

3 (C) the provision of specific immunizations to patients younger than
4 eighteen years of age;

5 (iii) requiring limited services clinics to accept walk-ins and offer
6 extended business hours;

7 (iv) setting forth guidelines for advertising and signage, which shall
8 include signage indicating that prescriptions and over-the-counter
9 supplies may be purchased by a patient from any business and do not need
10 to be purchased on-site;

11 (v) setting forth guidelines for disclosure of ownership interests,
12 informed consent, record keeping, referral for treatment and continuity
13 of care, case reporting to the patient's primary care or other health
14 care providers, design, construction, fixtures, and equipment; and

15 (vi) requiring the operator to directly employ a medical director who
16 is licensed and currently registered to practice medicine in the state
17 of New York.

18 (f) Such regulations also shall promote and strengthen primary care by
19 requiring limited services clinics to:

20 (i) inquire of each patient whether he or she has a primary care
21 provider;

22 (ii) maintain and regularly update a list of local primary care
23 providers and provide such list to each patient who indicates that he or
24 she does not have a primary care provider;

25 (iii) refer patients to their primary care providers or other health
26 care providers as appropriate;

27 (iv) transmit, by electronic means whenever possible, records of
28 services to patients' primary care providers;

29 (v) execute participation agreements with health information organiza-
30 tions, also known as qualified entities, pursuant to which limited
31 services clinics agree to participate in the Statewide Health Informa-
32 tion Network for New York (SHIN-NY); and

33 (vi) decline to treat any patient for the same condition or illness
34 more than three times in a year.

35 (g) A limited services clinic shall provide treatment without discrim-
36 ination as to source of payment.

37 (h) Notwithstanding this subdivision and other law or regulation to
38 the contrary and subject to the provisions of section twenty-eight
39 hundred two of this article, a general hospital, a diagnostic and treat-
40 ment center, community health center or federally qualified health
41 center may operate a limited services clinic which meets the regulation
42 promulgated pursuant to paragraph (e) of this subdivision regarding
43 operational physical plant standards.

44 (i) In determining whether to approve additional limited services
45 clinic locations, the department shall consider whether the operator has
46 fulfilled its commitment to operate limited services clinics in
47 medically underserved areas of the state.

48 § 2. This act shall take effect immediately.

49 PART H

50 Intentionally Omitted

51 PART I

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

3 34. For purposes of recouping overpayments relating to fraud and
4 abuse, monies paid by the department to managed care organizations for
5 covered medical assistance services, exclusive of any reimbursement for
6 administrative expenses or care management services are public funds and
7 retain their status as public funds when paid by the managed care organ-
8 ization to subcontractors or providers.

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

11 35. Recovery and retention of overpayments from network providers. (a)
12 Where the Medicaid inspector general or the Medicaid fraud control unit
13 of the office of the attorney general, during the course of an audit or
14 investigation, identifies improper medical assistance payments made by a
15 managed care organization to its subcontractor or subcontractors or
16 provider or providers, the state shall, subject to paragraphs (b) and
17 (c) of this subdivision have the right to recover the improper payment
18 from the subcontractor or subcontractors, provider or providers, or the
19 managed care organization.

20 (b) Contracts between the state and a managed care organization shall
21 specify:

22 (i) The retention policies for the treatment of recoveries of all
23 overpayments from the managed care organization to a provider, including
24 specifically the retention policies for the treatment of recoveries of
25 overpayments due to fraud or abuse;

26 (ii) The process, timeframes, and documentation required for reporting
27 the recovery of all overpayments from network providers; and

28 (iii) The process, timeframes, and documentation required for payment
29 of recoveries of overpayments to the state in situations where the
30 managed care organization is not permitted to retain some or all of the
31 recoveries of overpayments.

32 (c) Any recovery from a subcontractor or provider pursuant to this
33 section shall be shared proportionally between the state and the managed
34 care organization based on (i) the entity that initiated the recovery
35 efforts and (ii) the efforts by each party to secure the recovery.

36 (d) This subdivision shall not apply to any amount of a recovery to be
37 retained under False Claims Act cases.

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

40 36. Reporting acts of fraud. (a) All managed care organizations shall
41 promptly refer to the office of the Medicaid inspector general all cases
42 in which there is a reasonable suspicion of fraud or abuse.

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

47 (c) A managed care organization that willfully fails to promptly make
48 a referral to the Medicaid inspector general when there is actual know-
49 ledge that an act of fraud is being or has been committed may, in the
50 discretion of the commissioner, be fined in an amount not exceeding ten
51 thousand dollars for each determination.

52 § 4. The public health law is amended by adding a new section 12-e to
53 read as follows:

54 § 12-e. Violations of medical assistance program laws, regulations or
55 directives; fines. 1. (a) Any individual or entity participating in the
56 medical assistance program that fails to comply with or violates any

1 statute, rule, regulation, or directive of the medical assistance
2 program, may be fined in an amount not exceeding the sum of two thousand
3 dollars for each violation.

4 (b) The penalty provided for in paragraph (a) of this subdivision may
5 be increased to an amount not to exceed five thousand dollars for a
6 subsequent violation if the person committed the identical violation,
7 with respect to the same or any other person or persons, within twelve
8 months of the initial violation for which a penalty was assessed pursu-
9 ant to paragraph (a) of this subdivision and said violations were a
10 serious threat to the health and safety of an individual or individuals.

11 2. (a) Any entity authorized to operate under article forty-four of
12 this chapter or article forty-three of the insurance law, including any
13 subcontractor or provider thereof, and participating in the medical
14 assistance program that fails to comply with or violates any statute,
15 rule, regulation, or directive of the medical assistance program, or any
16 term of its contract with the department, including, but not limited to,
17 the submission of cost reports or encounter data that is intentionally
18 or systematically inaccurate or improper, may be fined in an amount not
19 exceeding the sum of two thousand dollars for each violation.

20 (b) The penalty provided for in paragraph (a) of this subdivision may
21 be increased to an amount not to exceed five thousand dollars for a
22 subsequent violation if the person committed the same violation, with
23 respect to the same or any other person or persons, within twelve months
24 of the initial violation for which a penalty was assessed pursuant to
25 paragraph (a) of this subdivision and said violations were a serious
26 threat to the health and safety of an individual or individuals.

27 (c) The commissioner shall consider the following prior to assessing a
28 penalty against a managed care organization and have the discretion to
29 reduce or eliminate a penalty:

30 (i) the effect, if any, on the quality of medical care provided to or
31 arranged for recipients of medical assistance as a result of the acts of
32 the managed care organization;

33 (ii) the amount of damages to the program;

34 (iii) any prior violations committed by the managed care organization
35 relating to the medical assistance program, Medicare or any other social
36 services programs which resulted in either criminal or administrative
37 sanction, penalty, or fine;

38 (iv) the degree to which factors giving rise to the proscribed actions
39 were out of the control of the managed care organization;

40 (v) the number and nature of the violations or other related offenses;

41 (vi) the timeliness of the managed care organization in curing or
42 correcting violations;

43 (vii) whether the violation was caused by the managed care organiza-
44 tion or a third party;

45 (viii) whether the managed care organization has taken corrective
46 action to reduce the likelihood of future violations;

47 (ix) whether the managed care organization was or should have been
48 aware of such violation; and

49 (x) any other facts relating to the nature and seriousness of the
50 violations including any exculpatory facts.

51 3. The commissioner shall consider the following prior to assessing a
52 fine against an individual or entity under this section and have the
53 discretion to reduce or eliminate a fine under this section:

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

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

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

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

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

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

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

13 (h) any other relevant factors.

14 4. The commissioner may promulgate regulations enumerating those
15 violations which may result in a fine pursuant to subdivisions one and
16 two of this section, and the appeal rights afforded to individuals or
17 entities subject to a fine.

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

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

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

34 PART J

35 Section 1. Section 190-a of the state finance law, as amended by
36 section 2 of part HH of chapter 55 of the laws of 2014, is amended to
37 read as follows:

38 § 190-a. Monies recovered. 1. Notwithstanding any law to the contrary,
39 all monies recovered or obtained under this article by a state agency or
40 state official or employee acting in their official capacity shall be
41 subject to subdivision eleven of section four of this chapter.

42 2. Expenditure of monies recovered pursuant to the false claims act
43 related to the Medicaid program. To the extent practicable, all monies
44 recovered pursuant to the false claims act as it relates to the Medicaid
45 program received and/or expended during a fiscal year shall be accounted
46 for by the head of the agency or entity recovering and/or expending the
47 monies. The head of the agency or entity recovering and/or expending the
48 monies, in consultation with the division of budget, shall report annu-
49 ally on the use of such monies to the temporary president of the senate,
50 speaker of the assembly, chair of the senate finance committee, chair of
51 the assembly ways and means committee, chair of the health committees in
52 the senate and assembly by December first of each year. Such report
53 shall include, but not be limited to, any and all filings of an action
54 under section 190(1) of the false claims act by a local government, the

1 amount of monies collected and disbursed pursuant to the false claims
2 act as it relates to the Medicaid program, recipients of such disburse-
3 ments and the amount received by recipients, and estimates of all
4 receipts, all disbursements and anticipated receipts for the current and
5 succeeding fiscal years.

6 § 2. This act shall take effect immediately.

7 PART K

8 Section 1. Notwithstanding any contrary provision of law, the depart-
9 ment of health is authorized to require any Medicaid-enrolled licensed
10 home care services agency, and any fiscal intermediary operating pursu-
11 ant to section 365-f of the social services law, to report on costs
12 incurred in rendering health care services to Medicaid beneficiaries,
13 including those enrolled in managed care. The department of health may
14 specify the frequency and format of such reports, determine the type and
15 amount of information to be submitted, and require the submission of
16 supporting documentation. However, licensed home care services agencies
17 shall submit such cost reports to the department of health and the
18 public health and planning council by July 1, 2018 for purposes of the
19 review required by subdivision 8 of section 3612 of the public health
20 law.

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

26 1. For state fiscal years 2011-12 through 2018-19, the director of the
27 budget, in consultation with the commissioner of health referenced as
28 "commissioner" for purposes of this section, shall assess on a monthly
29 basis, as reflected in monthly reports pursuant to subdivision five of
30 this section known and projected department of health state funds medi-
31 caid expenditures by category of service and by geographic regions, as
32 defined by the commissioner, and if the director of the budget deter-
33 mines that such expenditures are expected to cause medicaid disburse-
34 ments for such period to exceed the projected department of health medi-
35 caid state funds disbursements in the enacted budget financial plan
36 pursuant to subdivision 3 of section 23 of the state finance law, the
37 commissioner of health, in consultation with the director of the budget,
38 shall develop a medicaid savings allocation plan to limit such spending
39 to the aggregate limit level specified in the enacted budget financial
40 plan, provided, however, such [~~projections may be adjusted by the direc-~~
41 ~~tor of the budget to account for any changes in the New York state~~
42 ~~federal medical assistance percentage amount established pursuant to the~~
43 ~~federal social security act, changes in provider revenues, reductions to~~
44 ~~local social services district medical assistance administration, mini-~~
45 ~~imum wage increases, and beginning April 1, 2012 the operational costs of~~
46 ~~the New York state medical indemnity fund and state costs or savings~~
47 ~~from the basic health plan. Such projections may be adjusted by the~~
48 ~~director of the budget to account for increased or expedited department~~
49 ~~of health state funds medicaid expenditures as a result of a natural or~~
50 ~~other type of disaster, including a governmental declaration of emergen-~~
51 ~~cy] savings allocation plan must be approved by legislation prior to
52 implementation.~~

53 § 3. Subdivision 1 of section 91 of part H of chapter 59 of the laws
54 of 2011, amending the public health law and other laws relating to

1 general hospital reimbursement for annual rates, as amended by section 2
2 of part A of chapter 56 of the laws of 2013, is amended to read as
3 follows:

4 1. Notwithstanding any inconsistent provision of state law, rule or
5 regulation to the contrary, subject to federal approval, the year to
6 year rate of growth of department of health state funds Medicaid spend-
7 ing shall not exceed the ten year [~~rolling~~] average of the medical
8 component of the consumer price index as published by the United States
9 department of labor, bureau of labor statistics, for the [~~preceding ten~~
10 ~~years~~] ten year period ending six months prior to the start of the
11 coming fiscal year; provided, however, that for state fiscal year 2013-
12 14 and for each fiscal year thereafter, the maximum allowable annual
13 increase in the amount of department of health state funds Medicaid
14 spending shall be calculated by multiplying the department of health
15 state funds Medicaid spending for the previous year, minus the amount of
16 any department of health state operations spending included therein, by
17 such ten year [~~rolling~~] average.

18 § 4. The public health law is amended by adding a new section 206-c to
19 read as follows:

20 § 206-c. Kidney disease outreach and education program. The New York
21 Center for Kidney Transplantation shall, within amounts appropriated,
22 establish and implement an education and outreach program for financial
23 coordinators at kidney transplant programs in New York state to assist
24 patients with end stage renal disease who meet the Medicare eligibility
25 requirements, and who are waiting for kidney transplants, in accessing
26 Medicare coverage. The center shall also establish and implement an
27 education and outreach program for dialysis patients to ensure patients
28 are aware of and have access to opportunities for living kidney
29 donation.

30 § 5. Section 6 of part S of chapter 57 of the laws of 2017 relating to
31 authorizing the commissioner of health to sell accounts receivables
32 balances owed to the state by Medicaid providers to financial insti-
33 tutions, is REPEALED.

34 § 6. This act shall take effect immediately; provided, however, that
35 nothing in this act shall invalidate or otherwise impact any sale of
36 accounts receivable effected pursuant to section five of this act prior
37 to the repeal of such section.

38 PART L

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

42 7. Notwithstanding any provision of law to the contrary, the depart-
43 ment shall, when it determines necessary program features are in place,
44 assume sole responsibility for commencing actions or proceedings in
45 accordance with the provisions of this section, sections one hundred
46 one, one hundred four, one hundred four-b, paragraph (a) of subdivision
47 three of section three hundred sixty-six, subparagraph one of paragraph
48 (h) of subdivision four of section three hundred sixty-six, and para-
49 graph (b) of subdivision two of section three hundred sixty-seven-a of
50 this chapter, to recover the cost of medical assistance furnished pursu-
51 ant to this title and title eleven-D of this article. The department is
52 authorized to contract with an entity that shall conduct activities on
53 behalf of the department pursuant to this subdivision, and may contract
54 with an entity, pursuant to a request for proposal process, to conduct

1 similar activities on behalf of the child health insurance program
2 established pursuant to title one-A of article twenty-five of the public
3 health law to the extent allowed by law. Prior to assuming such respon-
4 sibility from a social services district, the department of health
5 shall, in consultation with the district, define the scope of the
6 services the district will be required to perform on behalf of the
7 department of health pursuant to this subdivision.

8 § 2. Intentionally omitted.

9 § 3. Paragraph 1 of subsection (a) of section 3231 of the insurance
10 law, as amended by section 69 of part D of chapter 56 of the laws of
11 2013, is amended to read as follows:

12 (1) No individual health insurance policy and no group health insur-
13 ance policy covering between one and fifty employees or members of the
14 group [~~or between one and one hundred employees or members of the group~~
15 ~~for policies issued or renewed on or after January first, two thousand~~
16 ~~sixteen~~] exclusive of spouses and dependents, hereinafter referred to as
17 a small group, providing hospital and/or medical benefits, including
18 medicare supplemental insurance, shall be issued in this state unless
19 such policy is community rated and, notwithstanding any other provisions
20 of law, the underwriting of such policy involves no more than the im-
21 position of a pre-existing condition limitation if otherwise permitted by
22 this article.

23 § 4. Paragraph 3 of subsection (a) of section 3231 of the insurance
24 law, as amended by section 69 of part D of chapter 56 of the laws of
25 2013, is amended to read as follows:

26 (3) Once accepted for coverage, an individual or small group cannot be
27 terminated by the insurer due to claims experience. Termination of an
28 individual or small group shall be based only on one or more of the
29 reasons set forth in subsection (g) of section three thousand two
30 hundred sixteen or subsection (p) of section three thousand two hundred
31 twenty-one of this article. Group hospital and/or medical coverage,
32 including medicare supplemental insurance, obtained through an out-of-
33 state trust covering a group of fifty or fewer employees, [~~or between~~
34 ~~one and one hundred employees for policies issued or renewed on or after~~
35 ~~January first, two thousand sixteen,~~] or participating persons who are
36 residents of this state must be community rated regardless of the situs
37 of delivery of the policy. Notwithstanding any other provisions of law,
38 the underwriting of such policy may involve no more than the imposition
39 of a pre-existing condition limitation if permitted by this article, and
40 once accepted for coverage, an individual or small group cannot be
41 terminated due to claims experience. Termination of an individual or
42 small group shall be based only on one or more of the reasons set forth
43 in subsection (p) of section three thousand two hundred twenty-one of
44 this article.

45 § 5. Paragraph 1 of subsection (h) of section 3231 of the insurance
46 law, as amended by chapter 12 of the laws of 2016, is amended to read as
47 follows:

48 (1) Notwithstanding any other provision of this chapter, no insurer,
49 subsidiary of an insurer, or controlled person of a holding company
50 system may act as an administrator or claims paying agent, as opposed to
51 an insurer, on behalf of small groups which, if they purchased insur-
52 ance, would be subject to this section. No insurer may provide stop
53 loss, catastrophic or reinsurance coverage to small groups which, if
54 they purchased insurance, would be subject to this section. [~~Provided,~~
55 ~~however, the provisions of this paragraph shall not apply to: (A) the~~
56 ~~renewal of stop loss, catastrophic or reinsurance coverage issued and in~~

~~effect on January first, two thousand fifteen to small groups covering between fifty one and one hundred employees or members of the group, and (B) the issuance between January first, two thousand sixteen and December thirty first, two thousand sixteen, of stop loss, catastrophic or reinsurance coverage, and any renewal thereof, to a small group covering between fifty one and one hundred employees or members of the group, provided that such group had stop loss, catastrophic or reinsurance coverage issued and in effect on January first, two thousand fifteen.]~~

§ 6. Paragraph 1 of subsection (a) of section 4317 of the insurance law, as amended by section 72 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(1) No individual health insurance contract and no group health insurance contract covering between one and fifty employees or members of the group, [~~or between one and one hundred employees or members of the group for policies issued or renewed on or after January first, two thousand sixteen~~] exclusive of spouses and dependents, including contracts for which the premiums are paid by a remitting agent for a group, hereinafter referred to as a small group, providing hospital and/or medical benefits, including Medicare supplemental insurance, shall be issued in this state unless such contract is community rated and, notwithstanding any other provisions of law, the underwriting of such contract involves no more than the imposition of a pre-existing condition limitation if otherwise permitted by this article.

§ 7. Paragraph 1 of subsection (e) of section 4317 of the insurance law, as amended by chapter 12 of the laws of 2016, is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, no insurer, subsidiary of an insurer, or controlled person of a holding company system may act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No insurer may provide stop loss, catastrophic or reinsurance coverage to small groups which, if they purchased insurance, would be subject to this section. [~~Provided, however, the provisions of this paragraph shall not apply to: (A) the renewal of stop loss, catastrophic or reinsurance coverage issued and in effect on January first, two thousand fifteen to small groups covering between fifty one and one hundred employees or members of the group, and (B) the issuance between January first, two thousand sixteen, and December thirty first, two thousand sixteen, of stop loss, catastrophic or reinsurance coverage, and any renewal thereof, to a small group covering between fifty one and one hundred employees or members of the group, provided that such group had stop loss, catastrophic or reinsurance coverage issued and in effect on January first, two thousand fifteen.]~~

§ 8. Paragraph 1 of subsection (g) of section 3231 of the insurance law, as amended by chapter 12 of the laws of 2016, is amended to read as follows:

(1) [~~(A)~~] This section shall also apply to policies issued to a group defined in subsection (c) of section four thousand two hundred thirty-five of this chapter, including but not limited to an association or trust of employers, if the group includes one or more member employers or other member groups having [~~one hundred~~ **fifty**] or fewer employees or members exclusive of spouses and dependents. For a policy issued or renewed on or after January first, two thousand fourteen, if the group includes one or more member small group employers eligible for coverage subject to this section, then such member employers shall be classified as small groups for rating purposes and the remaining members shall be

1 rated consistent with the rating rules applicable to such remaining
2 members pursuant to paragraph two of this subsection. [~~(B) Subparagraph~~
3 ~~A of this paragraph shall not apply to either the renewal of a policy~~
4 ~~issued to a group or the issuance, between January first, two thousand~~
5 ~~sixteen and December thirty first, two thousand sixteen, of a policy,~~
6 ~~and any renewal thereof, to a group, provided that the following three~~
7 ~~requirements are met: (I) the group had been issued a policy that was in~~
8 ~~effect on July first, two thousand fifteen; (II) the group had member~~
9 ~~employers, who, on or after July first, two thousand fifteen, have~~
10 ~~between fifty one and one hundred employees, exclusive of spouses and~~
11 ~~dependents; and (III) the group is either: (i) comprised entirely of one~~
12 ~~or more municipal corporations or districts (as such terms are defined~~
13 ~~in section one hundred nineteen n of the general municipal law); or (ii)~~
14 ~~comprised entirely of nonpublic schools providing education in any grade~~
15 ~~from pre-kindergarten through twelfth grade.]~~

16 § 9. Paragraph 1 of subsection (d) of section 4317 of the insurance
17 law, as amended by chapter 12 of the laws of 2016, is amended to read as
18 follows:

19 (1) [(A)] This section shall also apply to a contract issued to a
20 group defined in subsection (c) of section four thousand two hundred
21 thirty-five of this chapter, including but not limited to an association
22 or trust of employers, if the group includes one or more member employ-
23 ers or other member groups having [~~one hundred~~ **fifty** or fewer employees
24 or members exclusive of spouses and dependents. For a contract issued or
25 renewed on or after January first, two thousand fourteen, if the group
26 includes one or more member small group employers eligible for coverage
27 subject to this section, then such member employers shall be classified
28 as small groups for rating purposes and the remaining members shall be
29 rated consistent with the rating rules applicable to such remaining
30 members pursuant to paragraph two of this subsection. [~~(B) Subparagraph~~
31 ~~A of this paragraph shall not apply to either the renewal of a contract~~
32 ~~issued to a group or the issuance, between January first, two thousand~~
33 ~~sixteen and December thirty first, two thousand sixteen, of a contract,~~
34 ~~and any renewal thereof, to a group, provided that the following three~~
35 ~~requirements are met: (I) the group had been issued a contract that was~~
36 ~~in effect on July first, two thousand fifteen; (II) the group had member~~
37 ~~employers, who, on or after July first, two thousand fifteen, have~~
38 ~~between fifty one and one hundred employees, exclusive of spouses and~~
39 ~~dependents; and (III) the group is either: (i) comprised entirely of one~~
40 ~~or more municipal corporations or districts (as such terms are defined~~
41 ~~in section one hundred nineteen n of the general municipal law); or (ii)~~
42 ~~comprised entirely of nonpublic schools providing education in any grade~~
43 ~~from pre-kindergarten through twelfth grade.]~~

44 § 10. Section 7 of chapter 12 of the laws of 2016 relating to direct-
45 ing the superintendent of financial services to contract with an inde-
46 pendent entity to conduct an assessment regarding the impact of the
47 prohibition on the sale of stop loss, catastrophic and reinsurance
48 coverage to the small group market, is REPEALED.

49 § 10-a. Section 213 of the insurance law, as added by section 1 of
50 part L of chapter 57 of the laws of 2007, is amended to read as follows:

51 § 213. New York state health care quality and cost containment commis-
52 sion. (a) There is hereby established within the department a commis-
53 sion, to be known as the "New York state health care quality and cost
54 containment commission". The commission shall consist of thirteen
55 members appointed by the governor, one of whom shall be the superinten-
56 dent, one of whom shall be the commissioner of health, and six of whom

1 shall be appointed on the recommendation of the legislative leaders, two
2 on the recommendation of the temporary president of the senate, two on
3 the recommendation of the speaker of the assembly, one on the recommen-
4 dation of the minority leader of the senate, and one on the recommenda-
5 tion of the minority leader of the assembly. All members shall serve at
6 the pleasure of the governor, and vacancies shall be appointed in the
7 same manner as original appointments. Members of the commission shall
8 serve without compensation, but shall be reimbursed for reasonable travel
9 expenses. In making appointments to the commission, the governor
10 shall ensure that the interests of health care consumers, small busi-
11 nesses, the medical community and health plans are represented on the
12 commission. The commission shall be required to meet on the first
13 Monday after the first of January of each calendar year to consider
14 outstanding requests or duties. Any vacancies shall be deemed waived by
15 the appointing authority for the purposes of the first meeting. Nothing
16 in this section shall forfeit the right for an appointment authority to
17 fill vacancies within their statutorily allowed members.

18 (b)(1) The purpose of the commission shall be to analyze the impact on
19 health insurance costs and quality of proposed legislation which would
20 mandate that health benefits be offered or made available in individual
21 and group health insurance policies, contracts and comprehensive health
22 service plans, including legislation that affects the delivery of health
23 benefits or services or the reimbursement of health care providers.

24 (2) ~~The~~ Notwithstanding any other provision of law, the governor,
25 the chair of the senate insurance committee and the chair of the assem-
26 bly insurance committee may request in writing that the commission eval-
27 uate a proposed mandated benefit. Upon receiving such a request, the
28 commission may, by a majority vote of its members, undertake an evalu-
29 ation of such proposed mandated benefit.

30 (3) In evaluating a proposed mandated benefit, the commission shall:

31 (A) investigate the current practices of health plans with regard to
32 the proposed mandated benefit, and, to the extent possible, self-funded
33 health benefit plans;

34 (B) investigate the potential premium impact of the proposed mandated
35 benefits on all segments of the insurance market, as well as the poten-
36 tial for avoided costs through early detection and treatment of condi-
37 tions, or more cost-effective delivery of medical services; and

38 (C) analyze the most current medical literature regarding the proposed
39 mandated benefit to determine its impact on health care quality.

40 (4) In evaluating a proposed mandated benefit, the commission may hold
41 one or more public hearings, and shall strive to obtain independent and
42 verifiable information from diverse sources within the healthcare indus-
43 try, medical community and among health care consumers with regard to
44 the proposed mandated benefit.

45 (c) To assist the commission in its duties, and upon the direction of
46 the commission, the superintendent is authorized to enter into one or
47 more contracts with independent entities and organizations with demon-
48 strable expertise in health care quality, finance, utilization and actu-
49 arial services. For the purposes of this section, the superintendent
50 shall not enter into contracts with health plans, entities or organiza-
51 tions owned or controlled by health plans, or with significant business
52 relationships with health plans.

53 (d) Upon completion of its evaluation of a proposed mandated benefit
54 pursuant to this section, the commission shall deliver a written report
55 of its findings to the chair of the assembly insurance committee and the
56 chair of the senate insurance committee.

1 (e) The commission shall issue a report to the governor, the majority
2 leader of the senate, the speaker of the assembly, the chairs of the
3 senate and assembly insurance committees, and the chair of the senate
4 task force on Lyme and tick-borne diseases, considering the impact on
5 health insurance costs and quality of legislation requiring coverage of
6 long-term and chronic Lyme disease and other tick-borne diseases. The
7 commission shall be required to consider issues including, but not
8 limited to, the specific medical impacts to particular geographic areas
9 in the state including the Hudson Valley and Long Island, best practices
10 developed for coverage for long-term and chronic Lyme disease in other
11 states, and the associated costs of mandated coverage in addition to
12 projected costs of untreated symptoms. The commission shall deliver a
13 written report of its findings by May first, two thousand nineteen.

14 § 10-b. Section 1119 of the insurance law is amended by adding a new
15 subsection (d) to read as follows:

16 (d) Except as expressly required by this section, an organization
17 authorized to operate under article forty-six of the public health law
18 shall not be subject to the jurisdiction of the superintendent and
19 required to comply with rules and regulations of the superintendent on
20 matters unrelated to the provisions of this section, including, but not
21 limited to, regulations relating to cybersecurity requirements for
22 financial services companies. Such organizations shall instead be
23 subject to the jurisdiction of the department of health on such matters
24 unrelated to the provisions of this section, including any pertinent
25 regulations or oversight regarding cybersecurity requirements.

26 § 11. This act shall take effect immediately; provided, however that
27 the amendments to paragraph 1 of subsection (g) and paragraph 1 of
28 subsection (h) of section 3231, and paragraph 1 of subsection (d) and
29 paragraph 1 of subsection (e) of section 4317 of the insurance law made
30 by sections eight, five, nine and seven of this act respectively shall
31 not affect the expiration and reversion of such paragraphs and shall
32 expire and be deemed repealed therewith.

33

PART M

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

39 (a) The superintendent of financial services and the commissioner of
40 health or their designee shall, from funds available in the hospital
41 excess liability pool created pursuant to subdivision 5 of this section,
42 purchase a policy or policies for excess insurance coverage, as author-
43 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
44 law; or from an insurer, other than an insurer described in section 5502
45 of the insurance law, duly authorized to write such coverage and actual-
46 ly writing medical malpractice insurance in this state; or shall
47 purchase equivalent excess coverage in a form previously approved by the
48 superintendent of financial services for purposes of providing equiv-
49 alent excess coverage in accordance with section 19 of chapter 294 of
50 the laws of 1985, for medical or dental malpractice occurrences between
51 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
52 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
53 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
54 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July

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

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

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

26 (3)(a) The superintendent of financial services shall determine and
27 certify to each general hospital and to the commissioner of health the
28 cost of excess malpractice insurance for medical or dental malpractice
29 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
30 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
31 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
32 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
33 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
34 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
35 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
36 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
37 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
38 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
39 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
40 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
41 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
42 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
43 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
44 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
45 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
46 2016 and June 30, 2017, ~~[and]~~ between July 1, 2017 and June 30, 2018,
47 and between July 1, 2018 and June 30, 2019 allocable to each general
48 hospital for physicians or dentists certified as eligible for purchase
49 of a policy for excess insurance coverage by such general hospital in
50 accordance with subdivision 2 of this section, and may amend such deter-
51 mination and certification as necessary.

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

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

1 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
2 18 of chapter 266 of the laws of 1986, amending the civil practice law
3 and rules and other laws relating to malpractice and professional
4 medical conduct, as amended by section 17 of part H of chapter 57 of the
5 laws of 2017, are amended to read as follows:

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

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

1 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
2 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
3 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
4 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
5 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
6 June 30, 2019 shall notify a covered physician or dentist by mail,
7 mailed to the address shown on the last application for excess insurance
8 coverage or equivalent excess coverage, of the amount due to such
9 provider from such physician or dentist for such coverage period deter-
10 mined in accordance with paragraph (a) of this subdivision. Such amount
11 shall be due from such physician or dentist to such provider of excess
12 insurance coverage or equivalent excess coverage in a time and manner
13 determined by the superintendent of financial services.

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

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

1 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
2 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
3 ing the period April 1, 2002 to June 30, 2002, or covering the period
4 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
5 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
6 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
7 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
8 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
9 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
10 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
11 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
12 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
13 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
14 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
15 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
16 od July 1, 2018 to June 30, 2019 that has made payment to such provider
17 of excess insurance coverage or equivalent excess coverage in accordance
18 with paragraph (b) of this subdivision and of each physician and dentist
19 who has failed, refused or neglected to make such payment.

20 (e) A provider of excess insurance coverage or equivalent excess
21 coverage shall refund to the hospital excess liability pool any amount
22 allocable to the period July 1, 1992 to June 30, 1993, and to the period
23 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
24 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
25 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
26 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
27 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
28 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
29 and to the period April 1, 2002 to June 30, 2002, and to the period July
30 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
31 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
32 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
33 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
34 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
35 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
36 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
37 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
38 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
39 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
40 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
41 2018 to June 30, 2019 received from the hospital excess liability pool
42 for purchase of excess insurance coverage or equivalent excess coverage
43 covering the period July 1, 1992 to June 30, 1993, and covering the
44 period July 1, 1993 to June 30, 1994, and covering the period July 1,
45 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
46 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
47 ing the period July 1, 1997 to June 30, 1998, and covering the period
48 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
49 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
50 and covering the period July 1, 2001 to October 29, 2001, and covering
51 the period April 1, 2002 to June 30, 2002, and covering the period July
52 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
53 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
54 covering the period July 1, 2005 to June 30, 2006, and covering the
55 period July 1, 2006 to June 30, 2007, and covering the period July 1,
56 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,

1 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
2 ing the period July 1, 2010 to June 30, 2011, and covering the period
3 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
4 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
5 and covering the period July 1, 2014 to June 30, 2015, and covering the
6 period July 1, 2015 to June 30, 2016, and covering the period July 1,
7 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
8 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-
9 cian or dentist where such excess insurance coverage or equivalent
10 excess coverage is cancelled in accordance with paragraph (c) of this
11 subdivision.

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

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

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

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

28 § 5. The superintendent of financial services and the commissioner of
29 health shall determine, no later than June 15, 2002, June 15, 2003, June
30 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
31 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
32 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [~~and~~
33 June 15, 2018, and June 15, 2019 the amount of funds available in the
34 hospital excess liability pool, created pursuant to section 18 of chap-
35 ter 266 of the laws of 1986, and whether such funds are sufficient for
36 purposes of purchasing excess insurance coverage for eligible partic-
37 ipating physicians and dentists during the period July 1, 2001 to June
38 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
39 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
40 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
41 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
42 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
43 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
44 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
45 2016, or July 1, 2016 to June 30, 2017, or [~~to~~] July 1, 2017 to June 30,
46 2018, or July 1, 2018 to June 30, 2019 as applicable.

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

1 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
2 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
3 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
4 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
5 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
6 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
7 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
8 2018, or July 1, 2018 to June 30, 2019 as applicable.

9 (e) The commissioner of health shall transfer for deposit to the
10 hospital excess liability pool created pursuant to section 18 of chapter
11 266 of the laws of 1986 such amounts as directed by the superintendent
12 of financial services for the purchase of excess liability insurance
13 coverage for eligible participating physicians and dentists for the
14 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
15 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
16 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
17 2007, as applicable, and the cost of administering the hospital excess
18 liability pool for such applicable policy year, pursuant to the program
19 established in chapter 266 of the laws of 1986, as amended, no later
20 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
21 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
22 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
23 2015, June 15, 2016, June 15, 2017, [~~and~~] June 15, 2018, and June 15,
24 2019 as applicable.

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

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

54 § 7. This act shall take effect immediately.

1 Section 1. The opening paragraph of subdivision 1 of section 1 of part
 2 C of chapter 57 of the laws of 2006, establishing a cost of living
 3 adjustment for designated human services, is amended to read as follows:
 4 Subject to available appropriations, the commissioners of the office
 5 of mental health, office of mental retardation and developmental disa-
 6 bilities, office of alcoholism and substance abuse services, [~~department~~
 7 ~~of health,~~] office of children and family services and the state office
 8 for the aging shall establish an annual cost of living adjustment
 9 (COLA), subject to the approval of the director of the budget, effective
 10 April first of each state fiscal year, provided, however, that in state
 11 fiscal year 2006-07, the cost of living adjustment will be effective
 12 October first, to project for the effects of inflation, for rates of
 13 payments, contracts or any other form of reimbursement for the programs
 14 listed in paragraphs (i), (ii), (iii), (iv)[,] ~~and~~ (v) [~~and (vi)~~] of
 15 subdivision four of this section. The COLA shall be applied to the
 16 appropriate portion of reimbursable costs or contract amounts.

17 § 2. Paragraph (iv) of subdivision 4 of section 1 of part C of chapter
 18 57 of the laws of 2006, establishing a cost of living adjustment for
 19 designated human services, is REPEALED and paragraphs (v) and (vi) are
 20 renumbered paragraphs (iv) and (v).

21 § 3. This act shall take effect immediately.

22 PART O

23 Intentionally Omitted

24 PART P

25 Section 1. Intentionally omitted.

26 § 1-a. Section 2807-g of the public health law, as added by chapter 1
 27 of the laws of 1999, is amended to read as follows:

28 § 2807-g. Health workforce retraining program. 1. The commissioner
 29 shall, to the extent of funds available therefor pursuant to section
 30 twenty-eight hundred seven-1 of this article, make grants to eligible
 31 organizations to support the training and retraining of health care
 32 employees to address changes in the health workforce. Requests for
 33 proposals shall be issued by the commissioner within sixty days of the
 34 effective date of this section in the first year after it shall take
 35 effect, and by the first day of March in each succeeding year. All
 36 proposals shall be due not later than sixty days after the issuance of
 37 the request for proposals, and all grant awards shall be made not later
 38 than one hundred twenty days after the date on which the proposals are
 39 due.

40 2. Grants shall be made on a competitive basis by region, in accord-
 41 ance with the amount raised in the region with preference within regions
 42 given to areas and eligible organizations that have experienced or are
 43 likely to experience job loss because of changes in the health care
 44 system. If, at the conclusion of the regional competitive contract award
 45 process, there are excess funds available within any regional allo-
 46 cation, such funds shall be redistributed to regions where there is a
 47 shortage of funds available for programs which otherwise qualify for
 48 funding pursuant to this section.

49 3. Eligible organizations shall include health worker unions, general
 50 hospitals, long-term care facilities, other health care facilities,
 51 health care facilities trade associations, labor-management committees,
 52 joint labor-management training funds established pursuant to the

1 provisions of the Federal Taft-Hartley Act, and educational insti-
2 tutions. Eligible organizations may also include certified home health
3 agencies, licensed home care services agencies, long term home health
4 care programs and hospices in collaborative programs with hospitals and
5 long term facilities for cross-training and cross-utilization of facili-
6 ty nursing, therapy, social work and other direct care personnel to meet
7 patient and community needs in the changing health care system.

8 4. Eligible programs shall include programs which provide one or more
9 of the following services in connection with training an eligible worker
10 to: (i) obtain a new position, (ii) continue to meet the requirements of
11 an existing position, or (iii) otherwise meet the requirements of the
12 changing health care industry: (a) assessments to help determine train-
13 ing needs; (b) remediation, including preparation in English for speak-
14 ers or writers of other languages, instruction in basic reading or math-
15 ematics, or completion of requirements for a general equivalency diploma
16 (GED); (c) basic skills development; (d) reorientation; ~~and~~ (e) skills
17 and educational enhancement, including, where appropriate, the provision
18 of college level or college degree course work; and (f) cross-training
19 for the provision of nursing, therapy or social work services in facili-
20 ty and community settings. To the extent that an eligible program is
21 providing services to train eligible workers to obtain a new position or
22 to continue to meet the requirements of an existing position only,
23 reimbursement shall also be available to an eligible organization for
24 the actual cost of any employment or employment-related expenses
25 incurred by the eligible organization in fulfilling the duties and
26 responsibilities of such employees while they are engaged in such train-
27 ing programs.

28 § 2. Intentionally omitted.

29 § 3. Subdivision 9 of section 2803 of the public health law is
30 REPEALED.

31 § 4. This act shall take effect immediately.

32 PART Q

33 Section 1. The public health law is amended by adding a new section
34 2825-f to read as follows:

35 § 2825-f. Health care facility transformation program: statewide III.
36 1. A statewide health care facility transformation program is hereby
37 established under the joint administration of the commissioner and the
38 president of the dormitory authority of the state of New York for the
39 purpose of strengthening and protecting continued access to health care
40 services in communities. The program shall provide funding in support of
41 capital projects, debt retirement, working capital or other non-capital
42 projects that facilitate health care transformation activities includ-
43 ing, but not limited to, merger, consolidation, acquisition or other
44 activities intended to: (a) create financially sustainable systems of
45 care; (b) preserve or expand essential health care services; (c) modern-
46 ize obsolete facility physical plants and infrastructure; (d) for resi-
47 dential health care facilities, increase the quality of resident care or
48 experience; or (e) improve health information technology infrastructure,
49 including telehealth, to strengthen the acute, post-acute and long-term
50 care continuum. Grants shall not be available to support general operat-
51 ing expenses. The issuance of any bonds or notes hereunder shall be
52 subject to section sixteen hundred eighty-r of the public authorities
53 law and the approval of the director of the division of the budget, and
54 any projects funded through the issuance of bonds or notes hereunder

1 shall be approved by the New York state public authorities control
2 board, as required under section fifty-one of the public authorities
3 law.

4 2. The commissioner and the president of the dormitory authority shall
5 enter into an agreement, subject to approval by the director of the
6 budget, and subject to section sixteen hundred eighty-r of the public
7 authorities law, for the purposes of awarding, distributing, and admin-
8 istering the funds made available pursuant to this section. Such funds
9 may be distributed by the commissioner for grants to general hospitals,
10 residential health care facilities, diagnostic and treatment centers and
11 clinics licensed pursuant to this chapter or the mental hygiene law,
12 hospices licensed or granted an operating certificate according to this
13 chapter, and community-based health care providers as defined in subdi-
14 vision three of this section for grants in support of the purposes set
15 forth in this section. A copy of such agreement, and any amendments
16 thereto, shall be provided to the chair of the senate finance committee,
17 the chair of the assembly ways and means committee, and the director of
18 the division of the budget no later than thirty days prior to the
19 release of a request for applications for funding under this program.
20 Projects awarded, in whole or part, under sections twenty-eight hundred
21 twenty-five-a and twenty-eight hundred twenty-five-b of this article
22 shall not be eligible for grants or awards made available under this
23 section.

24 3. Notwithstanding section one hundred sixty-three of the state
25 finance law or any inconsistent provision of law to the contrary, up to
26 five hundred million dollars of the funds appropriated for this program
27 shall be awarded without a competitive bid or request for proposal proc-
28 ess for grants to health care providers (hereafter "applicants").
29 Provided, however, that a minimum of: (a) seventy million dollars of
30 total awarded funds shall be made to community-based health care provid-
31 ers, which for purposes of this section shall be defined as a diagnostic
32 and treatment center licensed or granted an operating certificate under
33 this article; a mental health clinic licensed or granted an operating
34 certificate under article thirty-one of the mental hygiene law; a
35 substance use disorder treatment clinic licensed or granted an operating
36 certificate under article thirty-two of the mental hygiene law; a chil-
37 dren's residential treatment facility licensed pursuant to article thir-
38 ty-one of the mental hygiene law; or a primary care provider; (b) a
39 minimum of twenty-five million dollars of total awarded funds shall be
40 made to assisted living programs approved by the department pursuant to
41 subdivision one of section four hundred sixty-one-1 of the social
42 services law; or hospices licensed or granted an operating certificate
43 pursuant to article forty of this chapter; (c) a minimum of twenty-five
44 million dollars of the total awarded funds shall be made available to
45 home care providers licensed or certified pursuant to article thirty-six
46 of this chapter with priority given to projects related to the adoption
47 of an electronic medical records system; and (d) sixty million dollars
48 of the total awarded funds shall be made to residential health care
49 facilities, including facilities for special needs populations, with
50 priority given to projects related to the adoption of an electronic
51 medical records system.

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

54 (a) the extent to which the proposed project will contribute to the
55 integration of health care services or the long term sustainability of

1 the applicant or preservation of essential health services in the commu-
2 nity or communities served by the applicant;

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

6 (c) the geographic distribution of funds;

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

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

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

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

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

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

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

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

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

39 PART R

40 Section 1. Intentionally omitted.

41 § 2. Intentionally omitted.

42 § 3. Intentionally omitted.

43 § 3-a. Subparagraph (i) of paragraph (d) of subdivision 8 of section
44 2168 of the public health law, as amended by chapter 154 of the laws of
45 2013, is amended to read as follows:

46 (i) schools for the purpose of verifying immunization status for
47 eligibility for admission and for the purpose of confirming students
48 have been screened for elevated blood lead levels when entering child
49 care, pre-school or kindergarten, and identifying individual student
50 blood lead information for the provision of appropriate educational
51 training on lead and the dangers of lead to the student and the parents
52 or legal guardians of the student as well as information on programs
53 that are available to the student and the parents or legal guardians of
54 the student;

1 § 4. Intentionally omitted.

2 § 4-a. Subdivision 1 of section 1370-b of the public health law, as
3 added by section 79 of part A of chapter 62 of the laws of 2011, is
4 amended to read as follows:

5 1. The New York state advisory council on lead poisoning prevention is
6 hereby established in the department, to consist of the following, or
7 their designees: the commissioner; the commissioner of labor; the
8 commissioner of environmental conservation; the commissioner of housing
9 and community renewal; the commissioner of children and family services;
10 the commissioner of temporary and disability assistance; the secretary
11 of state; and fifteen public members, of which nine shall be appointed
12 by the governor, three by the speaker of the assembly and three by the
13 temporary president of the senate. The public members shall have a
14 demonstrated expertise or interest in lead poisoning prevention and at
15 least one public member shall be representative of each of the follow-
16 ing: local government; community groups; labor unions; real estate;
17 industry; parents; educators; local housing authorities; child health
18 advocates; environmental groups; professional medical organizations and
19 hospitals. The public members of the council shall have fixed terms of
20 three years; except that five of the initial appointments shall be for
21 two years and five shall be for one year. The council shall be chaired
22 by the commissioner or his or her designee.

23 § 5. Intentionally omitted.

24 § 5-a. Section 1370-d of the public health law, as added by chapter
25 485 of the laws of 1992, is amended to read as follows:

26 § 1370-d. Lead screening of child care or pre-school enrollees and
27 kindergarten students. 1. Except as provided pursuant to regulations of
28 the department, each child care provider, public and private nursery
29 school and pre-school licensed, certified or approved by any state or
30 local agency, and every school district enrolling students in kindergar-
31 ten shall, prior to or within three months after initial enrollment of a
32 child under [~~six~~] seven years of age, obtain from a parent or guardian
33 of the child evidence that said child has been screened for lead.

34 2. Whenever there exists no evidence of lead screening as provided for
35 in subdivision one of this section or other acceptable evidence of the
36 child's screening for lead, the child care provider, principal, teacher,
37 owner or person in charge of the nursery school [~~or~~], pre-school or
38 kindergarten shall provide the parent or guardian of the child with
39 information on lead poisoning in children and lead poisoning prevention
40 and refer the parent or guardian to a primary care provider or the local
41 health authority.

42 3. (a) If any parent or guardian to such child is unable to obtain
43 lead testing, such person may present such child to the health officer
44 of the county in which the child resides, who shall then perform or
45 arrange for the required screening.

46 (b) The local public health district shall develop and implement a fee
47 schedule for households with incomes in excess of two hundred percent of
48 the federal poverty level for lead screening pursuant to section six
49 hundred six of this chapter, which shall vary depending on patient
50 household income.

51 § 6. Section 1114 of the public health law, as added by section 3 of
52 part T of chapter 57 of the laws of 2017, is amended to read as follows:

53 § 1114. Lead service line replacement grant program. 1. [~~To the extent~~
54 ~~practicable, the~~] The department shall allocate appropriated funds
55 equitably among regions of the state. Within each region, the department
56 shall give priority to municipalities that have a high percentage of

1 elevated childhood blood lead levels, based on the most recent available
2 data. In distributing the awards allocated for each region to such
3 priority municipalities, the department shall also consider whether the
4 community is low income and the number of lead service lines in need of
5 replacement. The department may request that such municipalities provide
6 such documentation as the department may require to confirm award eligi-
7 bility.

8 2. Further, the department shall establish a statewide plan for lead
9 service line replacement, which shall include, at a minimum, an analysis
10 of lead service lines throughout the state, lead service lines present
11 in those areas of high risk as designated pursuant to sections thirteen
12 hundred seventy-b and thirteen hundred seventy-three of this chapter,
13 the actual cost of replacing lead service lines, recommendations for
14 municipalities on methods for evaluating the status lead service lines
15 present and guidance on replacement, regardless of whether or not the
16 municipality meets the award threshold.

17 3. The department shall publish information, application forms, proce-
18 dures and guidelines relating to the program on its website and in a
19 manner that is accessible to the public and all potential award recipi-
20 ents.

21 § 7. This act shall take effect immediately.

22 PART S

23 Section 1. Intentionally omitted.

24 § 2. Intentionally omitted.

25 § 3. Intentionally omitted.

26 § 4. Intentionally omitted.

27 § 5. Section 2805-x of the public health law, as added by section 48
28 of part B of chapter 57 of the laws of 2015, is amended to read as
29 follows:

30 § 2805-x. Hospital-home care-physician collaboration program. 1. The
31 purpose of this section shall be to facilitate innovation in hospital,
32 home care agency and physician collaboration in meeting the community's
33 health care needs. It shall provide a framework to support voluntary
34 initiatives in collaboration to improve patient care access and manage-
35 ment, patient health outcomes, cost-effectiveness in the use of health
36 care services and community population health. Such collaborative hospi-
37 tal-home care-physician initiatives may also include payors, skilled
38 nursing facilities, emergency medical services and other interdiscipli-
39 nary providers, practitioners and service entities as part of such
40 hospital-home care-physician collaborative provided, however, that in
41 the case of collaborative community paramedicine as set forth in this
42 section and article thirty of this chapter, the collaborative shall
43 minimally comprise hospital, home care, physician, and emergency medical
44 services partners.

45 2. For purposes of this section:

46 (a) "Hospital" shall include a general hospital as defined in this
47 article or other inpatient facility for rehabilitation or specialty care
48 within the definition of hospital in this article.

49 (b) "Home care agency" shall mean a certified home health agency, long
50 term home health care program or licensed home care services agency as
51 defined in article thirty-six of this chapter.

52 (c) "Payor" shall mean a health plan approved pursuant to article
53 forty-four of this chapter, or article thirty-two or forty-three of the
54 insurance law.

1 (d) "Practitioner" shall mean any of the health, mental health or
2 health related professions licensed pursuant to title eight of the
3 education law.

4 (e) "Emergency medical services" (EMS) shall mean the services of an
5 ambulance service or an advanced life support first response service
6 certified under article thirty of this chapter staffed by emergency
7 medical technicians or advanced emergency medical technicians to provide
8 basic or advanced life support and, for the purposes of the community
9 paramedicine collaboration model set forth in subdivision four of this
10 section, also to provide such services pursuant to such models in
11 circumstances other than the initial emergency medical care and trans-
12 portation of sick and injured persons.

13 3. The commissioner is authorized to provide financing including, but
14 not limited to, grants or positive adjustments in medical assistance
15 rates or premium payments, to the extent of funds available and allo-
16 cated or appropriated therefor, including funds provided to the state
17 through federal waivers, funds made available through state appropri-
18 ations and/or funding through section twenty-eight hundred seven-v of
19 this article, as well as waivers of regulations under title ten of the
20 New York codes, rules and regulations, to support the voluntary initi-
21 atives and objectives of this section. Nothing in this section shall be
22 construed to limit, or to imply the need for state approval of, collabo-
23 rative initiatives enumerated in this section which are otherwise
24 permissible under law or regulation, provided however that the approval
25 of the commissioner shall be required for either state funding or regu-
26 latory waivers as provided for under this section.

27 4. Hospital-home care-physician collaborative initiatives under this
28 section may include, but shall not be limited to:

29 (a) Hospital-home care-physician integration initiatives, including
30 but not limited to:

31 (i) transitions in care initiatives to help effectively transition
32 patients to post-acute care at home, coordinate follow-up care and
33 address issues critical to care plan success and readmission avoidance;

34 (ii) clinical pathways for specified conditions, guiding patients'
35 progress and outcome goals, as well as effective health services use;

36 (iii) application of telehealth/telemedicine services in monitoring
37 and managing patient conditions, and promoting self-care/management,
38 improved outcomes and effective services use;

39 (iv) facilitation of physician house calls to homebound patients
40 and/or to patients for whom such home visits are determined necessary
41 and effective for patient care management;

42 (v) additional models for prevention of avoidable hospital readmis-
43 sions and emergency room visits;

44 (vi) health home development;

45 (vii) development and demonstration of new models of integrated or
46 collaborative care and care management not otherwise achievable through
47 existing models; ~~and~~

48 (viii) bundled payment demonstrations for hospital-to-post-acute-care
49 for specified conditions or categories of conditions, in particular,
50 conditions predisposed to high prevalence of readmission, including
51 those currently subject to federal/state penalty, and other discharges
52 with extensive post-acute needs; ~~and~~

53 (ix) models of community paramedicine, under which hospitals, emergen-
54 cy medical services who utilize employed or volunteer emergency medical
55 technicians or advanced emergency medical technicians, physicians and
56 home care agencies, in joint partnership, may develop and implement a

1 plan for the collaborative provision of services in community settings.
 2 In addition to emergency services provided under article thirty of this
 3 chapter, models of community paramedicine may include collaborative
 4 services to at-risk individuals living in the community to prevent emer-
 5 gencies, avoidable emergency room need, avoidable transport and poten-
 6 tially avoidable hospital admissions and readmissions; community param-
 7 edicine services to individuals with behavioral health conditions, or
 8 developmental or intellectual disabilities, shall further include the
 9 collaboration of appropriate providers of behavioral health services
 10 licensed or certified under the mental hygiene law;

11 (b) Recruitment, training and retention of hospital/home care direct
 12 care staff and physicians, in geographic or clinical areas of demon-
 13 strated need. Such initiatives may include, but are not limited to, the
 14 following activities:

15 (i) outreach and public education about the need and value of service
 16 in health occupations;

17 (ii) training/continuing education and regulatory facilitation for
 18 cross-training to maximize flexibility in the utilization of staff,
 19 including:

20 (A) training of hospital nurses in home care;

21 (B) dual certified nurse aide/home health aide certification; [and]

22 (C) dual personal care aide/HHA certification; and

23 (D) orientation and/or collaborative training of EMS, hospital, home
 24 care, physician and, as necessary, other participating provider staff in
 25 community paramedicine;

26 (iii) salary/benefit enhancement;

27 (iv) career ladder development; and

28 (v) other incentives to practice in shortage areas; and

29 (c) Hospital - home care - physician collaboratives for the care and
 30 management of special needs, high-risk and high-cost patients, including
 31 but not limited to best practices, and training and education of direct
 32 care practitioners and service employees.

33 5. Hospitals and home care agencies which are provided financing or
 34 waivers pursuant to this section shall report to the commissioner on the
 35 patient, service and cost experiences pursuant to this section, includ-
 36 ing the extent to which the project goals are achieved. The commissioner
 37 shall compile and make such reports available on the department's
 38 website.

39 § 5-a. The public health law is amended by adding a new section 3001-a
 40 to read as follows:

41 § 3001-a. Community paramedicine services. Notwithstanding any incon-
 42 sistent provision of this article, an emergency medical technician or
 43 advanced emergency medical technician in course of his or her work as an
 44 employee or volunteer of an ambulance service or an advanced life
 45 support first response service certified under this article to provide
 46 emergency medical services may also participate in models of community
 47 paramedicine pursuant to section twenty-eight hundred five-x of this
 48 chapter.

49 § 6. This act shall take effect immediately.

50 SUBPART B

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

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

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

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

1 social services law or part L of chapter fifty-six of the laws of two
2 thousand twelve.

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

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

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

37 SUBPART C

38 Section 1. Paragraphs (s) and (t) of subdivision 2 of section 2999-cc
39 of the public health law, as amended by chapter 454 of the laws of 2015,
40 are amended and three new paragraphs (u), (v), and (w) are added to read
41 as follows:

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

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

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

50 (v) clinics operated under article sixteen of the mental hygiene law,
51 and, notwithstanding any other section of law, certified and non-certi-
52 fied day and residential programs funded or operated by the office for
53 people with developmental disabilities;

1 (w) residential health care facilities including facilities for
2 special needs populations; and

3 (x) any other provider as determined by the commissioner pursuant to
4 regulation or, in consultation with the commissioner, by the commis-
5 ioner of the office of mental health, the commissioner of the office of
6 alcoholism and substance abuse services, or the commissioner of the
7 office for people with developmental disabilities pursuant to
8 regulation.

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

12 3. "Originating site" means a site at which a patient is located at
13 the time health care services are delivered to him or her by means of
14 telehealth. Originating sites shall be limited to (a) facilities
15 licensed under articles twenty-eight and forty of this chapter[7]; (b)
16 facilities as defined in subdivision six of section 1.03 of the mental
17 hygiene law[7]; (c) private physician's or dentist's offices located
18 within the state of New York[7]; (d) any type of adult care facility
19 licensed under title two of article seven of the social services law[7];
20 (e) public, private and charter elementary and secondary schools, school
21 age child care programs, and child day care centers within the state of
22 New York; and[7 when a patient is receiving health care services by
23 means of remote patient monitoring,] (f) the patient's place of resi-
24 dence located within the state of New York or other temporary location
25 located within or outside the state of New York, including, but not
26 limited to, residential health care facilities and certified and non-
27 certified day and residential programs funded or operated by the office
28 for people with developmental disabilities; subject to regulation issued
29 by the commissioner of the office of mental health, the commissioner of
30 the office of alcoholism and substance abuse services, and the commis-
31 sioner of the office for people with developmental disabilities,
32 provided such regulations shall be consistent and coordinated so as to
33 enable integration of services and reduce barriers to care.

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

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

54 § 4. The section heading and subdivision 2 of section 367-u of the
55 social services law, the section heading as added by section 63-c of

1 part C of chapter 58 of the laws of 2007, subdivision 2 as amended by
2 chapter 6 of the laws of 2015, are amended to read as follows:

3 Payment for [~~home~~] telehealth services.

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

14 § 5. The public health law is amended by adding a new section 2999-ee
15 to read as follows:

16 § 2999-ee. Telehealth rules, regulations, policies and guidance. To
17 reduce barriers that limit the use of telehealth services by practition-
18 ers and entities certified or licensed under this chapter, the mental
19 hygiene law or the education law, the commissioners of the department of
20 health, office of mental health, office for people with developmental
21 disabilities, and the office of alcoholism and substance abuse services
22 shall coordinate to identify and implement methods to align and stream-
23 line rules, regulations, policies and guidance regarding the development
24 and integration of service as provided through telehealth. Where possi-
25 ble, such methods to align and streamline shall also ensure that
26 descriptions and definitions are consistent across agencies. Such
27 commissioners shall also provide ongoing coordinated guidance where
28 additional clarification and uniformity is desirable across agencies in
29 order to reduce barriers and facilitate the use of telehealth.

30 § 6. This act shall take effect on the ninetieth day after it shall
31 have become a law; provided, however, that the commissioner of the
32 department of health, the commissioner of the office of mental health,
33 the commissioner of the office of alcoholism and substance abuse
34 services, and the commissioner of the office for people with develop-
35 mental disabilities shall issue rules or regulations for the implementa-
36 tion of this act on or before its effective date; provided such regu-
37 lations shall be consistent and coordinated across the different
38 agencies so as to enable integration of services and reduce barriers to
39 care, and further provided that such agencies shall partake in ongoing
40 coordinated guidance where additional clarification and uniformity is
41 desirable across agencies in order to reduce barriers and facilitate the
42 use of telehealth.

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

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

1 Section 1. Subdivision (a) of section 31 of part B of chapter 59 of
2 the laws of 2016, amending the social services law and other laws relat-
3 ing to authorizing the commissioner of health to apply federally estab-
4 lished consumer price index penalties for generic drugs, and authorizing
5 the commissioner of health to impose penalties on managed care plans for
6 reporting late or incorrect encounter data, is amended to read as
7 follows:

8 (a) section eleven of this act shall expire and be deemed repealed
9 March 31, [~~2018~~] 2019;

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

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

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

34 § 2. This act shall take effect immediately and shall expire and be
35 deemed repealed [~~two years after it shall have become a law~~] March 31,
36 2019.

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

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

46 § 5. Section 4-a of part A of chapter 56 of the laws of 2013, amending
47 chapter 59 of the laws of 2011 amending the public health law and other
48 laws relating to general hospital reimbursement for annual rates relat-
49 ing to the cap on local Medicaid expenditures, as amended by section 9
50 of part I of chapter 57 of the laws of 2017, is amended to read as
51 follows:

52 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
53 2807-c of the public health law, section 21 of chapter 1 of the laws of
54 1999, or any other contrary provision of law, in determining rates of
55 payments by state governmental agencies effective for services provided
56 on and after January 1, [~~2019~~] 2017 through March 31, 2019, for inpa-

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

27 § 5-a. Section 5 of chapter 426 of the laws of 1983, amending the
28 public health law relating to professional misconduct proceedings, as
29 amended by section 22 of part B of chapter 56 of the laws of 2013, is
30 amended to read as follows:

31 § 5. This act shall take effect June 1, 1983 and shall remain in full
32 force and effect until March 31, [~~2018~~] 2023.

33 § 5-b. Subparagraph (ii) of paragraph (c) of subdivision 11 of section
34 230 of the public health law, as amended by section 24 of part B of
35 chapter 56 of the laws of 2013, is amended to read as follows:

36 (ii) Participation and membership during a three year demonstration
37 period in a physician committee of the Medical Society of the State of
38 New York or the New York State Osteopathic Society whose purpose is to
39 confront and refer to treatment physicians who are thought to be suffer-
40 ing from alcoholism, drug abuse, stress or mental illness. Such demon-
41 stration period shall commence on April first, nineteen hundred eighty
42 and terminate on May thirty-first, nineteen hundred eighty-three. An
43 additional demonstration period shall commence on June first, nineteen
44 hundred eighty-three and terminate on March thirty-first, nineteen
45 hundred eighty-six. An additional demonstration period shall commence on
46 April first, nineteen hundred eighty-six and terminate on March thirty-
47 first, nineteen hundred eighty-nine. An additional demonstration period
48 shall commence April first, nineteen hundred eighty-nine and terminate
49 March thirty-first, nineteen hundred ninety-two. An additional demon-
50 stration period shall commence April first, nineteen hundred ninety-two
51 and terminate March thirty-first, nineteen hundred ninety-five. An addi-
52 tional demonstration period shall commence on April first, nineteen
53 hundred ninety-five and terminate on March thirty-first, nineteen
54 hundred ninety-eight. An additional demonstration period shall commence
55 on April first, nineteen hundred ninety-eight and terminate on March
56 thirty-first, two thousand three. An additional demonstration period

1 shall commence on April first, two thousand three and terminate on March
 2 thirty-first, two thousand thirteen. An additional demonstration period
 3 shall commence April first, two thousand thirteen and terminate on March
 4 thirty-first, two thousand eighteen. An additional demonstration period
 5 shall commence April first, two thousand eighteen and terminate on March
 6 thirty-first, two thousand twenty-three provided, however, that the
 7 commissioner may prescribe requirements for the continuation of such
 8 demonstration program, including periodic reviews of such programs and
 9 submission of any reports and data necessary to permit such reviews.
 10 During these additional periods, the provisions of this subparagraph
 11 shall also apply to a physician committee of a county medical society.
 12 § 6. This act shall take effect immediately; provided however that the
 13 amendments to subparagraph (ii) of paragraph (c) of subdivision 11 of
 14 section 230 of the public health law made by section five-b of this act
 15 shall not affect the expiration of such subparagraph and shall be deemed
 16 to expire therewith.

17 PART U

18 Section 1. Section 2 of part NN of chapter 58 of the laws of 2015,
 19 amending the mental hygiene law relating to clarifying the authority of
 20 the commissioners in the department of mental hygiene to design and
 21 implement time-limited demonstration programs, is amended to read as
 22 follows:
 23 § 2. This act shall take effect immediately and shall expire and be
 24 deemed repealed March 31, [~~2018~~] 2021.
 25 § 2. This act shall take effect immediately.

26 PART V

27 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,
 28 amending the mental hygiene law and the state finance law relating to
 29 the community mental health support and workforce reinvestment program,
 30 the membership of subcommittees for mental health of community services
 31 boards and the duties of such subcommittees and creating the community
 32 mental health and workforce reinvestment account, as amended by section
 33 3 of part G of chapter 60 of the laws of 2014, is amended to read as
 34 follows:
 35 § 7. This act shall take effect immediately and shall expire March 31,
 36 [~~2018~~] 2021 when upon such date the provisions of this act shall be
 37 deemed repealed.
 38 § 2. This act shall take effect immediately.

39 PART W

40 Intentionally Omitted

41 PART X

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

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

3 § 2. This act shall take effect immediately.

4 PART Y

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

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

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

46 (c)(i) A person without a license from participating as a member of a
47 multi-disciplinary team to [~~implement~~] assist in the development of or
48 implementation of a behavioral health services or treatment plan;
49 provided [~~however~~7] that such team shall include one or more profes-
50 sionals licensed under this article or articles one hundred thirty-one,
51 one hundred thirty-nine, one hundred fifty-four or one hundred sixty-
52 three of this chapter who must approve and oversee implementation of
53 such treatment plan and who must directly observe each patient either in
54 person or by electronic means, prior to the rendering of a diagnosis;

1 and provided, further, that the activities performed by members of the
2 team shall be consistent with the scope of practice for each team member
3 licensed or authorized under title VIII of this chapter, and those who
4 are not so authorized may not engage in the following restricted prac-
5 tices: the diagnosis of mental, emotional, behavioral, addictive and
6 developmental disorders and disabilities; patient assessment and evalu-
7 ating; the provision of psychotherapeutic treatment; the provision of
8 treatment other than psychotherapeutic treatment; [~~and/or~~] or the devel-
9 opment and implementation of assessment-based treatment plans as defined
10 in section seventy-seven hundred one of this [~~chapter~~] title.

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

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

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

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

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

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

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

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

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

36 (9) Identifying gaps in necessary services and coordinating access to
37 or arranging services for patients such as home care, community based
38 services, housing, employment, transportation, child care, vocational
39 training, or health care;

40 (10) Offering education programs that provide information about
41 disease identification and recommended treatments that may be provided
42 by licensed professionals;

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

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

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

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

55 12. Any person who is employed prior to July first, two thousand eigh-
56 teen in a program or service operated, regulated, funded, or approved by

1 the department of mental hygiene or the office of children and family
2 services, or a local government unit as that term is defined in section
3 41.03 of the mental hygiene law or a social services district as defined
4 in section sixty-one of the social services law from performing services
5 within the practice of psychology, as defined in this article, provided
6 that such person maintains such employment with such entity within the
7 context of such employment. Any person who commences employment in such
8 program or service after July first, two thousand eighteen shall be
9 appropriately licensed under this article.

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

12 1. Practice of licensed master social work.

13 (a) The practice of licensed master social work shall mean the profes-
14 sional application of social work theory, principles, and the methods to
15 prevent, assess, evaluate, formulate and implement a plan of action
16 based on client needs and strengths, and intervene to address mental,
17 social, emotional, behavioral, developmental, and addictive disorders,
18 conditions and disabilities, and of the psychosocial aspects of illness
19 and injury experienced by individuals, couples, families, groups, commu-
20 nities, organizations, and society.

21 (b) Licensed master social workers engage in the administration of
22 tests and measures of psychosocial functioning, social work advocacy,
23 case management, counseling, consultation, research, administration and
24 management, and teaching.

25 (c) Counseling in the practice of licensed master social work is the
26 application of social work theories, principles and methods used to
27 assist individuals in learning how to solve problems and make decisions
28 about personal, health, social, education, vocational, financial and
29 other interpersonal concerns.

30 (d) Licensed master social workers provide [~~all forms of~~] administra-
31 tive supervision [~~other than~~] but not supervision of the practice of
32 licensed clinical social work as defined in subdivision two of this
33 section.

34 [~~(d)~~] (e) Licensed master social workers practice licensed clinical
35 social work in facility settings or other supervised settings approved
36 by the department under supervision in accordance with the commission-
37 er's regulations.

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

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

45 (m) Provide peer services.

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

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

53 7. (a) Prevent a person without a license from: performing assessments
54 such as basic information collection, gathering of demographic data, and
55 informal observations, screening and referral used for general eligibil-
56 ity for a program or service and determining the functional status of an

1 individual for the purpose of determining need for services [~~unrelated~~
2 ~~to a behavioral health diagnosis or treatment plan. Such licensure shall~~
3 ~~not be required to create, develop or implement a service plan unrelated~~
4 ~~to a behavioral health diagnosis or treatment plan~~]; advising individ-
5 uals regarding the appropriateness of benefits they are eligible for;
6 providing general advice and guidance and assisting individuals or
7 groups with difficult day to day problems such as finding employment,
8 locating sources of assistance, and organizing community groups to work
9 on a specific problem; providing peer services; or to select for suit-
10 ability and provide substance abuse treatment services or group re-entry
11 services to incarcerated individuals in state correctional facilities.

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

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

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

- 1 (1) Helping a patient with the completion of forms or questionnaires;
- 2 (2) Reviewing existing case records and collecting general background
- 3 information about a patient which may be used by the licensed profes-
- 4 sional or multi-disciplinary team to provide appropriate services;
- 5 (3) Gathering information about previous mental health interventions,
- 6 hospitalizations, emergency interventions and other forms of treatment
- 7 for review by the licensed professional;
- 8 (4) Discussing with the patient his or her situation, needs, concerns,
- 9 and thoughts in order to help identify services that support the
- 10 patient's goals, independence, and quality of life;
- 11 (5) Providing advice, information, and assistance to patients and
- 12 family members to identify needs and available resources in the communi-
- 13 ty to help meet the needs of the patient or family member;
- 14 (6) Engaging in immediate and long term problem solving, engaging in
- 15 the development of social skills, or giving practical help in areas such
- 16 as, but not limited to, housing, employment, child care, parenting,
- 17 community based services, and finances;
- 18 (7) Distributing paper copies of self-administered tests for the
- 19 patient to complete when such tests do not require the observation and
- 20 judgment of a licensed professional;
- 21 (8) Monitoring treatment in accordance with the treatment plan and
- 22 providing verbal or written reports to the multi-disciplinary team;
- 23 (9) Identifying gaps in necessary services and coordinating access to
- 24 or arranging services for patients such as home care, community based
- 25 services, housing, employment, transportation, child care, vocational
- 26 training, or health care;
- 27 (10) Offering education programs that provide information about
- 28 disease identification and recommended treatments that may be provided
- 29 by licensed professionals;
- 30 (11) Reporting observations about behavior, action, and responses to
- 31 treatment as part of a multi-disciplinary team;
- 32 (12) Using de-escalation techniques to respond appropriately to
- 33 dangerous or threatening behaviors and intervening as authorized to
- 34 ensure the immediate safety of the patient and others; and
- 35 (13) Advocating with educational, judicial or other systems to ensure
- 36 protection of the individual's rights and access to appropriate
- 37 services.

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

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

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

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

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

42 (c)(i) Prevent a person without a license from participating as a
43 member of a multi-disciplinary team to [~~implement~~] assist in the devel-
44 opment of or implementation of a behavioral health services or treatment
45 plan; provided [~~however,~~] that such team shall include one or more
46 professionals licensed under this article or articles one hundred thir-
47 ty-one, one hundred thirty-nine, one hundred fifty-three or one hundred
48 fifty-four of this chapter who must approve and oversee implementation
49 of such treatment plan and who must directly observe each patient either
50 in person or by electronic means, prior to the rendering of a diagnosis;
51 and provided, further, that the activities performed by members of the
52 team shall be consistent with the scope of practice for each team member
53 licensed or authorized under title VIII of this chapter, and those who
54 are not so authorized may not engage in the following restricted prac-
55 tices: the diagnosis of mental, emotional, behavioral, addictive and
56 developmental disorders and disabilities; patient assessment and evalu-

1 ating; the provision of psychotherapeutic treatment; the provision of
2 treatment other than psychotherapeutic treatment; ~~and/or~~ or the devel-
3 opment and implementation of assessment-based treatment plans as defined
4 in section seventy-seven hundred one of this chapter.

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

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

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

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

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

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

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

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

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

30 (9) Identifying gaps in necessary services and coordinating access to
31 or arranging services for patients such as home care, community based
32 services, housing, employment, transportation, child care, vocational
33 training, or health care;

34 (10) Offering education programs that provide information about
35 disease identification and recommended treatments that may be provided
36 by licensed professionals;

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

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

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

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

49 9. Any person who is employed prior to July first, two thousand eigh-
50 teen in a program or service operated, regulated, funded, or approved by
51 the department of mental hygiene, the office of children and family
52 services, the department of corrections and community supervision, the
53 office of temporary and disability assistance, the state office for the
54 aging and the department of health or a local government unit as that
55 term is defined in section 41.03 of the mental hygiene law or a social
56 services district as defined in section sixty-one of the social services

1 law from performing services within the practice of mental health coun-
2 seling, marriage and family therapy, creative arts therapy, and psycho-
3 analysis, as defined in this article, provided that such person main-
4 tains such employment with such entity within the context of such
5 employment. Any person who commences employment in such program or
6 service after July first, two thousand eighteen shall be appropriately
7 licensed under this article.

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

11 § 7. Mental health professions taskforce. 1. Purpose. A mental health
12 professions taskforce is hereby created within the state education
13 department in conjunction with representatives of the office of mental
14 health, the office of alcoholism and substance abuse, the office of
15 aging, the office of people with developmental disabilities, the office
16 of children and family services, the department of corrections and
17 community service, the department of health, representatives from the
18 professional associations representing mental health practitioners
19 licensed under articles 154 and 163 of the education law and community
20 mental health providers for the purpose of identifying and providing
21 guidance to the governor related to the provision of mental health
22 services and where workforce investments are required. The mental health
23 professions taskforce shall deliberate and engage the mental health care
24 industry stakeholders for the purpose of conducting a comprehensive
25 review of and making recommendations to address matters that may
26 include, but are not limited to: identification of licensed professions
27 shortage areas, identification of barriers to hiring licensees, the
28 identification of need for resources to fortify the states mental health
29 workforce.

30 2. Composition of the taskforce. This taskforce shall consist of
31 seventeen members, as follows:

32 (a) two representatives from the state education department, of which
33 shall be the board secretaries for the article 154 and article 163 of
34 the education law professions or their designees;

35 (b) one representative from the office of mental health;

36 (c) one representative from the office of alcoholism and substance
37 abuse;

38 (d) one representative from the office of aging;

39 (e) one representative from the office of people with developmental
40 disabilities;

41 (f) one representative from the office of children and family
42 services;

43 (g) one representative from the department of corrections and communi-
44 ty service;

45 (h) one representative from the department of health;

46 (i) four representatives from the professional associations represent-
47 ing mental health practitioners licensed under articles 154 and 163 of
48 the education law; and

49 (j) four representatives from the community mental health providers.

50 3. Manner of appointment. The governor shall appoint each represen-
51 tative from the office of mental health, the office of alcoholism and
52 substance abuse, the office of aging, the office of people with develop-
53 mental disabilities, the office of children and family services, the
54 department of corrections and community supervision, and the department
55 of health. The temporary president of the senate shall appoint two
56 representatives from the professional associations representing mental

1 health practitioners licensed under articles 154 and 163 of the educa-
2 tion law, and two representatives from the community mental health
3 providers. The speaker of the assembly shall appoint two representatives
4 from the professional associations representing mental health practi-
5 tioners licensed under articles 154 and 163, and two representatives
6 from the community mental health providers. The chair of the senate
7 higher education shall appoint one representative from the state educa-
8 tion department. The chair of the assembly higher education committee
9 shall appoint one representative from the state education department.

10 4. Co-chairs. The members of the taskforce shall select co-chairs from
11 among the members. A majority of the members of the taskforce shall
12 constitute a quorum, and all recommendations, including those in the
13 final report issued by the taskforce, shall require approval of two-
14 thirds of the total members of the taskforce.

15 5. Meeting. The taskforce shall meet no less than once a month either
16 in person or through electronic means.

17 6. Report. The taskforce shall issue a report to the governor, legis-
18 lature, the chair of the senate higher education committee and the chair
19 of the assembly higher education committee, by no later than eighteen
20 months after the final appointment is made to the taskforce.

21 7. Expenses. Members of the taskforce shall receive no compensation
22 for their services, but shall be allowed their actual and necessary
23 expenses incurred in the performance of their functions hereunder. All
24 members of the taskforce shall serve at the pleasure of the governor and
25 vacancies shall be filled in the same manner as original appointments.

26 8. Cooperation. Every agency, department, office, division of public
27 authority of this state shall cooperate with the taskforce and furnish
28 such information and assistance as the taskforce determines is reason-
29 ably necessary to accomplish its purpose.

30 § 8. This act shall take effect immediately.

31 PART Z

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

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

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

44 (x) "nursing facility services" means nursing care and health related
45 services provided in a nursing facility; a level of care provided in a
46 hospital which is equivalent to the care which is provided in a nursing
47 facility; and care, services or supplies provided pursuant to a waiver
48 granted pursuant to subsection (c) of section 1915 of the federal social
49 security act or successor federal waiver.

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

52 7-c. The commissioner of health in consultation with the commissioner
53 of developmental disabilities is authorized to submit the appropriate
54 waivers, including, but not limited to, those authorized pursuant to

1 section eleven hundred fifteen of the federal social security act, in
2 order to achieve the purposes of high-quality and integrated care and
3 services for a population of persons with developmental disabilities, as
4 such term is defined in section 1.03 of the mental hygiene law.

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

8 (a) For purposes of this section an "institutionalized spouse" is a
9 person (i) who is in a medical institution or nursing facility and
10 expected to remain in such facility or institution for at least thirty
11 consecutive days; or (ii) who is receiving care, services and supplies
12 pursuant to a waiver pursuant to subsection (c) of section nineteen
13 hundred fifteen of the federal social security act, or successor to such
14 waiver, or is receiving care, services and supplies in a managed long-
15 term care plan pursuant to section eleven hundred fifteen of the social
16 security act; and (iii) who is married to a person who is not in a
17 medical institution or nursing facility or is not receiving waiver
18 services described in subparagraph (ii) of this paragraph; provided,
19 however, that medical assistance shall be furnished pursuant to this
20 paragraph only if, for so long as, and to the extent that federal finan-
21 cial participation is available therefor. The commissioner of health
22 shall make any amendments to the state plan for medical assistance, or
23 apply for any waiver or approval under the federal social security act
24 that are necessary to carry out the provisions of this paragraph.

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

28 provided, however, that, to the extent required by federal law, the
29 terms of this subdivision shall not apply to persons who are receiving
30 care, services and supplies pursuant to the following waivers under
31 section 1915(c) of the federal social security act: the nursing facility
32 transition and diversion waiver authorized pursuant to subdivision six-a
33 of section three hundred sixty-six of this title; the traumatic brain
34 injury waiver authorized pursuant to section twenty-seven hundred forty
35 of the public health law, the long term home health care program waiver
36 authorized pursuant to section three hundred sixty-seven-c of this
37 title, and the home and community based services waiver for persons with
38 developmental disabilities, or successor to such waiver, administered by
39 the office [~~of mental retardation and~~] for people with developmental
40 disabilities pursuant to an agreement with the federal centers for medi-
41 care and Medicaid services.

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

45 (4) The provision of home and community based services approved under
46 a waiver program authorized pursuant to section eleven hundred fifteen
47 of the federal social security act or subdivision (c) of section nine-
48 teen hundred fifteen of the federal social security act and subdivisions
49 seven and seven-a of section three hundred sixty-six of the social
50 services law, provided that an operating certificate issued pursuant to
51 this paragraph shall only authorize services in a home or community
52 setting.

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

1 (2) The review of providers of services, as defined in paragraph four
2 of subdivision (a) of section 16.03 of this article, shall ensure that
3 the provider of services complies with all the requirements of the
4 applicable federal home and community based services waiver program, or
5 other successor Medicaid waiver program, and applicable federal regu-
6 lation, subdivisions seven and seven-a of section three hundred sixty-
7 six of the social services law and rules and regulations adopted by the
8 commissioner.

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

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

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

36 1-a. sections seventy-three through eighty-a shall expire and be
37 deemed repealed September 30, [~~2019~~] 2020;

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

41 (a-1) If the commissioner and the commissioner of the office for
42 people with developmental disabilities determine that such organization
43 lacks the experience required in paragraph (a) of this subdivision, the
44 organization shall have an affiliation arrangement with an entity or
45 entities that are controlled by non-profit organizations with experience
46 serving persons with developmental disabilities, as demonstrated by
47 criteria to be determined by the commissioner and the commissioner of
48 the office for people with developmental disabilities, with such crite-
49 ria including, but not limited to, residential, day, and employment
50 services such that the affiliated entity will coordinate and plan
51 services operated, certified, funded, authorized or approved by the
52 office for people with developmental disabilities or will oversee and
53 approve such coordination and planning;

54 § 11. Section 97 of chapter 659 of the laws of 1997, amending the
55 public health law and other laws relating to creation of continuing care

1 retirement communities, as amended by section 20 of part D of chapter 57
2 of the laws of 2015, is amended to read as follows:

3 § 97. This act shall take effect immediately, provided, however, that
4 the amendments to subdivision 4 of section 854 of the general municipal
5 law made by section seventy of this act shall not affect the expiration
6 of such subdivision and shall be deemed to expire therewith and provided
7 further that sections sixty-seven and sixty-eight of this act shall
8 apply to taxable years beginning on or after January 1, 1998 and
9 provided further that sections eighty-one through eighty-seven of this
10 act shall expire and be deemed repealed on December 31, [~~2019~~ 2024 and
11 provided further, however, that the amendments to section ninety of this
12 act shall take effect January 1, 1998 and shall apply to all policies,
13 contracts, certificates, riders or other evidences of coverage of long
14 term care insurance issued, renewed, altered or modified pursuant to
15 section 3229 of the insurance law on or after such date.

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

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

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

35 (d) "Health and long term care services" means comprehensive health
36 services and other services as determined by the commissioner and the
37 commissioner of the office for people with developmental disabilities,
38 whether provided by state-operated programs or not-for-profit entities,
39 including, but not limited to, habilitation services, home and communi-
40 ty-based and institution-based long term care services, and ancillary
41 services, that shall include medical supplies and nutritional supple-
42 ments, that are necessary to meet the needs of persons whom the plan is
43 authorized to enroll[~~, and may include primary care and acute care if~~
44 ~~the DISCO is authorized to provide or arrange for such services~~]. Each
45 person enrolled in a DISCO shall receive health and long term care
46 services designed to achieve person-centered outcomes, to enable that
47 person to live in the most integrated setting appropriate to that
48 person's needs, and to enable that person to interact with nondisabled
49 persons to the fullest extent possible in social, workplace and other
50 community settings, provided that all such services are consistent with
51 such person's wishes to the extent that such wishes are known and in
52 accordance with such person's needs.

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

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

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

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

13 § 16. Subdivision (c) of section 62 of chapter 165 of the laws of
14 1991, amending the public health law and other laws relating to estab-
15 lishing payments for medical assistance, as amended by section 17 of
16 part D of chapter 57 of the laws of 2015, is amended to read as follows:

17 (c) section 364-j of the social services law, as amended by section
18 eight of this act and subdivision 6 of section 367-a of the social
19 services law as added by section twelve of this act shall expire and be
20 deemed repealed on March 31, [~~2019~~] 2024 and provided further, that the
21 amendments to the provisions of section 364-j of the social services law
22 made by section eight of this act shall only apply to managed care
23 programs approved on or after the effective date of this act;

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

27 (c) No person with a developmental disability who is receiving or
28 applying for medical assistance and who is receiving, or eligible to
29 receive, services operated, funded, certified, authorized or approved by
30 the office, shall be required to enroll in a DISCO, HMO or MLTC in order
31 to receive such services until program features and reimbursement rates
32 are approved by the commissioner and the commissioner of health, and
33 until such commissioners determine that a sufficient number of plans
34 that are authorized to coordinate care for individuals pursuant to this
35 section or that are authorized to operate and to exclusively enroll
36 persons with developmental disabilities pursuant to subdivision twenty-
37 seven of section three hundred sixty-four-j of the social services law
38 are operating in such person's county of residence to meet the needs of
39 persons with developmental disabilities, and that such entities meet the
40 standards of this section. No person shall be required to enroll in a
41 DISCO, HMO or MLTC in order to receive services operated, funded, certi-
42 fied, authorized or approved by the office until there are at least two
43 entities operating under this section in such person's county of resi-
44 dence, unless federal approval is secured to require enrollment when
45 there are less than two such entities operating in such county. Notwith-
46 standing the foregoing or any other law to the contrary, any health care
47 provider: (i) enrolled in the Medicaid program and (ii) rendering hospi-
48 tal services, as such term is defined in section twenty-eight hundred
49 one of the public health law, to an individual with a developmental
50 disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health
51 services plan operating pursuant to section forty-four hundred three-a
52 of the public health law, including, but not limited to, an individual
53 who is enrolled in a plan authorized by section three hundred sixty-
54 four-j or the social services law, shall accept as full reimbursement
55 the negotiated rate or, in the event that there is no negotiated rate,

1 the rate of payment that the applicable government agency would other-
2 wise pay for such rendered hospital services.

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

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

25 § 19. This act shall take effect immediately; provided, however, that
26 the amendments to subparagraph (vii) of paragraph e of subdivision 3 of
27 section 364-j of the social services law made by section one of this act
28 shall not affect the repeal of such section and shall be deemed repealed
29 therewith; provided further, however, that the amendments to subdivision
30 4 of section 366-c of the social services law made by section five of
31 this act shall not affect the expiration of such subdivision and shall
32 be deemed to expire therewith; provided, further, that the amendments to
33 paragraph (a-1) of subdivision 8 of section 4403 of the public health
34 law made by section ten of this act shall not affect the repeal of such
35 subdivision and shall be deemed repealed therewith; provided further,
36 however, that the amendments to paragraph (a-1) of subdivision 12 of
37 section 4403-f of the public health law made by section twelve of this
38 act shall not affect the repeal of such subdivision and such section and
39 shall be deemed to be repealed therewith; and provided, further, that
40 the amendments to section 4403-g of the public health law made by
41 sections thirteen, fourteen and fifteen of this act shall not affect the
42 repeal of such section and shall be deemed repealed therewith.

43

PART AA

44 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
45 57 of the laws of 2006, relating to establishing a cost of living
46 adjustment for designated human services programs, as amended by section
47 1 of part Q of chapter 57 of the laws of 2017, are amended to read as
48 follows:

49 3-b. Notwithstanding any inconsistent provision of law, beginning
50 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
51 ending March 31, [~~2018~~] 2019, the commissioners shall not include a COLA
52 for the purpose of establishing rates of payments, contracts or any
53 other form of reimbursement, provided that the commissioners of the
54 office for people with developmental disabilities, the office of mental

1 health, and the office of alcoholism and substance abuse services shall
2 not include a COLA beginning April 1, 2017 and ending March 31, [~~2019~~]
3 2023.

4 3-c. Notwithstanding any inconsistent provision of law, beginning
5 April 1, [~~2018~~] 2019 and ending March 31, [~~2021~~] 2022, the commissioners
6 shall develop the COLA under this section using the actual U.S. consumer
7 price index for all urban consumers (CPI-U) published by the United
8 States department of labor, bureau of labor statistics for the twelve
9 month period ending in July of the budget year prior to such state
10 fiscal year, for the purpose of establishing rates of payments,
11 contracts or any other form of reimbursement.

12 § 1-a. Subdivision 3-e of section 1 of part C of chapter 57 of the
13 laws of 2006, relating to establishing a cost of living adjustment for
14 designated human services programs, as added by section 2 of part Q of
15 chapter 57 of the laws of 2017, is amended to read as follows:

16 3-e. (i) Notwithstanding the provisions of subdivision 3-b of this
17 section or any other inconsistent provision of law, and subject to the
18 availability of the appropriation therefor, for the programs listed in
19 paragraphs (i), (ii), and (iii) of subdivision 4 of this section, the
20 commissioners shall provide funding to support (1) an overall average
21 three and one-quarter percent (3.25%) increase to total salaries for
22 direct care staff, direct support professionals for each eligible state-
23 funded program beginning January 1, 2018; [~~and~~] (2) an overall average
24 three and one-quarter percent (3.25%) increase to total salaries for
25 direct care staff and direct support professionals, and clinical staff,
26 including position code 351 relating to Medicaid Service Coordination,
27 for each eligible state-funded program beginning April 1, 2018; (3) an
28 overall average three and one-quarter percent (3.25%) increase to total
29 salaries for direct care staff and direct support professionals, and
30 clinical staff, including position code 351 relating to Medicaid Service
31 Coordination, for each eligible state-funded program beginning April 1,
32 2019; (4) an overall average three and one-quarter percent (3.25%)
33 increase to total salaries for direct care staff and direct support
34 professionals, and clinical staff, including position code 351 relating
35 to Medicaid Service Coordination, for each eligible state-funded program
36 beginning April 1, 2020; (5) an overall average three and one-quarter
37 percent (3.25%) increase to total salaries for direct care staff and
38 direct support professionals, and clinical staff, including position
39 code 351 relating to Medicaid Service Coordination, for each eligible
40 state-funded program beginning April 1, 2021; and (6) an overall average
41 three and one-quarter percent (3.25%) increase to total salaries for
42 direct care staff and direct support professionals, and clinical staff,
43 including position code 351 relating to Medicaid Service Coordination,
44 for each eligible state-funded program beginning April 1, 2022. For the
45 purpose of this funding increase, direct support professionals are indi-
46 viduals employed in consolidated fiscal reporting position title codes
47 ranging from 100 to 199; direct care staff are individuals employed in
48 consolidated fiscal reporting position title codes ranging from 200 to
49 299; and clinical staff are individuals employed in consolidated fiscal
50 reporting position title codes ranging from 300 to 399, specifically
51 including position code 351 relating to Medicaid Service Coordination.

52 (ii) The funding made available pursuant to paragraph (i) of this
53 subdivision shall be used: (1) to help alleviate the recruitment and
54 retention challenges of direct care staff, direct support professionals
55 and clinical staff employed in eligible programs, including Medicaid
56 Service Coordination; and (2) to continue and to expand efforts to

1 support the professionalism of the direct care workforce. Each local
2 government unit or direct contract provider receiving such funding shall
3 have flexibility in allocating such funding to support salary increases
4 to particular job titles to best address the needs of its direct care
5 staff, direct support professionals and clinical staff, including Medi-
6 caid Service Coordination. Each local government unit or direct
7 contract provider receiving such funding shall also submit a written
8 certification, in such form and at such time as each commissioner shall
9 prescribe, attesting to how such funding will be or was used for
10 purposes eligible under this section. Further, providers shall submit a
11 resolution from their governing body to the appropriate commissioner,
12 attesting that the funding received will be used solely to support sala-
13 ry and salary-related fringe benefit increases for direct care staff,
14 direct support professionals and clinical staff, including Medicaid
15 Service Coordination, pursuant to paragraph (i) of this subdivision.
16 Salary increases that take effect on and after April 1, 2017 may be used
17 to demonstrate compliance with the January 1, 2018 funding increase
18 authorized by this section, except for salary increases necessary to
19 comply with state minimum wage requirements. Such commissioners shall be
20 authorized to recoup any funds as appropriated herein determined to have
21 been used in a manner inconsistent with such standards or inconsistent
22 with the provisions of this subdivision, and such commissioners shall be
23 authorized to employ any legal mechanism to recoup such funds, including
24 an offset of other funds that are owed to such local governmental unit
25 or provider.

26 (iii) Where appropriate, transfers to the department of health shall
27 be made as reimbursement for the state share of medical assistance.

28 § 2. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after April 1, 2018; provided,
30 however, that the amendments to section 1 of part C of chapter 57 of the
31 laws of 2006 made by sections one and one-a of this act shall not affect
32 the repeal of such section and shall be deemed repealed therewith.

33 PART BB

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

36 44. "Controlled substance analog" means

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

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

41 (ii) which has a stimulant, depressant, or hallucinogenic effect on
42 the central nervous system that is substantially similar to or greater
43 than the stimulant, depressant, or hallucinogenic effect on the central
44 nervous system of a controlled substance; or

45 (iii) with respect to a particular person, which such person repres-
46 ents or intends to have the stimulant, depressant, or hallucinogenic
47 effect on the central nervous system that is substantially similar to or
48 greater than the stimulant, depressant, or hallucinogenic effect on the
49 central nervous system of a controlled substance.

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

51 (i) a controlled substance;

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

1 (iii) with respect to a particular person, any substance, if an
 2 exemption is in effect for investigational use, for that person, under
 3 21 USCA § 355, to the extent the conduct with respect to the substance
 4 is pursuant to such exemption;

5 (iv) any product approved by the United States food and drug adminis-
 6 tration as a drug or medical device, or approved for use pursuant to
 7 section thirty-three hundred sixty-two of this article; or

8 (v) any compound, mixture, or preparation that contains any controlled
 9 substance or controlled substance analog that is not for administration
 10 to a human being or animal, and that is packaged in such a form or
 11 concentration, or with adulterants or denaturants, so that as packaged
 12 it does not present any significant potential for abuse.

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

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

20 (a) Schedule I shall consist of the drugs and other substances, by
 21 whatever official name, common or usual name, chemical name, or brand
 22 name designated, listed in this section, and controlled substance
 23 analogs as defined by subdivision forty-four of section thirty-three
 24 hundred two of this title.

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

27 5. "Controlled substance" means any substance listed in schedule I,
 28 II, III, IV or V of section thirty-three hundred six of the public
 29 health law other than marihuana, but including concentrated cannabis as
 30 defined in paragraph (a) of subdivision four of section thirty-three
 31 hundred two of such law, and including controlled substance analogs as
 32 defined in subdivision forty-four of section thirty-three hundred two of
 33 such law.

34 § 4. Subdivision (b) of schedule I of section 3306 of the public
 35 health law is amended by adding twenty-one new paragraphs 56, 57, 58,
 36 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75 and
 37 76 to read as follows:

38 (56) 3,4-dichloro-N-{(1-dimethylamino) cyclohexylmethyl}benzamide.
 39 Some trade or other names: AH-7921.

40 (57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fenta-
 41 nyl).

42 (58) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide (Butyryl Fenta-
 43 nyl).

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

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

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

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

52 N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide; N-phenyl-N-{1-(2-
 53 phenylethyl)-4-piperidinyl}-2-propenamide.

54 (63) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.
 55 Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fenta-
 56 nyl).

1 (64) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide(Or-
2 tho-Fluorofentanyl or 2-fluorofentanyl).

3 (65) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxa-
4 mid(Tetrahydrofuranyl Fentanyl).

5 (66) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide(Methox-
6 vacetyl Fentanyl).

7 (67) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide.
8 Some trade or other names: Cyclopropyl Fentanyl.

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

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

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

15 (71) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.
16 Some trade or other names: Para-chlorisobutyryl Fentanyl.

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

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

21 (74) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetami-
22 de. Some trade or other names: Ocfentanil.

23 (75) 4-chloro-N-[~~1-[2-(4-nitrophenyl)ethyl]~~-2-piperidinylidene]-benzen
24 esulfonamide (W18).

25 (76) Carfentanil.

26 § 5. Subdivision (d) of schedule I of section 3306 of the public
27 health law is amended by adding thirty-six new paragraphs 36, 37, 38,
28 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56,
29 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, and 71 to read
30 as follows:

31 (36) 5-methoxy-N,N-dimethyltryptamine.

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

33 (38) 5-methoxy-N,N-diisopropyltryptamine. Some trade or other names:
34 5-MeO-DIPT.

35 (39) 5-(1,1-dimethylheptyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol.
36 Some trade or other names: CP-47,497.

37 (40) 5-(1,1-dimethyloctyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol.
38 Some trade or other names: cannabicyclohexanol or CP-47,497 C8-homolog.

39 (41) 1-pentyl-3-(1-naphthoyl)indole. Some trade of other names:
40 JWH-018 and AM678.

41 (42) 1-butyl-3-(1-naphthoyl)indole. Some trade of other names:
42 JWH-073.

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

45 (44) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole. Some trade or
46 other names: JWH-200.

47 (45) 1-pentyl-3-(2-methoxyphenylacetyl)indole. Some trade or other
48 names: JWH-250.

49 (46) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole. Some trade or other
50 names: JWH-081.

51 (47) 1-pentyl-3-(4-methyl-1-naphthoyl)indole. Some trade or other
52 names: JWH-122.

53 (48) 1-pentyl-3-(4-chloro-1-naphthoyl)indole. Some trade or other
54 names: JWH-398.

55 (49) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole. Some trade or other
56 names: AM2201.

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

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

5 (52) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole. Some trade or
6 other names: SR-18 and RCS-8.

7 (53) 1-pentyl-3-(2-chlorophenylacetyl) indole. Some trade or other
8 names: JWH-203.

9 (54) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) metha-
10 none. Some trade or other names: UR-144.

11 (55) {1-(5-fluoro-pentyl)-1H-indol-3-yl}(2,2,3,3-tetramethylcycloprop-
12 yl) methanone. Some trade names or other names: 5-fluoro-UR-144, XLR11.

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

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

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

19 (59) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indaz-
20 ole-3-carboxamide. Some trade or other names: AB-FUBINACA.

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

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

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

27 (63) {1-(5-fluoropentyl)-1H-indazol-3-yl}(naphthalen-1-yl)methanone.
28 Some trade or other names: THJ-2201.

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

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

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

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

38 (68) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-i-
39 ndazole-3-carboxamide. Some trade or other names: ADB-FUBINACA.

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

42 (70) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dime-
43 thylbutanoate. Some trade or other names: MDMB-FUBINACA.

44 (71) methyl-2(1-(4-flurobenzyl)-1H-indazole-3-carboxamido)-3-methylbu-
45 tanoate. Some trade or other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

46 § 6. Intentionally omitted.

47 § 6-a. Paragraph 6 of subdivision (c) of schedule II of section 3306
48 of the public health law is REPEALED.

49 § 6-b. Paragraph 11 of subdivision (d) of schedule I of section 3306
50 of the public health law, as added by chapter 664 of the laws of 1985,
51 is amended to read as follows:

52 (11) [~~Ibogane~~] Ibogaine Some trade and other names: 7-ethyl-6, 6&, 7,
53 8, 9, 10, 12, 13-octahydro-2-methoxy-6, [~~9-methano-5h-pyrido~~] 9-metha-
54 no-5H-pyrido {1',2':1,2} azepino {5,4-b} indole: tabernanthe iboga.

55 § 6-c. Subdivision (c) of schedule II of section 3306 of the public
56 health law is amended by adding a new paragraph 29 to read as follows:

1 (29) Thiafentanil (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-[2
2 -(thienyl)ethyl]piperidine).

3 § 6-d. Subdivision (c) of schedule III of section 3306 of the public
4 health law is amended by adding a new paragraph 15 to read as follows:

5 (15) Xylazine (N-(2,6-dimethylphenyl)-5,6-dihydro-4H-1,3 thiazin-2-ami-
6 ne).

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

9 PART CC

10 Intentionally Omitted

11 PART DD

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

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

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

28 (b) provide information to the patient or, where applicable, the
29 person legally responsible for the patient, on the importance of having
30 a primary health care practitioner, developed by the commissioner of
31 health; and

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

35 (d) prior to administering the immunization, inform the patient or,
36 where applicable, the person legally responsible for the patient, of the
37 total cost of the immunization or immunizations, subtracting any health
38 insurance subsidization, if applicable. In the case the immunization is
39 not covered, the pharmacist must inform the patient or, where applica-
40 ble, the person legally responsible for the patient, of the possibility
41 that the immunization may be covered when administered by a primary care
42 physician or practitioner; and

43 (e) administer the immunization or immunizations according to the most
44 current recommendations by the advisory committee for immunization prac-
45 tices (ACIP), provided however, that a pharmacist may administer any
46 immunization authorized under this section when specified by a patient
47 specific order.

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

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

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

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

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

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

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

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

38 § 8. This act shall take effect on the ninetieth day after it shall
39 have become a law and shall expire and be deemed repealed [~~July 1, 2019~~]
40 December 31, 2021.

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

45 § 5. This act shall take effect on the ninetieth day after it shall
46 have become a law and shall expire and be deemed repealed [~~July 1, 2019~~]
47 December 31, 2021 provided, that:

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

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

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

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

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

8 § 5. This act shall take effect on the one hundred twentieth day after
9 it shall have become a law and shall expire [~~7 years after such effec-~~
10 ~~tive date when upon such date the provisions of this act shall]~~ and be
11 deemed repealed July 1, 2021; provided, however, that the amendments to
12 subdivision 1 of section 6801 of the education law made by section one
13 of this act shall be subject to the expiration and reversion of such
14 subdivision pursuant to section 8 of chapter 563 of the laws of 2008,
15 when upon such date the provisions of section one-a of this act shall
16 take effect; provided, further, that effective immediately, the addi-
17 tion, amendment and/or repeal of any rule or regulation necessary for
18 the implementation of this act on its effective date are authorized and
19 directed to be made and completed on or before such effective date.

20 § 6. This act shall take effect immediately.

21 PART EE

22 Section 1. Section 473 of the social services law is amended by adding
23 a new subdivision 9 to read as follows:

24 9. (a) Within amounts appropriated therefor, the office of children
25 and family services shall establish a statewide, toll-free telephone
26 number (a "hotline") to receive reports consistent with subdivision one
27 of this section. The hotline shall receive reports of allegations of
28 reportable incidents twenty-four hours per day, seven days a week. The
29 hotline shall accept anonymous calls.

30 (b) When any allegation that could reasonably constitute a reportable
31 incident is received by the hotline, the hotline shall accept and imme-
32 diately transmit notice of the report orally and electronically to any
33 appropriate state agencies or local social services office. Whenever a
34 telephone call or electronic transmission to the hotline alleges an act
35 or circumstances that may constitute a criminal offense or an immediate
36 threat to an individual's health, safety or welfare, the hotline shall
37 convey, by the most expedient means available, the information contained
38 in such call or transmission to the appropriate law enforcement agency
39 or district attorney and, to the extent necessary, the appropriate emer-
40 gency responder, and the relevant state agency or local social services
41 office.

42 (c) The commissioner is authorized to promulgate rules and regulations
43 to facilitate the implementation and operation of the hotline, including
44 but not limited to, procedures for timely and accurate referrals to
45 other state agencies or entities that may have investigative or over-
46 sight authority regarding reported incidents.

47 § 2. Subdivision 16 of section 202 of the elder law, as added by chap-
48 ter 455 of the laws of 2016, is amended to read as follows:

49 16. to the extent appropriations are available, and in consultation
50 with the office of children and family services, conduct a public educa-
51 tion campaign that emphasizes zero-tolerance for elder abuse. Such
52 campaign shall include information about the signs and symptoms of elder
53 abuse, identification of potential causes of elder abuse, resources
54 available to assist in the prevention of elder abuse, where suspected

1 elder abuse can be reported, including, but not limited to, information
2 regarding the statewide hotline as provided for in paragraph (a) of
3 subdivision nine of section four hundred seventy-three of the social
4 services law, contact information for programs offering services to
5 victims of elder abuse such as counseling, and assistance with arranging
6 personal care and shelter. Such campaign may include, but not be limited
7 to: printed educational and informational materials; audio, video, elec-
8 tronic, other media; and public service announcements or advertisements.
9 § 3. This act shall take effect October 1, 2019.

10 PART FF

11 Section 1. The mental hygiene law is amended by adding a new section
12 9.65 to read as follows:

13 § 9.65 Treatment of sex offenders in certain facilities.

14 Any facility operated by the state, which provides non-emergency,
15 clinical outpatient or inpatient psychiatric treatment and which oper-
16 ates in the same building or physical location as a children's psychiat-
17 ric center operated by the state shall determine, prior to the treatment
18 or admission of any person, whether such person is a sex offender, as
19 defined by subdivision one of section one hundred sixty-eight-a of the
20 correction law. No facility which operates in the same building or phys-
21 ical location as a children's psychiatric center shall admit or treat a
22 registered sex offender at such location.

23 § 2. This act shall take effect on the thirtieth day after it shall
24 have become a law.

25 PART GG

26 Section 1. Subdivision (c) of section 7.17 of the mental hygiene law,
27 as added by chapter 978 of the laws of 1977, is amended to read as
28 follows:

29 (c) The commissioner shall establish the areas which each facility
30 under his jurisdiction shall serve and the categories of patients which
31 each such facility shall receive, retain, or treat; provided, however,
32 that the Western New York Children's Psychiatric Center shall be main-
33 tained in a county with a population between nine hundred thousand and
34 one million people as a separate and distinct entity both organiza-
35 tionally and physically within the office and shall not be collocated or
36 merged with any other facility.

37 § 2. This act shall take effect immediately.

38 PART HH

39 Section 1. Paragraph 3 of subdivision (e) of section 7.17 of the
40 mental hygiene law, as amended by chapter 83 of the laws of 1995, is
41 amended to read as follows:

42 3. provide for a mechanism which may reasonably be expected to provide
43 notice to local governments, community organizations, employee labor
44 organizations, managerial and confidential employees, consumer and advo-
45 cacy groups of the potential for significant service reductions at such
46 state-operated hospitals and state-operated research institutes at least
47 twelve months and at most twenty-four months prior to commencing such
48 service reduction, provided, however, that this requirement shall be
49 deemed satisfied with respect to reductions at Central Islip Psychiatric
50 Center, Gowanda Psychiatric Center, Harlem Valley Psychiatric Center,

1 Kings Park Psychiatric Center, Willard Psychiatric Center and Manhattan
2 Children's Psychiatric Center; and

3 § 2. This act shall take effect immediately; provided, however, that
4 any notice issued pursuant to paragraph 3 of subdivision (e) of section
5 7.17 of the mental hygiene law prior to the effective date of this act
6 shall expire twelve months from the effective date of this act.

7

PART II

8 Section 1. Paragraph 1 of subdivision d of section 13.17 of the mental
9 hygiene law, as added by section 1 of part Q of chapter 59 of the laws
10 of 2016, is amended to read as follows:

11 1. provide appropriate and timely notification to the temporary presi-
12 dent of the senate, and the speaker of the assembly, and to appropriate
13 representatives of impacted labor organizations. Such notification to
14 the representatives of impacted labor organizations shall be made as
15 soon as practicable, but no less than [~~forty-five~~ one hundred eighty
16 days prior to commencing such closure or transfer except in the case of
17 exigent circumstances impacting the health, safety, or welfare of the
18 residents of the IRA as determined by the office. Provided, however,
19 that nothing herein shall limit the ability of the office to effectuate
20 such closure or transfer; and

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

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

27 § 3. This act shall take effect immediately; provided, however, that
28 the amendments to subdivision d of section 13.17 of the mental hygiene
29 law made by section one of this act shall not affect the repeal of such
30 subdivision and shall be deemed repealed therewith.

31

PART JJ

32 Section 1. Section 25.01 of the mental hygiene law, as added by chap-
33 ter 471 of the laws of 1980, paragraphs 1, 2, 3 and 4 as amended and
34 paragraphs 5, 6, 7 and 8 of subdivision (a) as added by section 3 of
35 part G of chapter 56 of the laws of 2013, is amended to read as follows:
36 § 25.01 Definitions.

37 [~~(a)~~] As used [~~herein~~ in this article]:

38 1. "Local governmental unit" shall have the same meaning as that
39 contained in article forty-one of this chapter.

40 2. "Operating expenses" shall mean expenditures approved by the office
41 and incurred for the maintenance and operation of substance use disorder
42 and/or compulsive gambling programs, including but not limited to
43 expenditures for treatment, administration, personnel, and contractual
44 services. Operating expenses do not include capital costs and debt
45 service unless such expenses are related to the rent, financing or refi-
46 nancing of the design, construction, acquisition, reconstruction, reha-
47 bilitation or improvement of a substance use disorder and/or compulsive
48 gambling program facility pursuant to the mental hygiene facilities
49 finance program through the dormitory authority [~~of the state of New~~
50 ~~York~~] (DASNY; successor to the Facilities Development Corporation), or
51 otherwise approved by the office.

1 3. "Debt service" shall mean amounts, subject to the approval of the
2 office, required to be paid to amortize obligations including principal
3 and interest, assumed by or on behalf of [~~a-voluntary~~] an agency or a
4 program operated by a local governmental unit.

5 4. "Capital costs" shall mean the costs of a program operated by a
6 local governmental unit or [~~a-voluntary~~] an agency with respect to the
7 acquisition of real property estates, interests, and cooperative inter-
8 ests in realty, their design, construction, reconstruction, rehabili-
9 tation and improvement, original furnishings and equipment, site devel-
10 opment, and appurtenances of a facility.

11 5. "State aid" shall mean financial support provided through appropri-
12 ations of the office to support the provision of substance use disorder
13 treatment, compulsive gambling, prevention or other authorized services,
14 with the exclusion of appropriations for the purpose of medical assist-
15 ance.

16 6. [~~"Voluntary agency~~] "Agency contributions" shall mean revenue
17 sources of [~~voluntary~~] agencies exclusive of state aid and local tax
18 levy.

19 7. "Approved net operating cost" shall mean the remainder of total
20 operating expenses approved by the office, less all sources of revenue,
21 including [~~voluntary~~] agency contributions and local tax levy.

22 8. [~~"Voluntary agency"~~] "Agency" shall mean a corporation organized or
23 existing pursuant to the not-for-profit corporation law for the purpose
24 of, or any business entity providing substance use disorder, treatment,
25 compulsive gambling, prevention or other authorized services.

26 § 2. Section 25.03 of the mental hygiene law, as amended by chapter
27 223 of the laws of 1992, subdivisions (a) and (b) as amended and subdivi-
28 sion (d) as added by section 4 of part G of chapter 56 of the laws of
29 2013, is amended to read as follows:

30 § 25.03 Financial support and disbursement of funds.

31 (a) In accordance with the provisions of this article, and within
32 appropriations made available, the office may provide state aid to a
33 program operated by a local governmental unit or [~~voluntary~~] an agency
34 up to one hundred per centum of the approved net operating costs of such
35 program operated by a local governmental unit or [~~voluntary~~] an agency,
36 and state aid may also be granted to a program operated by a local
37 governmental unit or [~~a-voluntary~~] an agency for capital costs associ-
38 ated with the provision of services at a rate of up to one hundred
39 percent of approved capital costs. Such state aid shall not be granted
40 unless and until such program operated by a local governmental unit or
41 [~~voluntary~~] an agency is in compliance with all regulations promulgated
42 by the commissioner regarding the financing of capital projects. Such
43 state aid for approved net operating costs shall be made available by
44 way of advance or reimbursement, through either contracts entered into
45 between the office and such [~~voluntary~~] agency or by distribution of
46 such state aid to local governmental units through a grant process
47 pursuant to section 25.11 of this article.

48 (b) Financial support by the office shall be subject to the approval
49 of the director of the budget and within available appropriations.

50 (c) All federal financial assistance granted or allocated to the
51 office by the United States shall only be paid out on the audit and
52 warrant of the comptroller on the certificate of the commissioner or his
53 authorized representative.

54 (d) Nothing in this section shall be construed to require the state to
55 increase such state aid should a local governmental unit choose to
56 remove any portion of its local tax levy support of [~~voluntary~~] agen-

1 cies, although the state may choose to do so to address an urgent public
2 need, or conversely, may choose to reduce its state aid up to the same
3 percentage as the reduction in local tax levy.

4 § 3. Section 25.05 of the mental hygiene law, as amended by section 5
5 of part G of chapter 56 of the laws of 2013, is amended to read as
6 follows:

7 § 25.05 Reimbursement from other sources.

8 The office shall not provide [~~a-voluntary~~] an agency or a program
9 operated by a local governmental unit with financial support for obli-
10 gations incurred by or on behalf of such program or agency for substance
11 use disorder and/or compulsive gambling services for which reimbursement
12 is or may be claimed under any provision of law other than this article.

13 § 4. Section 25.07 of the mental hygiene law, as amended by section 7
14 of part G of chapter 56 of the laws of 2013, is amended to read as
15 follows:

16 § 25.07 Non-substitution.

17 [~~A-voluntary~~] An agency or a program operated by a local governmental
18 unit shall not substitute state monies for cash contributions, federal
19 aid otherwise committed to or intended for use in such program or by
20 such agency, revenues derived from the operation of such program or
21 agency, or the other resources available for use in the operation of the
22 program or agency.

23 § 5. Section 25.09 of the mental hygiene law, as amended by section 8
24 of part G of chapter 56 of the laws of 2013, is amended to read as
25 follows:

26 § 25.09 Administrative costs.

27 Subject to the approval of the director of the budget, the office
28 shall establish a limit on the amount of financial support which may be
29 advanced or reimbursed to [~~a-voluntary~~] an agency or a program operated
30 by a local governmental unit for the administration of a program.

31 § 6. This act shall take effect immediately.

32 PART KK

33 Section 1. The mental hygiene law is amended by adding a new section
34 19.18-b to read as follows:

35 § 19.18-b Substance use disorder peer to peer support services program.

36 1. For purposes of this subdivision "peer to peer support services"
37 means participant-centered services that emphasize knowledge and wisdom
38 through lived experience in which peers are encouraged to share their
39 own personal experience and first-hand knowledge of substance abuse,
40 addiction, and recovery to support the recovery goals of individuals who
41 use drugs and/or alcohol.

42 2. The commissioner, in consultation with the department of health
43 shall develop and administer a certification process and standards of
44 training and competency for substance use disorder peer support
45 services.

46 3. Certified peer to peer support services shall include but not be
47 limited to:

48 (a) developing recovery plans;

49 (b) raising awareness of existing social and other support services;

50 (c) modeling coping skills;

51 (d) assisting with applying for benefits;

52 (e) accompanying clients to medical appointments;

53 (f) providing non-clinical crisis support, especially after periods of
54 hospitalization or incarceration;

1 (g) accompanying clients to court appearances and other appointments;
2 (h) working with participants to identify strengths;
3 (i) linking participants to formal recovery supports, including, but
4 not limited to, medication assisted treatment;

5 (j) educating program participants about various modes of recovery,
6 including, but not limited to, medication assisted treatment;

7 (k) peer engagement coordination with hospital emergency services to
8 assist any patient that has been administered an opioid antagonist by a
9 medical provider to establish connections to treatment, including, but
10 not limited to, medication assisted treatment and other supports after
11 an opioid overdose reversal or after discharge from another substance
12 abuse related emergency department visit; and

13 (l) peer engagement coordination with law enforcement departments,
14 fire departments and other first responder departments to assist any
15 individual that has been administered an opioid antagonist by a first
16 responder to establish connections to treatment, including, but not
17 limited to, medication assisted treatment and other support services
18 after an opioid overdose reversal.

19 § 2. This act shall take effect immediately; provided, however, that
20 effective immediately, the addition, amendment and/or repeal of any rule
21 or regulation necessary for the implementation of this act on its effec-
22 tive date are authorized and directed to be made and completed on or
23 before such effective date.

24 PART LL

25 Section 1. The mental hygiene law is amended by adding a new section
26 32.06 to read as follows:

27 § 32.06 Prohibition on deceptive acts and practices.

28 (a) Definitions. As used in this section, the following terms shall
29 have the following meanings, unless the context clearly requires other-
30 wise:

31 (1) "Addiction professional" shall mean a professional who, within the
32 scope of their license issued pursuant to title eight of the education
33 law or credential issued pursuant to section 19.07 of this chapter, if
34 working in an individual capacity, provides substance abuse and
35 prevention services.

36 (2) "Credentialed professional" shall include any person who is in the
37 process of applying for a credential issued by the commissioner pursuant
38 to section 19.07 of this chapter, or who has a valid credential, or who
39 is eligible for credential renewal;

40 (3) "Health care provider" shall mean a practitioner in an individual
41 practice, group practice, partnership, professional corporation or other
42 authorized form of association, a hospital or other health care institu-
43 tion issued an operating certificate pursuant to article twenty-eight of
44 the public health law or article thirty-one of this title or this arti-
45 cle, and any other purveyor of health or health related items or
46 services.

47 (4) "Potential service recipient" shall mean a person who is a
48 substance abuser, substance dependent, in need of services to avoid
49 becoming a substance abuser, or substance dependent.

50 (5) "Substance abuse program" shall mean any public or private person,
51 corporation, partnership, agency, either profit or non-profit, or state
52 or municipal government which provides, or holds itself out as provid-
53 ing, substance abuse services, in either a residential or ambulatory
54 setting, to persons who are substance abusers, substance dependent, in

1 need of services to avoid becoming substance abusers, substance depend-
2 ent or to significant others.

3 (6) "Substance abuse services" shall include services to inhibit the
4 onset of substance abuse or substance dependence; to address the social
5 dysfunction, medical problems and other disabilities associated with
6 substance abuse or substance dependence, and to rehabilitate persons
7 suffering from substance abuse or dependence.

8 (b) It is unlawful for any person, including any individual, addiction
9 professional, credentialed professional, health care provider, health
10 care facility or substance abuse program to:

11 (1) Promote, offer, give, solicit or pay any commission, bonus,
12 rebate, kickback, or bribe, directly or indirectly, in cash or in kind,
13 or engage in any split-fee arrangement, to induce the referral of a
14 potential service recipient or in connection with the performance of a
15 substance abuse service;

16 (2) Solicit, agree to receive or receive any commission, bonus,
17 rebate, kickback, or bribe, directly or indirectly, in cash or in kind,
18 or engage in any split-fee arrangement, in any form whatsoever, in
19 return for referring a potential service recipient or in connection with
20 the performance of a substance abuse service; or

21 (3) Aid, abet, advise, or otherwise participate in the conduct prohib-
22 ited under paragraph one or two of this subdivision.

23 (c) This section shall not apply to:

24 (1) Any discount, payment, waiver of payment, or payment practice not
25 prohibited by 42 U.S.C. § 1320a-7b(b) or regulations promulgated there-
26 under.

27 (2) Payments to an addiction professional, health care provider,
28 health care facility or substance abuse program for professional consul-
29 tation services.

30 (3) Commissions, fees, or other remuneration lawfully paid to insur-
31 ance agents as provided under the insurance law.

32 (4) Payments by a health insurer who reimburses, provides, offers to
33 provide, or administers health, mental health, or substance abuse
34 services under a health benefit plan.

35 (5) Payments to or by an addiction professional, health care provider,
36 health care facility, a health care provider network entity, or a
37 substance abuse program, that has contracted with a health insurer, a
38 health care purchasing group, or the Medicare or Medicaid program to
39 provide health, mental health, or substance abuse services under a
40 health benefit plan when such payments are for services under the plan.

41 (6) Payments by an addiction professional, health care provider,
42 health care facility or substance abuse program to a health, mental
43 health, or substance abuse information service that provides information
44 upon request and without charge to consumers about providers of
45 substance abuse services to enable consumers to select appropriate
46 substance abuse programs, provided that such information service:

47 i. Does not attempt through its standard questions for solicitation of
48 consumer criteria or through any other means to steer or lead a consumer
49 to select or consider selection of a particular addiction professional,
50 substance abuse services or substance abuse program;

51 ii. Does not provide or represent itself as providing diagnostic or
52 counseling services or assessments of an individual's need for substance
53 abuse services and does not make any promises of cure or guarantees of
54 treatment;

55 iii. Does not provide or arrange for transportation of a consumer to
56 or from the location of a substance abuse service or program; and

1 iv. Charges and collects fees from an addiction professional, health
2 care provider, health care facility or substance abuse program partic-
3 ipating in its services that are set in advance, are consistent with the
4 fair market value for those information services, and are not based on
5 the potential value of a potential service recipient or recipients to a
6 substance abuse program or of the goods or services provided by the
7 substance abuse program.

8 (d) Any individual, including an officer, partner, agent, attorney, or
9 other representative of a partnership, association, corporation, limited
10 liability company or partnership, public or private agency or any part
11 thereof who knowingly fails to comply with the provisions of this
12 section shall be guilty of a misdemeanor as defined in the penal law.

13 (e) If the commissioner has reason to believe that there is an indi-
14 vidual, partnership, association, corporation, limited liability company
15 or partnership, public or private agency or any part thereof violating
16 subdivision (b) of this section, he or she shall proceed pursuant to
17 applicable sections of this chapter including but not limited to
18 sections 32.13, 32.15, 32.19 and 32.27 of this article.

19 (f) The party bringing an action under this section may recover
20 reasonable expenses in obtaining injunctive relief, including, but not
21 limited to, investigative costs, court costs, reasonable attorney's
22 fees, witness costs, and deposition expenses.

23 (g) The provisions of this section are in addition to any other civil,
24 administrative, or criminal actions provided by law and may be imposed
25 against both corporate and individual defendants.

26 § 2. This act shall take effect immediately.

27 PART MM

28 Section 1. The mental hygiene law is amended by adding a new section
29 19.18-b to read as follows:

30 § 19.18-b Family support and recovery services demonstration program.

31 1. Within available appropriations, the commissioner shall develop a
32 family support and recovery services program. This program shall provide
33 family support and recovery services to adolescent and adult patients,
34 and their families, during treatment, including, but not limited to,
35 inpatient and outpatient treatment, and shall be available to such
36 patients and their families for up to twelve months after completion of
37 such treatment program. The commissioner shall identify where the family
38 support and recovery services program will be established, provided,
39 however, that one such program shall be in western New York and another
40 such program shall be in Long Island.

41 2. Family support and recovery services shall include:

42 (a) treatment placement services;

43 (b) housing placement services;

44 (c) peer supports, including peer to peer support groups;

45 (d) employment support; and

46 (e) transportation assistance.

47 3. Not later than April 1, 2021, the commissioner shall provide the
48 governor, the temporary president of the senate, the speaker of the
49 assembly, the chair of the senate standing committee on alcoholism and
50 drug abuse and the chair of the assembly committee on alcoholism and
51 drug abuse with a written evaluation of the program. Such evaluation
52 shall, at a minimum, address the overall effectiveness of this program,
53 identify best practices for family support and recovery services
54 provided under this program, and any additional family support and

1 recovery services that may be appropriate within each type of program
2 operated, regulated, funded, or approved by the office. The written
3 evaluation shall be made available on the office's website.

4 § 2. This act shall take effect immediately and shall expire and be
5 deemed repealed on April 1, 2021.

6 PART NN

7 Section 1. The mental hygiene law is amended by adding a new section
8 22.13 to read as follows:

9 § 22.13 Alcohol and drug free housing.

10 (a) As used in this section, the following words shall have the
11 following meanings unless the context clearly requires otherwise:

12 1. "Alcohol and drug free housing", a residence, commonly known as a
13 sober home, which provides or advertises as providing, an alcohol and
14 drug free environment for people recovering from substance use disor-
15 ders; provided, however, that, alcohol and drug free housing shall not
16 include a halfway house, treatment unit or detoxification facility regu-
17 lated under article thirty-two of this chapter or any other facility
18 licensed pursuant to article twenty-eight-a of the public health law.

19 2. "Certified alcohol and drug free housing", alcohol and drug free
20 housing that has been accredited by the bureau pursuant to this section.

21 3. "Operator", the lawful owner of alcohol and drug free housing or a
22 person employed and designated by the owner to have primary responsibil-
23 ity for the daily operation of such housing and for maintaining stand-
24 ards and conditions in such housing that create an environment support-
25 ive of substance use disorder recovery.

26 (b) The commissioner shall establish and provide for the adminis-
27 tration of a voluntary training and accreditation program for operators
28 of alcohol and drug free housing seeking certification under subdivision
29 (d) of this section.

30 (c) The accreditation program established pursuant to this section
31 shall maintain standards and practices which:

32 1. uphold industry best practices and support a safe, healthy and
33 effective recovery environment;

34 2. evaluate the ability to assist persons in achieving long-term
35 recovery goals;

36 3. provide for appropriate training for the operators and staff and
37 ensure satisfactory completion of such training;

38 4. protect occupants of alcohol and drug free housing against unrea-
39 sonable and unfair practices in setting and collecting rent payments;
40 and

41 5. verify good standing with regard to local, state and federal laws
42 and any regulations and ordinances including, but not limited to, build-
43 ing, maximum occupancy, fire safety and sanitation codes.

44 (d) The office shall include a residence on a list of certified alco-
45 hol and drug free housing as described in subdivision (f) of this
46 section upon receipt and review of:

47 1. the completion of training as described in subdivision (c) of this
48 section;

49 2. a deed, trust document, articles of incorporation, lease or other
50 document acceptable to the director evidencing that the individual or
51 entity seeking certification is the lawful owner or lessee of the parcel
52 where the housing shall be located; and

1 3. appropriate documentation indicating that there are no taxes or
2 other assessments which constitute liens on the parcel of real estate
3 upon which the housing shall be located.

4 (e) The commissioner shall periodically evaluate the quality of train-
5 ing being provided to operators seeking certification and the integrity
6 and efficacy of the accreditation program.

7 (f) The commissioner shall prepare, publish and disseminate a list of
8 alcohol and drug free housing certified pursuant to this section;
9 provided, however, that such list shall be updated bimonthly. The list
10 shall be disseminated to each state agency or vendor with a statewide
11 contract that provides substance use disorder treatment services. The
12 commissioner shall inform all local probation departments and all courts
13 within the state who may issue a sentence of probation on how to access
14 the list. Such list shall also be posted on the website for the office.

15 (g) The commissioner, in consultation with the commissioner of the
16 department of health, shall promulgate rules and regulations to imple-
17 ment this section that shall include a process for receiving complaints
18 against certified alcohol and drug free housing and criteria by which
19 the commissioner may exclude a residence from the list prepared under
20 subdivision (f) of this section if the frequency and severity of
21 complaints received supports a determination that the alcohol and drug
22 free housing in question does not maintain standards or provide an envi-
23 ronment that appropriately supports the recovery goals of its residents.

24 (h) A state agency or vendor with a statewide contract which is
25 providing treatment or services to a person, or a state agency or offi-
26 cer setting terms and conditions for the release, parole or discharge of
27 a person from custody or treatment, shall not refer such person to alco-
28 hol and drug free housing and shall not otherwise include in such terms
29 and conditions a referral to alcohol and drug free housing unless such
30 alcohol and drug free housing is certified pursuant to this section.
31 Nothing in this section shall prohibit a residence which has not
32 received certification from operating or advertising as alcohol and drug
33 free housing or from offering residence to persons recovering from
34 substance use disorders.

35 § 2. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law. Effective immediately, the addition, amend-
37 ment and/or repeal of any rule or regulation necessary for the implemen-
38 tation of this act on its effective date are authorized and directed to
39 be made and completed on or before such effective date.

40 PART 00

41 Section 1. The mental hygiene law is amended by adding a new article
42 23 to read as follows:

43 ARTICLE 23

44 ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSE

45 Section 23.01 Assisted outpatient treatment for substance abuse.

46 23.03 Definitions.

47 23.05 Criteria for assisted outpatient treatment for substance
48 abuse.

49 23.07 Petition to the court.

50 23.09 Service.

51 23.11 Right to counsel.

52 23.13 Hearing.

53 23.15 Written treatment plan.

54 23.17 Disposition.

1 23.19 Petitions for additional periods of treatment; petitions
2 for an order to stay, vacate or modify; and appeals.

3 23.21 Failure to comply with assisted outpatient treatment.

4 23.23 Effect of determination that a person is in need of
5 assisted outpatient treatment.

6 23.25 False petition.

7 23.27 Education and training.

8 23.29 The assisted outpatient treatment for substance abuse
9 advisory council.

10 § 23.01 Assisted outpatient treatment for substance abuse.

11 There is hereby established the assisted outpatient treatment for
12 substance abuse program. This program shall serve individuals with
13 substance use disorders who, due to opioid abuse, require services to
14 prevent them from causing harm to themselves and others. The commission-
15 er, in consultation with the commissioner of the department of health
16 and the commissioner of the office of mental health, and in conjunction
17 with the assisted outpatient treatment for substance abuse advisory
18 council, shall promulgate all rules and regulations necessary to imple-
19 ment the provisions of this article.

20 § 23.03 Definitions.

21 For the purposes of this article, the following definitions shall
22 apply:

23 (a) "Assisted outpatient treatment for substance abuse" shall mean
24 categories of services that have been ordered by the court pursuant to
25 this article. Such treatment shall include case management services to
26 provide care coordination, and may also include any of the following
27 categories of services: substance use disorder services, detoxification
28 as deemed appropriate pursuant to a written treatment plan; medication
29 supported recovery; individual or group therapy; day or partial day
30 programming activities; tests for the presence of alcohol or illegal
31 drugs; supervision of living arrangements; treatment for co-occurring
32 disorders; and any other services prescribed to treat the person's
33 substance use disorder and to assist the person in living and function-
34 ing in the community, or to attempt to prevent a relapse or deteri-
35 oration that may reasonably be predicted to result in the need for
36 hospitalization or serious harm to the person or others.

37 (b) "Assisted outpatient treatment for substance abuse program" shall
38 mean a system to arrange for, and coordinate the provision of, assisted
39 outpatient treatment for substance abuse; to monitor treatment compli-
40 ance by assisted outpatients; to take appropriate steps to address the
41 needs of such individuals; and to ensure compliance with court orders.

42 (c) "Assisted outpatient" shall mean the person under a court order to
43 receive assisted outpatient treatment for substance abuse due to a
44 substance use disorder.

45 (d) "Opioid" shall mean an opiate, opium, opium poppy or poppy straw;
46 and any salt, compound, derivative, or preparation of thereof that is
47 chemically equivalent or identical to such substances.

48 (e) "Subject of the petition" or "subject" shall mean the person who
49 is alleged in a petition, filed pursuant to the provisions of this arti-
50 cle, to meet the criteria for assisted outpatient treatment for
51 substance abuse.

52 (f) "Substance use disorder" shall mean the misuse of, dependence on,
53 or addiction to a legal or illegal opioid leading to effects that are
54 detrimental to the individual's physical and mental health, or the
55 welfare of others.

56 § 23.05 Criteria for assisted outpatient treatment for substance abuse.

1 (a) A person may be ordered to receive assisted outpatient treatment
2 for substance abuse if the court finds that such person:

3 (1) is eighteen years of age or older; and

4 (2) is suffering from a substance use disorder; and

5 (3) is unlikely to survive safely in the community without super-
6 vision, based on a clinical determination; and

7 (4) has a history of lack of compliance with treatment for a substance
8 use disorder, as evidenced by:

9 (i) prior to the filing of the petition, at least twice within the
10 last thirty-six months, his or her substance use disorder has been a
11 significant factor in necessitating hospitalization in a hospital, as
12 defined in article twenty-eight of the public health law, or receipt of
13 substance abuse treatment services in a correctional facility or a local
14 correctional facility, not including any current period, or period
15 ending within the last six months, during which the person was or is
16 hospitalized or incarcerated; or

17 (ii) prior to the filing of the petition, resulted in one or more acts
18 of serious violent behavior toward self or others or threats of, or
19 attempts at, serious physical harm to self or others within the last
20 forty-eight months, not including any current period, or period ending
21 within the last six months, in which the person was or is hospitalized
22 or incarcerated; provided, however, that use of an opioid alone shall
23 not be deemed as satisfying this requirement; and

24 (5) is, as a result of his or her substance abuse, unlikely to volun-
25 tarily participate in substance use disorder services that would enable
26 him or her to live safely in the community; and

27 (6) in view of his or her treatment history and current behavior, is
28 in need of assisted outpatient treatment for substance abuse in order to
29 prevent a relapse or deterioration that would be likely to result in
30 serious harm to the person or others; and

31 (7) is likely to benefit from assisted outpatient treatment for
32 substance abuse.

33 § 23.07 Petition to the court.

34 (a) A petition for an order authorizing assisted outpatient treatment
35 for substance abuse may be filed in the supreme or county court in the
36 county in which the subject of the petition is present or reasonably
37 believed to be present. A petition to obtain an order authorizing
38 assisted outpatient treatment for substance abuse may be initiated only
39 by the following persons:

40 (1) any person eighteen years of age or older with whom the subject of
41 the petition resides; or

42 (2) the parent, spouse, sibling, or child of the subject of the peti-
43 tion who is eighteen years of age or older; or

44 (3) any other person deemed appropriate by the commissioner in regu-
45 lation.

46 (b) The petition shall state:

47 (1) each of the criteria for assisted outpatient treatment for
48 substance abuse as set forth in section 23.05 of this article;

49 (2) facts which support the petitioner's belief that the subject of
50 the petition meets each criterion, provided that the hearing on the
51 petition need not be limited to the stated facts; and

52 (3) that the subject of the petition is present, or is reasonably
53 believed to be present, within the county where such petition is filed.

54 (c) The petition shall be accompanied by an affirmation or affidavit
55 of a physician, who shall not be the petitioner, stating either that:

1 (1) such physician has personally examined the subject of the petition
2 no more than ten days prior to the submission of the petition, recom-
3 mends assisted outpatient treatment for substance abuse for the subject
4 of the petition, and is willing and able to testify at the hearing on
5 the petition; or

6 (2) no more than ten days prior to the filing of the petition, such
7 physician or his or her designee has made appropriate attempts, but has
8 not been successful in eliciting the cooperation of the subject of the
9 petition to submit to an examination; such physician has reason to
10 suspect that the subject of the petition meets the criteria for assisted
11 outpatient treatment for substance abuse; and such physician is willing
12 and able to examine the subject of the petition and testify at the hear-
13 ing on the petition.

14 (d) In counties with a population of less than seventy-five thousand,
15 the affirmation or affidavit required by subdivision (c) of this section
16 may be made by a physician who is an employee of the office. The office
17 is authorized to make available, at no cost to the county, a qualified
18 physician for the purpose of making such affirmation or affidavit
19 consistent with the provisions of such subdivision.

20 § 23.09 Service.

21 The petitioner shall cause written notice of the petition to be given
22 to the subject of the petition, and a copy thereof to be given
23 personally or by mail to such other persons as the commissioner deems
24 appropriate in regulation.

25 § 23.11 Right to counsel.

26 The subject of the petition shall have the right to be represented by
27 counsel at all stages of a proceeding commenced under this section.

28 § 23.13 Hearing.

29 (a) Upon receipt of the petition, the court shall fix the date for a
30 hearing. Such date shall be no later than three days from the date such
31 petition is received by the court, excluding Saturdays, Sundays and
32 holidays. Adjournments shall be permitted only for good cause shown. In
33 granting adjournments, the court shall consider the need for further
34 examination by a physician or the potential need to provide assisted
35 outpatient treatment for substance abuse expeditiously. The court shall
36 cause the subject of the petition, any other person receiving notice
37 pursuant to section 23.09 of this article, the petitioner, the physician
38 whose affirmation or affidavit accompanied the petition, and such other
39 persons as the court may determine to be advised of such date. Upon such
40 date, or upon such other date to which the proceeding may be adjourned,
41 the court shall hear testimony and, if it be deemed advisable and the
42 subject of the petition is available, examine the subject of the peti-
43 tion in or out of court. If the subject of the petition does not appear
44 at the hearing, and appropriate attempts to elicit the attendance of the
45 subject have failed, the court may conduct the hearing in the subject's
46 absence. In such case, the court shall set forth the factual basis for
47 conducting the hearing without the presence of the subject of the peti-
48 tion.

49 (b) The court shall not order assisted outpatient treatment for
50 substance abuse unless an examining physician, who recommends assisted
51 outpatient treatment for substance abuse and has personally examined the
52 subject of the petition no more than six months before the filing of the
53 petition, testifies in person at the hearing. Such physician shall state
54 the facts and clinical determinations that support the allegation that
55 the subject of the petition meets each of the criteria for assisted
56 outpatient treatment for substance abuse. The commissioner shall in

1 regulation address instances in which the subject of the petition
2 refuses examination by a physician.

3 (c) A physician who testifies pursuant to subdivision (b) of this
4 section shall state: (i) the facts that support the allegation that the
5 subject meets each of the criteria for assisted outpatient treatment for
6 substance abuse, (ii) that the treatment is the least restrictive alter-
7 native, (iii) the recommended assisted outpatient treatment for
8 substance abuse, and (iv) the rationale for the recommended assisted
9 outpatient treatment for substance abuse. If the recommended assisted
10 outpatient treatment for substance abuse includes medication supported
11 recovery, such physician's testimony shall provide such details as the
12 commissioner shall require in regulation.

13 (d) The subject of the petition shall be afforded an opportunity to
14 present evidence, to call witnesses on his or her behalf, and to cross-
15 examine adverse witnesses.

16 § 23.15 Written treatment plan.

17 (a) The court shall not order assisted outpatient treatment for
18 substance abuse unless a physician develops and provides to the court a
19 proposed written treatment plan, in accordance with regulations promul-
20 gated by the commissioner. The written treatment plan shall include case
21 management services to provide care coordination. The written treatment
22 plan also shall include all categories of services that such physician
23 recommends that the subject of the petition receive. All substance abuse
24 programs shall be notified regarding their inclusion in the written
25 treatment plan.

26 (b) The physician appointed to develop the written treatment plan
27 shall provide the following persons with an opportunity to actively
28 participate in the development of such plan: the subject of the peti-
29 tion; the treating physician, if any; and upon the request of the
30 subject of the petition, an individual significant to the subject
31 including any relative, close friend or individual otherwise concerned
32 with the welfare of the subject. If the subject of the petition has
33 executed a health care proxy, the appointed physician shall consider any
34 directions included in such proxy in developing the written treatment
35 plan.

36 (c) The court shall not order assisted outpatient treatment for
37 substance abuse unless a physician who developed such plan testifies to
38 explain the proposed written treatment plan. Such physician shall state
39 the categories of assisted outpatient treatment for substance abuse
40 recommended, the rationale for each such category, facts which establish
41 that such treatment is the least restrictive alternative, and any other
42 information required by the commissioner in regulation. If the subject
43 of the petition has executed a health care proxy, such physician shall
44 state the consideration given to any directions included in such proxy
45 in developing the written treatment plan.

46 § 23.17 Disposition.

47 (a) If after hearing all relevant evidence, the court does not find by
48 clear and convincing evidence that the subject of the petition meets the
49 criteria for assisted outpatient treatment for substance abuse, the
50 court shall dismiss the petition.

51 (b) If after hearing all relevant evidence, the court finds by clear
52 and convincing evidence that the subject of the petition meets the
53 criteria for assisted outpatient treatment for substance abuse, and
54 there is no appropriate and feasible less restrictive alternative, the
55 court may order the subject to receive assisted outpatient treatment for
56 substance abuse for an initial period not to exceed six months. In

1 fashioning the order, the court shall specifically make findings by
2 clear and convincing evidence that the proposed treatment is the least
3 restrictive treatment appropriate and feasible for the subject. The
4 order shall state an assisted outpatient treatment for substance abuse
5 plan, which shall include all categories of assisted outpatient treat-
6 ment for substance abuse that the assisted outpatient is to receive, but
7 shall not include any such category that has not been recommended in
8 both the proposed written treatment plan and the testimony provided to
9 the court pursuant to section 23.15 of this article.

10 (c) The commissioner shall establish in regulation procedures for the
11 provision or arrangement for all categories of assisted outpatient
12 treatment for substance abuse to the assisted outpatient throughout the
13 period of the order.

14 (d) The director shall cause a copy of any court order issued pursuant
15 to this section to be served personally, or by mail, facsimile or elec-
16 tronic means, upon the assisted outpatient, or anyone acting on the
17 assisted outpatient's behalf, the original petitioner, identified
18 service providers, and all others entitled to notice under section 23.09
19 of this article.

20 § 23.19 Petitions for additional periods of treatment; petitions for an
21 order to stay, vacate or modify; and appeals.

22 The commissioner shall establish in regulation such rules and proce-
23 dures to ensure that assisted outpatients: receive appropriate substance
24 use disorder services; are afforded all rights and remedies available by
25 law with respect to the order for assisted outpatient treatment for
26 substance abuse, including the ability to petition the court to stay,
27 vacate or modify the order; and are given the opportunity to appeal an
28 order issued pursuant to this article.

29 § 23.21 Failure to comply with assisted outpatient treatment.

30 Where the subject fails to comply with the assisted outpatient for
31 substance abuse treatment plan set forth in accordance with section
32 23.15 of this article, the subject shall be brought to a facility or
33 treatment program for emergency services pursuant to section 22.09 of
34 this title.

35 § 23.23 Effect of determination that a person is in need of assisted
36 outpatient treatment.

37 The determination by a court that a person is in need of assisted
38 outpatient treatment for substance abuse shall not be construed as or
39 deemed to be a determination that such person is incapacitated pursuant
40 to article eighty-one of this chapter.

41 § 23.25 False petition.

42 A person making a false statement or providing false information or
43 false testimony in a petition or hearing under this section shall be
44 subject to criminal prosecution pursuant to article one hundred seven-
45 ty-five or article two hundred ten of the penal law.

46 § 23.27 Education and training.

47 (a) The office of alcoholism and substance abuse services, in consul-
48 tation with the office of court administration, shall prepare educa-
49 tional and training materials on the use of this section, which shall be
50 made available to local governmental units, providers of services, judg-
51 es, court personnel, law enforcement officials and the general public.

52 (b) The office, in consultation with the office of court adminis-
53 tration, shall establish a substance abuse training program for supreme
54 and county court judges and court personnel. Such training shall focus
55 on the use of this section and generally address issues relating to
56 heroin and opioid addiction.

1 § 23.29 The assisted outpatient treatment for substance abuse advisory
2 council.

3 There is hereby created the assisted outpatient treatment for
4 substance abuse advisory council. (a) The council shall consist of: the
5 commissioner, or his or her designee; the commissioner of mental health,
6 or his or her designee; the commissioner of health, or his or her desig-
7 nee; and fourteen members appointed by the governor by and with the
8 advice and consent of the senate. The governor shall designate one of
9 the appointed members of the council as chair, who shall serve as such
10 for a three year term. Membership shall be representative of the public,
11 shall have broad programmatic and geographic representation, shall
12 include both not-for-profit and proprietary providers of substance abuse
13 services, and shall include:

14 (1) Five consumer representatives, including persons who are recover-
15 ing from substance use disorders, their family members, and patient
16 advocates.

17 (2) Five representatives of providers of services to persons with
18 substance use disorders, including but not limited to representatives of
19 free standing substance abuse facilities, general hospitals, residential
20 facilities for persons who abuse or are dependent upon opioids, metha-
21 done maintenance programs, and outpatient facilities for persons who
22 abuse or are dependent on opioids. Of these appointments, at least one
23 representative must be a physician.

24 (3) Four representatives of law enforcement, local governments, and
25 public and private payors of alcoholism substance abuse treatment.

26 (b) Members shall be appointed for terms of three years, provided
27 however, that of the members first appointed, one-third shall be
28 appointed for one year terms and one-third shall be appointed for two
29 year terms. Vacancies shall be filled in the same manner as original
30 appointments for the remainder of any unexpired term.

31 (c) The council shall meet at the request of its chair or the commis-
32 sioner, but no less frequently than four times in each full calendar
33 year.

34 (d) The council shall provide recommendations to the commissioner
35 regarding policies, rules and regulations necessary to implement the
36 assisted outpatient treatment for substance abuse program according to
37 this article.

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

44 PART PP

45 Section 1. Subdivision (b) of section 5.07 of the mental hygiene law
46 is amended by adding a new paragraph 5 to read as follows:

47 (5) The commissioner of alcoholism and substance abuse services shall
48 also include the following in the portion of the statewide comprehensive
49 plan required by this subdivision for services to persons with substance
50 use or compulsive gambling disorders:

51 (i) an assessment of substance abuse prevention, treatment and recov-
52 ery programs and services licensed, certified or operated by the office;
53 as well as an update on the efficacy of the implementation of these
54 programs. The purpose of this assessment is to examine the current

1 status of the implementation of opioid/heroin treatment, prevention and
2 recovery support services expansion, services targeting
3 adolescents/youth in transition, cross system collaboration with crimi-
4 nal and juvenile justice systems, schools and workforce development;
5 provide descriptive information about individuals using services; and
6 provide descriptive information about the workforce;

7 (ii) for each expanded service, descriptive information on the popu-
8 lation accessing this service including: characteristics of the popu-
9 lation served; age, sex, race and ethnicity, educational status, student
10 status, marital status, number of children, employment status, housing
11 status, and U.S. military status, current criminal justice status,
12 number of past arrests, substance or substances used in the last thirty
13 days, number of days in drug and/or alcohol inpatient detoxification,
14 number of emergency room episodes for which the client received treat-
15 ment, number of days the client was hospitalized for non-detoxification
16 services, hospitalizations and reason, current opiate addiction medi-
17 cine, addiction medications used, physical or behavioral health related
18 conditions and number of people in recovery;

19 (iii) for each expansion service, the number of addiction specialists,
20 of this number, the number of providers who have enhanced their skills
21 through fetal alcohol disorder training and overdose prevention train-
22 ing;

23 (iv) for certified peers and family support navigators, the number
24 working at expanded sites, the number of face-to-face contacts with
25 individuals in treatment facilities, including emergency rooms and inpa-
26 tient settings, community based organizations and support groups; and

27 (v) the number of peer advocate scholarships awarded.

28 § 2. On or before July 1, 2020, the office shall provide the results
29 of the effectiveness between opioid/heroin treatment services, retention
30 in treatment and outcomes using national outcome measures developed by
31 the Substance Abuse and Mental Health Services Administration (SAMHSA)
32 to the temporary president of the senate, the speaker of the assembly,
33 and the chairs of the senate and assembly committees on alcoholism and
34 drug abuse.

35 § 3. This act shall take effect immediately.

36 PART QQ

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

39 (1) (1) The office shall establish, either directly or through
40 contract, an ombudsman for substance use disorder insurance coverage.
41 Such ombudsman shall have expertise in substance use disorder treatment
42 and advocacy, experience with insurance coverage requirements, and such
43 other qualifications as shall be determined by the commissioner, in
44 consultation with the superintendent of financial services.

45 (2) The ombudsman for substance use disorder insurance coverage shall:

46 (i) identify, accept, investigate, refer and resolve complaints that
47 are made by or on behalf of consumers relative to health insurance
48 coverage of and access to initial and continuing substance use disorder
49 care, including medication assisted treatment, both inpatient and outpa-
50 tient;

51 (ii) accept, investigate, refer and resolve complaints that are made
52 by treatment providers relative to health insurance coverage of and
53 reimbursement for initial or continuing substance use disorder care,
54 including medication assisted treatment, both inpatient and outpatient;

1 (iii) accept, investigate, refer and resolve complaints that are made
2 by or on behalf of consumers or by providers relative to network adequacy
3 for access to and continuing substance use disorder care, including
4 medication assisted treatment, both inpatient and outpatient; and

5 (iv) make recommendations to the commissioner and the superintendent
6 of financial services biennially beginning October first, two thousand
7 nineteen, on regulatory and/or statutory changes necessary to ensure
8 access to appropriate care, and such recommendations shall be shared
9 with the legislature upon issuance. Such recommendations may also
10 include whether the ombudsman role should be extended to include broader
11 behavioral health insurance complaints and concerns.

12 § 2. This act shall take effect on the ninetieth day after it shall
13 have become a law.

14 PART RR

15 Section 1. The mental hygiene law is amended by adding a new section
16 19.18-c to read as follows:

17 § 19.18-c Jail-based substance use disorder treatment and transition
18 services.

19 1. The commissioner, in consultation with local governmental units,
20 county sheriffs and other stakeholders, shall implement a jail-based
21 substance use disorder treatment and transition services program that
22 supports the initiation, operation and enhancement of substance use
23 disorder treatment and transition services for persons with substance
24 use disorder who are incarcerated in jails in counties other than in the
25 city of New York or the counties contained therein.

26 2. The services to be provided by such program shall be in accordance
27 with plans developed by participating local governmental units, in
28 collaboration with county sheriffs and approved by the commissioner and
29 may include, but not be limited to, the following:

30 a. Alcohol, heroin and opioid withdrawal management;

31 b. Medication-assisted treatments;

32 c. Group and individual counseling and clinical support;

33 d. Peer support;

34 e. Discharge planning; and

35 f. Re-entry and transitional supports.

36 3. Within amounts appropriated therefor, funding shall be made avail-
37 able to local governmental units pursuant to criteria established by the
38 office of alcoholism and substance abuse services in consultation with
39 local governmental units, which shall take into consideration the local
40 needs and resources as identified by local governmental units, the aver-
41 age daily jail population, the average number of persons incarcerated in
42 the jail that require substance use disorder services and such other
43 factors as may be deemed necessary.

44 § 2. This act shall take effect on the thirtieth day after it shall
45 have become a law.

46 PART SS

47 Section 1. The public health law is amended by adding a new section
48 1112-a to read as follows:

49 § 1112-a. Emergent contaminant contingency fund. 1. The department
50 shall establish and maintain a separate fund for the payment of expenses
51 which are necessary to provide for:

52 (a) temporary water supply sources;

1 (b) water filtration systems; or
2 (c) remediation measures.

3 2. The monies in the fund shall be paid or loaned to public water
4 supply systems, to the extent appropriations are available, in the event
5 one or more emergent contaminants exceed acceptable levels in the water
6 of a given supply system due to either newly amended emergent contam-
7 inant levels or to new contamination. Priority shall be given to those
8 supply systems in jeopardy of losing the ability to adequately furnish
9 water to their residents. The presence of the emergent contaminants
10 shall be measured at a level set forth in section eleven hundred twelve
11 of this article. The emerging contaminant contingency fund shall consist
12 of monies appropriated by the clean water infrastructure act of two
13 thousand seventeen.

14 § 2. Subdivision 11 of section 1112 of the public health law, as added
15 by section 1 of part M of chapter 57 of the laws of 2017, is amended to
16 read as follows:

17 11. The commissioner [~~may~~] shall promulgate regulations pursuant to
18 which the department may provide financial assistance for compliance
19 with the testing requirements of this section, to any covered public
20 water system upon a showing that the costs associated with testing
21 drinking water in compliance with this section would impose a financial
22 hardship. Such regulations shall, when prioritizing public water systems
23 for eligibility for financial assistance, incorporate provisions that
24 give preference to public water systems serving less than ten thousand
25 individuals.

26 § 3. The public health law is amended by adding a new section 1108-a
27 to read as follows:

28 § 1108-a. Public water system coordination summits. The department
29 shall convene no less than six public water system coordination summits
30 intended to support the safety and quality of public water systems
31 supplies. The summits shall be held regionally as follows: the mid-Hud-
32 son region of the state, the central region of the state, the north
33 country region of the state, the Finger Lakes region, Long Island, and
34 the western region of the state. The department shall invite national
35 and state experts appropriate for public water system quality and safe-
36 ty, including watershed experts, public water associations and organiza-
37 tions, and water suppliers, the members of the drinking water quality
38 council established pursuant to section eleven hundred thirteen of this
39 title and members of the state legislature representing the region in
40 which the summit takes place. Summit topics shall include, but not be
41 limited to: water infrastructure, additional testing in areas that
42 previously detected unregulated contaminants monitored pursuant to the
43 federal Safe Drinking Water Act (42 USC § 300g-1), challenges facing
44 small and rural water utilities, and systematic ways to identify prob-
45 lems and set priorities. The department shall extend summit invitations
46 to community water systems, transient non-community water systems, non-
47 transient non-community water systems in each county across the state
48 and shall invite systems representing rural, suburban and urban areas.
49 All four summits shall be subject to the open meetings law and shall
50 take place between April first, two thousand eighteen and July first,
51 two thousand eighteen. The department shall post recommendations on its
52 website within sixty days of the conclusion of each summit.

53 § 4. The public health law is amended by adding a new section 1114-a
54 to read as follows:

55 § 1114-a. Voluntary public water system consolidation study. 1. There
56 shall be established in the department, by the commissioner, a voluntary

1 public water system consolidation study designed to evaluate the feasi-
2 bility of the joining of public water systems in order to improve water
3 quality. Such study shall include:

4 (a) the feasibility of joining of two or more public water systems to
5 form one water system;

6 (b) the feasibility of the consolidation of one or more public water
7 systems into a larger public water system;

8 (c) the appropriate technical, managerial and financial capacity
9 necessary for consolidation, including state funding mechanisms and
10 incentives that could be utilized;

11 (d) potential public health impacts of consolidation, including abili-
12 ty to meet legally required water quality standards and the impact on
13 monitoring, reporting and enforcement of drinking water standards;

14 (e) appropriate and sufficient guidance from the department necessary
15 for those public water systems interested in consolidation; and

16 (f) recommendations for public water systems interested in voluntary
17 consolidation.

18 2. Such study shall be funded within amounts appropriated. The depart-
19 ment shall prepare and submit a report and supporting materials to the
20 governor, the temporary president of the senate and the speaker of the
21 assembly setting forth the information gathered and recommendations to
22 the legislature by January first of the following year.

23 § 5. This act shall take effect immediately.

24 PART TT

25 Section 1. Section 2405 of the public health law is amended by adding
26 a new subdivision 3 to read as follows:

27 3. The department shall report to the speaker of the assembly and the
28 temporary president of the senate by January first, two thousand nine-
29 teen and July first, two thousand nineteen, and biannually thereafter,
30 on the activities of the program, the impact of the program, as well as
31 the amounts, purposes and awardees by geographical area of any grants
32 provided under this section.

33 § 2. Subdivision 1 of section 4140 of the public health law, as
34 amended by chapter 352 of the laws of 2013, is amended to read as
35 follows:

36 1. The death of each person who has died in this state shall be regis-
37 tered immediately and not later than seventy-two hours after death or
38 the finding of a dead human body, by filing with the registrar of the
39 district in which the death occurred or the body was found a certificate
40 of such death, in a manner and format as prescribed by the commissioner,
41 which shall [~~include~~] **be** through electronic means in accordance with
42 section forty-one hundred forty-eight of this title.

43 § 2-a. Section 4148 of the public health law, as added by chapter 352
44 of the laws of 2013, is amended to read as follows:

45 § 4148. Electronic death registration system. 1. The department is
46 hereby authorized and directed to design, **fully** implement and maintain
47 an electronic death registration system for collecting, storing, record-
48 ing, transmitting, amending, correcting and authenticating information,
49 as necessary and appropriate to complete a death registration, and to
50 generate such documents as determined by the department in relation to a
51 death occurring in this state. As part of the design and **full** implemen-
52 tation of the system established by this section, the department shall
53 consult with all persons authorized to use such system to the extent
54 practicable and feasible. The payment referenced in subdivision five of

1 this section shall be collected for each burial or removal permit issued
2 on or after the effective date of this section from the registered
3 funeral firm represented by the licensed funeral director or undertaker
4 to whom such permit is issued, in the manner specified by the department
5 and shall be used solely for the purpose set forth in subdivision five
6 of this section. Except as specifically provided in this section, the
7 existing general duties of, and remuneration received by, local regist-
8 rars in accepting and filing certificates of death and issuing burial
9 and removal permits pursuant to any statute or regulation shall be main-
10 tained, and not altered or abridged in any way by this section.

11 2. Commencing on the implementation date~~[, the department shall~~
12 ~~require that]~~ all deaths occurring within this state must be registered
13 using the electronic death registration system established in this
14 section. Electronic death registration may be phased in, as determined
15 by the commissioner, for deaths occurring in the state [~~until the elec-~~
16 ~~tronic death registration system is fully implemented in the state]~~
17 prior to the implementation date. As used in this section, "implementa-
18 tion date" means the [~~first]~~ sixtieth day [~~in January in the second~~
19 ~~year]~~ after [~~this]~~ the chapter of the laws of two thousand eighteen that
20 amend this section becomes a law~~[, or as soon thereafter as the commis-~~
21 ~~sioner reasonably determines by regulation is feasible in light of the~~
22 ~~intent of this section]~~. Violations of this section shall be subject to
23 sections twelve and twelve-b of this chapter, provided that subdivision
24 four of section twelve of this chapter shall not apply.

25 3. Commencing on the implementation date, all persons required to
26 register a death or file a certificate of death under this article, and
27 such others as may be authorized by the commissioner, shall have access
28 to the electronic death registration system for the purpose of entering
29 information required to execute, complete and file a certificate of
30 death or to retrieve such information or generate documentation from the
31 electronic death registration system. The confidentiality provisions in
32 section forty-one hundred forty-seven of this title shall apply to
33 information maintained in this system.

34 4. Notwithstanding any provision of law to the contrary, commencing on
35 or after January first, two thousand fifteen~~[, or on such date deter-~~
36 ~~mined by the commissioner pursuant to subdivision two of this section]~~
37 but no later than the implementation date, any requirement of this title
38 for a signature of any person shall be deemed satisfied by the use by
39 such person of digital signature provided such person is authorized in
40 accordance with this section to use the electronic death registration
41 system.

42 5. [~~Licensed]~~ For burial and removal permits, licensed funeral direc-
43 tors and undertakers shall support the establishment and maintenance of
44 the electronic death registration system through a payment, tendered for
45 each burial and removal permit issued to a licensed funeral director or
46 undertaker, in the amount of twenty dollars, provided that such payment
47 shall be considered a cost of operation and the funeral director or
48 undertaker shall not charge any additional fee related to such payment
49 for funeral or other services.

50 § 2-b. Subdivision 3 of section 4171 of the public health law, as
51 amended by chapter 352 of the laws of 2013, is amended to read as
52 follows:

53 3. All certificates, either of birth or death, shall be written legi-
54 bly, in durable black ink, provided, however, that commencing on [~~or~~
55 ~~after]~~ the implementation date under section forty-one hundred forty-
56 eight of this article, death certificates shall be completed in accord-

1 ance with section forty-one hundred forty-eight of this article. No
2 certificate[~~, whether filed in paper form or death certificate filed~~
3 ~~electronically in accordance with section forty-one hundred forty-eight~~
4 ~~of this article,~~] shall be held to be complete and correct that does not
5 supply all of the items of information called for therein, or satisfac-
6 torily account for their omission.

7 § 3. The public health law is amended by adding a new section 206-c to
8 read as follows:

9 § 206-c. Court ordered guardianship demonstration program. 1. Within
10 amounts appropriated therefor, the commissioner shall establish a court
11 ordered guardianship demonstration program in a county with a population
12 of not less than one million three hundred thirty-nine thousand and not
13 more than one million three hundred seventy thousand according to the
14 two thousand ten federal decennial census, which shall facilitate the
15 use of geriatric social workers, and/or other non-attorneys, to serve as
16 guardians appointed by a court, under article eighty-one of the mental
17 hygiene law, for incapacitated adults who lack financial resources and
18 appropriate family supports. The demonstration program shall provide
19 funding for geriatric social workers, or other non-lawyer guardians,
20 when appointed by a court to assist elderly or disabled adults who are
21 deemed incapacitated and are found appropriate for the demonstration
22 program by the court.

23 2. The demonstration program shall, in addition to providing guardian-
24 ship services, study the costs and savings associated with providing
25 such guardianship services through the demonstration program, the indi-
26 vidual's ability to maintain independence in and connection to their
27 community, the cost avoidance to the state medical assistance program by
28 maintaining the individual in the community rather than requiring higher
29 levels of care, any best practices learned as a result of the demon-
30 stration program and other factors which examine the effectiveness of
31 utilizing geriatric social workers or other non-lawyers as guardians. A
32 report detailing the findings of the study and making recommendations
33 for modification, continuation and/or expansion of the program shall be
34 completed within eighteen months of the start of the demonstration
35 program and shall be provided to the governor, the temporary president
36 of the senate and the speaker of assembly.

37 § 4. Section 2006 of the public health law, as added by chapter 657 of
38 the laws of 1997, is amended to read as follows:

39 § 2006. Grants. Subject to amounts expressly appropriated therefor,
40 the commissioner is authorized to award grants to applicants approved by
41 the department for the Alzheimer's Community Assistance Program (ACAP)
42 which is hereby established within the department. Applicants shall be
43 limited to not-for-profit corporations which have as their primary
44 purpose providing family intervention services related to Alzheimer's
45 disease, which are designed to postpone or prevent nursing home place-
46 ments [~~on a statewide basis~~]. The commissioner shall award grants to
47 not-for-profit corporations which have demonstrated a capacity to
48 provide these services within their respective geographic regions and
49 shall endeavor to ensure that these regional grant awards result in
50 services being available on a statewide basis.

51 § 5. Notwithstanding any contrary provision of law, the commissioner
52 of the New York state department of health is hereby authorized and
53 directed to prepare or have prepared a study of and a remedial plan for
54 the high incidence of asthma and related pulmonary disorders in the
55 boroughs of Brooklyn and Manhattan in the city of New York. Such study
56 shall include an analysis of high risk neighborhoods examining dispari-

1 ties in: income, race and ethnicity, public and private housing, proxim-
2 ity to major sources of air pollution, including, but not limited to,
3 highly trafficked roadways and solid waste processing facilities, and an
4 evaluation of the effectiveness of existing medical facilities.

5 § 5-a. The study and remedial plan authorized pursuant to section five
6 of this act shall be completed within twelve months of the effective
7 date of this act.

8 § 6. Notwithstanding any provision of law to the contrary, the depart-
9 ment of financial services, in cooperation with the department of
10 health, shall examine the language of current state insurance laws, and
11 health insurance policies and contracts issued pursuant to such laws, to
12 determine their efficacy in relation to fertility and in vitro fertili-
13 zation coverage benefits. The department of financial services, in its
14 examination, shall analyze how various suggested changes to statute
15 would impact utilization, and the effect they may have on premium rates.
16 The study shall be completed, and a report delivered by June 1, 2018 to
17 the majority leader of the senate, the speaker of the assembly, the
18 chairs of the senate and assembly health and insurance committees, and
19 to the secretary of state for publication in the state register.

20 § 7. The public buildings law is amended by adding a new section 144
21 to read as follows:

22 § 144. Lactation room in public buildings. 1. As used in this section:

23 (a) "covered public building" means a public building of the state of
24 New York as described in section two of this chapter that is open to the
25 public and contains a public restroom; and

26 (b) "lactation room" means a hygienic place, other than a bathroom,
27 that:

28 (1) is shielded from view;

29 (2) is free from intrusion; and

30 (3) contains a chair, a working surface, and, if the public building
31 is otherwise supplied with electricity, an electrical outlet.

32 2. A covered public building shall contain a lactation room that is
33 made available for use by a member of the public to breastfeed or
34 express breast milk.

35 3. A covered public building shall be excluded from the requirement of
36 subdivision two of this section if the public building:

37 (a) does not contain a lactation room for employees who work in the
38 building; and

39 (b) does not have a room that could be repurposed as a lactation room
40 or a space that could be made private, at a reasonable cost; or

41 (c) new construction would be required to create a lactation room in
42 the public building and the cost of such construction is unfeasible.

43 4. Nothing in this section shall be construed to authorize an individ-
44 ual to enter a public building that the individual is not otherwise
45 authorized to enter.

46 § 8. Subsection (i) of section 3216 of the insurance law is amended by
47 adding a new paragraph 34 to read as follows:

48 (34) Every policy that provides coverage for hospital, surgical or
49 medical care shall provide the following coverage for pasteurized donor
50 human milk (PDHM), which may include fortifiers as medically indicated,
51 for inpatient use, for which a licensed medical practitioner has issued
52 an order for an infant who is medically or physically unable to receive
53 maternal breast milk or participate in breast feeding or whose mother is
54 medically or physically unable to produce maternal breast milk at all or
55 in sufficient quantities or participate in breast feeding despite opti-
56 mal lactation support. Such infant shall: (i) have a documented birth

1 weight of less than one thousand five hundred grams; or (ii) have a
2 congenital or acquired condition that places the infant at a high risk
3 for development of necrotizing enterocolitis.

4 § 9. Subsection (1) of section 3221 of the insurance law is amended by
5 adding a new paragraph 20 to read as follows:

6 (20) Every insurer delivering a group or blanket policy or issuing a
7 group or blanket policy for delivery in this state that provides cover-
8 age for hospital, surgical or medical care shall provide the following
9 coverage for pasteurized donor human milk (PDHM), which may include
10 fortifiers as medically indicated, for inpatient use, for which a
11 licensed medical practitioner has issued an order for an infant who is
12 medically or physically unable to receive maternal breast milk or
13 participate in breast feeding or whose mother is medically or physically
14 unable to produce maternal breast milk at all or in sufficient quanti-
15 ties or participate in breast feeding despite optimal lactation support.
16 Such infant shall: (i) have a documented birth weight of less than one
17 thousand five hundred grams; or (ii) have a congenital or acquired
18 condition that places the infant at a high risk for development of
19 necrotizing enterocolitis.

20 § 10. Section 4303 of the insurance law is amended by adding a new
21 subsection (oo) to read as follows:

22 (oo) A medical expense indemnity corporation, a hospital service
23 corporation or a health service corporation that provides coverage for
24 hospital, surgical or medical care shall provide the following coverage
25 for pasteurized donor human milk (PDHM), which may include fortifiers as
26 medically indicated, for inpatient use, for which a licensed medical
27 practitioner has issued an order for an infant who is medically or phys-
28 ically unable to receive maternal breast milk or participate in breast
29 feeding or whose mother is medically or physically unable to produce
30 maternal breast milk at all or in sufficient quantities or participate
31 in breast feeding despite optimal lactation support. Such infant shall:
32 (i) have a documented birth weight of less than one thousand five
33 hundred grams; or (ii) have a congenital or acquired condition that
34 places the infant at a high risk for development of necrotizing entero-
35 colitis.

36 § 11. Subdivision 15 of section 378 of the executive law is renumbered
37 as subdivision 18.

38 § 12. Subdivision 16 of section 378 of the executive law is renumbered
39 subdivision 15 and two new subdivisions 16 and 17 are added to read as
40 follows:

41 16. Standards requiring the installation and maintenance of at least
42 one safe, sanitary, and convenient diaper changing station, deck, table,
43 or similar amenity which shall be available for use by both male and
44 female occupants and which shall comply with section 603.5 (Diaper
45 Changing Tables) of the two thousand nine edition of the publication
46 entitled ICC A117.1, Accessible and Usable Buildings and Facilities,
47 published by the International Code Council, Inc., on at least one floor
48 level containing a public toilet room in all newly constructed buildings
49 in the state that have one or more areas classified as assembly group A
50 occupancies or mercantile group M occupancies and in all existing build-
51 ings in the state that have one or more areas classified as assembly
52 group A occupancies or mercantile group M occupancies and undergo a
53 substantial renovation. The council shall prescribe the type of reno-
54 vation to be deemed to be a substantial renovation for the purposes of
55 this subdivision. The council may exempt historic buildings from the
56 requirements of this subdivision.

1 17. Standards requiring that, in each building that has one or more
2 areas classified as assembly group A occupancies or mercantile group M
3 occupancies and in which at least one diaper changing station, deck,
4 table, or similar amenity is installed, a sign shall be posted in a
5 conspicuous place in each public toilet room indicating the location of
6 the nearest diaper changing station, deck, table, or similar amenity
7 that is available for use by the gender using such public toilet room.
8 The requirements of this subdivision shall apply without regard to
9 whether the diaper changing station, deck, table, or similar amenity was
10 installed voluntarily or pursuant to subdivision sixteen of this section
11 or any other applicable law, statute, rule, or regulation. No such sign
12 shall be required in a public toilet room in which any diaper changing
13 station, deck, table, or similar amenity is located.

14 § 13. The public building law is amended by adding a new section 54 to
15 read as follows:

16 § 54. Restroom accessibility and equipment requirements for public
17 buildings. 1. In addition to all of the requirements of the state build-
18 ing code referenced in section fifty-one of this article, all buildings
19 covered by this article shall be required to include, at a minimum, at
20 least one family restroom, accessible from any point within the building
21 open to the public, which is to be equipped such that a caregiver is
22 able to attend to the sanitary and hygienic needs of any person affected
23 by any combination of physical and/or cognitive disabilities such that
24 they require constant assistance with activities for daily living,
25 including, but are not strictly limited to, an inability to utilize
26 conventional restroom facilities.

27 2. The precise configuration and equipment to be included in such
28 family restroom facilities shall be determined pursuant to rules and
29 regulations promulgated by the department of state codes division, in
30 cooperation with the office for persons with developmental disabilities,
31 and with the input of an independent party, appointed by the governor,
32 who is the parent or legal guardian of a person whose disabilities
33 prevent their use of conventional restroom facilities. The equipment is
34 to include a horizontal flat raised surface area suitable for safely
35 diapering an adult person of at least two hundred fifty pounds weight
36 and equipped with a system to temporarily cover the surface with a sani-
37 tary disposable covering. All such rules and regulations shall be
38 promulgated and implemented within one hundred eighty days of the effec-
39 tive date of this section.

40 § 14. Subdivision 1 of section 2805-i of the public health law, as
41 amended by chapter 504 of the laws of 1994 and paragraph (c) as amended
42 by chapter 39 of the laws of 2012, is amended to read as follows:

43 1. Every hospital providing treatment to alleged victims of a sexual
44 offense shall be responsible for:

45 (a) maintaining sexual offense evidence and the chain of custody as
46 provided in subdivision two of this section[~~];~~

47 (b) contacting a rape crisis or victim assistance organization, if
48 any, providing victim assistance to the geographic area served by that
49 hospital to establish the coordination of non-medical services to sexual
50 offense victims who request such coordination and services[~~];~~

51 (c) offering and making available appropriate HIV post-exposure treat-
52 ment therapies; including a seven day starter pack of HIV post-exposure
53 prophylaxis, in cases where it has been determined, in accordance with
54 guidelines issued by the commissioner, that a significant exposure to
55 HIV has occurred, and informing the victim that payment assistance for
56 such therapies may be available from the office of victim services

1 pursuant to the provisions of article twenty-two of the executive law.
2 With the consent of the victim of a sexual assault, the hospital emer-
3 gency room department shall provide or arrange for an appointment for
4 medical follow-up related to HIV post-exposure prophylaxis and other
5 care as appropriate; and

6 (d) ensuring sexual assault survivors are not billed for sexual
7 assault forensic exams and are notified orally and in writing of the
8 option to decline to provide private health insurance information and
9 have the office of victim services reimburse the hospital for the exam
10 pursuant to subdivision thirteen of section six hundred thirty-one of
11 the executive law.

12 § 15. Subdivision 13 of section 631 of the executive law, as amended
13 by chapter 39 of the laws of 2012, is amended to read as follows:

14 13. Notwithstanding any other provision of law, rule, or regulation to
15 the contrary, when any New York state accredited hospital, accredited
16 sexual assault examiner program, or licensed health care provider
17 furnishes services to any sexual assault survivor, including but not
18 limited to a health care forensic examination in accordance with the sex
19 offense evidence collection protocol and standards established by the
20 department of health, such hospital, sexual assault examiner program, or
21 licensed healthcare provider shall provide such services to the person
22 without charge and shall bill the office directly. The office, in
23 consultation with the department of health, shall define the specific
24 services to be covered by the sexual assault forensic exam reimbursement
25 fee, which must include at a minimum forensic examiner services, hospi-
26 tal or healthcare facility services related to the exam, and related
27 laboratory tests and necessary pharmaceuticals; including but not limit-
28 ed to HIV post-exposure prophylaxis provided by a hospital emergency
29 room at the time of the forensic rape examination pursuant to paragraph
30 (c) of subdivision one of section twenty-eight hundred five-i of the
31 public health law. Follow-up HIV post-exposure prophylaxis costs shall
32 continue to be reimbursed according to established office procedure. The
33 office, in consultation with the department of health, shall also gener-
34 ate the necessary regulations and forms for the direct reimbursement
35 procedure. The rate for reimbursement shall be the amount of itemized
36 charges not exceeding eight hundred dollars, to be reviewed and adjusted
37 annually by the office in consultation with the department of health.
38 The hospital, sexual assault examiner program, or licensed health care
39 provider must accept this fee as payment in full for these specified
40 services. No additional billing of the survivor for said services is
41 permissible. A sexual assault survivor may voluntarily assign any
42 private insurance benefits to which she or he is entitled for the
43 healthcare forensic examination, in which case the hospital or health-
44 care provider may not charge the office; provided, however, in the event
45 the sexual assault survivor assigns any private health insurance bene-
46 fit, such coverage shall not be subject to annual deductibles or coinsu-
47 rance or balance billing by the hospital, sexual assault examiner
48 program or licensed health care provider. A hospital, sexual assault
49 examiner program or licensed health care provider shall, at the time of
50 the initial visit, request assignment of any private health insurance
51 benefits to which the sexual assault survivor is entitled on a form
52 prescribed by the office; provided, however, such sexual assault survi-
53 vor shall be advised orally and in writing that he or she may decline to
54 provide such information regarding private health insurance benefits if
55 he or she believes that the provision of such information would substan-
56 tially interfere with his or her personal privacy or safety and in such

1 event, the sexual assault forensic exam fee shall be paid by the office.
2 Such sexual assault survivor shall also be advised that providing such
3 information may provide additional resources to pay for services to
4 other sexual assault victims. If he or she declines to provide such
5 health insurance information, he or she shall indicate such decision on
6 the form provided by the hospital, sexual assault examiner program or
7 licensed health care provider, which form shall be prescribed by the
8 office.

9 § 16. Subsection (i) of section 3216 of the insurance law is amended
10 by adding a new paragraph 34 to read as follows:

11 (34) Health care forensic examinations performed pursuant to section
12 twenty-eight hundred five-i of the public health law covered under the
13 policy shall not be subject to annual deductibles or coinsurance.

14 § 17. Subsection (l) of section 3221 of the insurance law is amended
15 by adding a new paragraph 20 to read as follows:

16 (20) Health care forensic examinations performed pursuant to section
17 twenty-eight hundred five-i of the public health law covered under the
18 policy shall not be subject to annual deductibles or coinsurance.

19 § 18. Section 4303 of the insurance law is amended by adding a new
20 subsection (rr) to read as follows:

21 (rr) Health care forensic examinations performed pursuant to section
22 twenty-eight hundred five-i of the public health law covered under the
23 contract shall not be subject to annual deductibles or coinsurance.

24 § 19. Subdivision 2 of section 2805-i of the public health law, as
25 amended by chapter 504 of the laws of 1994, is amended to read as
26 follows:

27 2. The sexual offense evidence shall be collected and kept in a locked
28 separate and secure area for not less than thirty days unless: (a) such
29 evidence is not privileged and the police request its surrender before
30 that time, which request shall be complied with; or (b) such evidence is
31 privileged and (i) the alleged sexual offense victim nevertheless gives
32 permission to turn such privileged evidence over to the police before
33 that time, or (ii) the alleged sexual offense victim signs a statement
34 directing the hospital to not collect and keep such privileged evidence,
35 which direction shall be complied with. The sexual offense evidence
36 shall include, but not be limited to, slides, cotton swabs, clothing and
37 other items. Where appropriate such items must be refrigerated and the
38 clothes and swabs must be dried, stored in paper bags and labeled. Each
39 item of evidence shall be marked and logged with a code number corre-
40 sponding to the patient's medical record. The alleged sexual offense
41 [victim] survivor shall be notified [~~that after thirty days, the refrig-~~
42 ~~erated~~] ten days prior to the transfer of sexual offense evidence, that
43 the evidence will be [~~discarded in compliance with state and local~~
44 ~~health codes and the alleged sexual offense victim's clothes will be~~
45 ~~returned to the alleged sexual offense victim upon request~~] transferred
46 to a centralized location to be maintained for at least twenty years
47 pursuant to section eight hundred thirty-eight-a of the executive law.
48 The survivor shall be given the option of providing contact information
49 should he or she wish to receive notice of the planned destruction of
50 the evidence after the expiration of the twenty year period.

51 § 20. Subdivision 6 of section 2805-i of the public health law is
52 renumbered subdivision 7 and a new subdivision 6 is added to read as
53 follows:

54 6. (a) The department, in conjunction with the division of criminal
55 justice services, the department of law and the office of victim
56 services, in consultation with hospitals, other health care providers

1 and victim advocacy organizations, shall establish a sexual assault
2 survivor bill of rights for purposes of informing sexual offense victims
3 of their rights under state law. Such bill of rights shall be in plain,
4 easy to understand language, and include, at a minimum:

5 (1) the right of the victim to consult with a local rape crisis or
6 victim assistance organization, to have a representative of such organ-
7 ization accompany the victim through the sexual offense examination
8 under paragraph (b) of subdivision one and subdivision three of this
9 section, and to have such an organization be summoned by the medical
10 facility, police agency or prosecutorial agency before the commencement
11 of the physical examination or interview, unless no rape crisis or
12 victim assistance organization can be summoned;

13 (2) the right of the victim to be offered and have made available at
14 no cost appropriate post-exposure treatment therapies, including a seven
15 day starter pack of HIV post-exposure prophylaxis under paragraph (c) of
16 subdivision one of this section and subdivision thirteen of section six
17 hundred thirty-one of the executive law;

18 (3) the right to a health care forensic examination at no cost and the
19 right to be notified of the option to decline to provide private health
20 insurance information and have the office of victim services reimburse
21 the hospital for the examination under subdivision thirteen of section
22 six hundred thirty-one of the executive law;

23 (4) the right to receive information relating to and the provision of
24 emergency contraception under section twenty-eight hundred five-p of
25 this article;

26 (5) the right to be offered contact information for the police agency
27 or prosecutorial agency with jurisdiction over the sexual offense and be
28 informed, upon request of the victim, with notice of the date and
29 location upon which their sexual offense evidence kit was assessed for
30 combined DNA Index System (CODIS) eligibility and analyzed, whether a
31 CODIS eligible profile was developed and/or a DNA match was identified;

32 (6) the right to be notified prior to the transfer of an unreported
33 sexual offense evidence kit from the hospital to a centralized storage
34 facility, the right to have an unreported sexual offense evidence kit
35 maintained at a centralized storage facility for at least twenty years
36 and the right to be notified by such facility in a manner of communi-
37 cation designated by the victim at least thirty days in advance of
38 planned destruction of the sexual offense evidence kit pursuant to
39 subdivision four of section eight hundred thirty-eight-a of the execu-
40 tive law; and

41 (7) the right to be informed when there is any change in the status of
42 his or her case or reopening of the case.

43 (b) Before a medical facility commences a physical examination of a
44 sexual offense victim, or a police agency or prosecutorial agency
45 commences an interview of a sexual offense victim, the health care
46 professional conducting the exam, police agency or prosecutorial agency
47 shall inform the victim of his or her rights and provide a copy of the
48 sexual assault survivor bill of rights.

49 § 21. Section 838-a of the executive law, as amended by chapter 6 of
50 the laws of 2017, is amended to read as follows:

51 § 838-a. Maintenance of sexual offense evidence kits. 1. The following
52 requirements shall apply to all sexual offense evidence kits reported,
53 surrendered to or collected by, at the request of, or with cooperation
54 of a police agency or prosecutorial agency, with the consent of the
55 victim:

1 (a) Each such police agency and prosecutorial agency shall submit any
2 sexual offense evidence kits in its custody or control to an appropriate
3 forensic laboratory within ten days of receipt.

4 (b) Each forensic laboratory receiving sexual offense evidence kits
5 after the effective date of this section shall assess case specific
6 information for Combined DNA Index System (CODIS) eligibility and, if
7 eligible, analyze the kits and attempt to develop CODIS eligible
8 profiles of any potential perpetrators from the evidence submitted. The
9 forensic lab shall report the results to the submitting agency and
10 appropriate prosecutorial entity within ninety days after receipt of a
11 kit.

12 (c) Each police agency and prosecutorial agency that has one or more
13 sexual offense evidence kit in its custody or control shall, within
14 ninety days after the effective date of this paragraph, inventory such
15 kits and report the total number of such kits to the division and to the
16 forensic laboratory where such kits will be submitted pursuant to para-
17 graph (a) of this subdivision. The division shall provide such invento-
18 ries to the senate and assembly leaders by March first, two thousand
19 seventeen. Every police and prosecutorial agency shall update this
20 report each month thereafter until paragraph (a) of this subdivision has
21 become effective.

22 (d) Each police agency and prosecutorial agency that, prior to the
23 effective date of paragraph (a) of this subdivision, has one or more
24 sexual offense evidence kits in its custody or control shall, within
25 thirty days after the effective date of this section, submit all
26 untested kits in its possession or control to an appropriate forensic
27 laboratory.

28 (e) Each forensic laboratory, within one hundred twenty days after
29 receiving each sexual offense evidence kit pursuant to paragraph (d) of
30 this subdivision shall assess case specific information for CODIS eligi-
31 bility and, if eligible, analyze the kits and attempt to develop CODIS
32 eligible profiles for any potential perpetrators and shall, within nine-
33 ty days of such assessment, report the results to the submitting agency
34 and the appropriate prosecutorial entity.

35 (f) The failure of any such police agency, prosecutorial agency or
36 forensic laboratory to comply with [~~a time limit specified in~~] this
37 section or section eight hundred thirty-eight-b of this article shall
38 not, in and of itself, constitute a basis for a motion to suppress
39 evidence in accordance with section 710.20 of the criminal procedure
40 law.

41 2. (a) Each forensic laboratory in the state shall report to the divi-
42 sion, on a quarterly basis, in writing, on (i) the number of reported
43 sexual offense evidence kits it received under subdivision one of this
44 section, (ii) the number of such kits processed for the purpose of
45 developing Combined DNA Index System (CODIS) eligible profiles of any
46 potential perpetrators, and (iii) the number of reported kits not proc-
47 essed for testing, including, the reason such kits were ineligible for
48 processing.

49 (b) Each police agency and prosecutorial agency shall report to the
50 division on a quarterly basis, in writing, on (i) the number of all the
51 sexual offense evidence kits it received, (ii) the number of such kits
52 it submitted to a forensic laboratory for processing, (iii) the number
53 of kits in its custody or control that have not been processed for test-
54 ing, and (iv) the length of time between receipt of any such sexual
55 offense evidence kit and the submission of any such kit to the forensic
56 laboratory.

1 (c) The division shall provide to the senate and assembly leaders such
2 quarterly reports received from the forensic labs and police and prose-
3 cutorial agencies pursuant to paragraphs (a) and (b) of this subdivision
4 by January first, two thousand eighteen and annually thereafter.

5 3. Each police agency and prosecutorial agency within this state shall
6 adopt policies and procedures concerning contact with the victims and
7 the provision of information to victims, upon request, concerning their
8 sexual offense evidence kits. The policies and procedures shall be
9 survivor-focused, meaning systematically focused on the needs and
10 concerns of a victim to ensure the compassionate and sensitive delivery
11 of services in a nonjudgemental manner, and shall include, at a minimum,
12 a requirement that:

13 (a) the police agency and prosecutorial agency designate at least one
14 person, who is trained in trauma and victim response through a program
15 meeting minimum standards established by the division of criminal
16 justice services following national guidelines from the Substance Abuse
17 and Mental Health Services Administration, within its agency to receive
18 all inquiries concerning sexual offense evidence kits from victims; and

19 (b) at the time that a sexual offense evidence kit is collected, a
20 victim shall be provided with contact information, including a phone
21 number and e-mail address, for the individual designated by subdivision
22 two of this section at the police agency and prosecutorial agency with
23 jurisdiction over the sexual assault offense.

24 4. Unreported sexual offense evidence kits, meaning sexual offense
25 evidence kits collected in instances in which a victim has not consented
26 to report to law enforcement, shall be maintained for at least twenty
27 years in a secure, centralized location designated by the division of
28 criminal justice services, in conjunction with the department of health,
29 the department of law and the office of victim services, in consultation
30 with hospitals, other health care providers and victim advocacy organ-
31 izations, taking into consideration federal guidance pertaining to main-
32 tenance of sexual offense evidence kits. Sexual offense evidence kits
33 maintained for twenty years or more shall only be destroyed upon
34 providing at least thirty days notice to the victim, in the form of
35 communication designated by the victim, of such planned destruction.

36 5. The division shall undertake actions designed to ensure that all
37 police agencies and prosecutorial agencies in the state and all forensic
38 laboratories are educated and aware of the provisions of this section.

39 § 22. The executive law is amended by adding a new section 838-b to
40 read as follows:

41 § 838-b. Victim's right to notice. Each police agency and prosecutori-
42 al agency with jurisdiction over the sexual assault offense shall, upon
43 request of the victim who has consented to report to law enforcement,
44 provide the sexual offense victim with notice of the date and location
45 upon which his or her sexual offense evidence kit was assessed for CODIS
46 eligibility and analyzed, and whether a CODIS eligible profile was
47 developed and/or a DNA match was identified. The police or prosecutorial
48 agency in possession of the reported sexual assault offense evidence kit
49 shall notify the sexual assault victim at least thirty days in advance
50 of any planned destruction of their sexual offense evidence kit in a
51 manner of communication designated by the victim, unless such informa-
52 tion would impede an ongoing investigation.

53 § 23. The executive law is amended by adding a new section 838-c to
54 read as follows:

55 § 838-c. Study and report on establishing a statewide sexual offense
56 evidence kit tracking system. The division shall conduct a study and

1 develop a plan, in consultation with stakeholders including hospitals,
2 other health care providers, law enforcement agencies, evidence manag-
3 ers, forensic laboratories, prosecutors, and victim advocacy organiza-
4 tions, to establish a statewide sexual offense evidence kit tracking
5 system, to streamline law enforcement tracking, create greater transpar-
6 ency and accountability in ensuring compliance with this article and to
7 provide a way for survivors to check the status of their sexual offense
8 evidence kit throughout the entire process, from collection to
9 conviction. The tracking system shall be secure and accessible only by
10 authorized entities or individuals such as hospitals, law enforcement
11 agencies, evidence managers, prosecutors, and victims and designed to
12 provide secure electronic access through which a victim can anonymously
13 track the status of their sexual assault evidence kit. The commissioner
14 shall submit a report of the division's findings and recommendations to
15 the governor, the temporary president of the senate and the speaker of
16 the assembly on or before May first, two thousand nineteen.

17 § 24. The public health law is amended by adding a new section 2805-ii
18 to read as follows:

19 § 2805-ii. Sexual assault forensic examination telemedicine pilot
20 program. 1. SAFE pilot establishment. The commissioner shall establish a
21 sexual assault forensic examination (SAFE) telemedicine pilot program to
22 assist in providing expert, comprehensive, compassionate care to adult
23 and adolescent patients and training to support providers in health care
24 facilities that do not have a designated sexual assault forensic exam-
25 ination program. The commissioner shall consult with the division of
26 criminal justice services, where appropriate, in the establishment of
27 such pilot program. Such SAFE telemedicine pilot shall:

28 (a) support patient care and provide health care provider instruction
29 and support in a timely manner on a twenty-four hours a day, seven days
30 a week basis to any victim of sexual assault or abuse who presents at a
31 facility participating in such pilot for services associated with sexual
32 assault or abuse, and consents to such services;

33 (b) have professionals specially trained, experienced and certified as
34 sexual assault forensic examiners to support emergency room staff in
35 caring for victims of sexual assault or abuse and appropriately securing
36 forensic evidence through live audio video technology;

37 (c) offer to provide support through telemedicine to no less than
38 forty-six hospitals upon the effective date of this section, including
39 all critical access hospitals and many hospitals in rural and/or under-
40 served areas of the state;

41 (d) ensure the medical records of both providers, where applicable
42 comply with all applicable laws and regulation relating to evidence
43 preservation; and

44 (e) meet any other requirements identified by the commissioner.

45 2. SAFE pilot evaluation. The commissioner shall evaluate, or contract
46 with an entity to evaluate, the effectiveness of such SAFE pilot program
47 and prepare a report on the process of care, the outcomes delivered and
48 the outcomes received. Such report shall also evaluate how such pilot
49 can successfully transition to a self-sustaining program where non-SAFE
50 hospitals could subscribe to a SAFE telemedicine program. Such report
51 shall be delivered to the governor, the temporary president of the
52 senate and the speaker of the assembly by December first, two thousand
53 twenty.

54 § 25. This act shall take effect immediately; provided, that:

1 (a) section four of this act shall apply to any grants made pursuant
2 to the Alzheimer's Community Assistance Program (ACAP) on or after Janu-
3 ary 1, 2018;

4 (b) section five of this act shall take effect on the one hundred
5 twentieth day after it shall have become a law and the results of the
6 study and the remedial plan authorized by section five of this act shall
7 be provided to the governor and the legislature no later than eighteen
8 months from the beginning of such study;

9 (c) section seven of this act shall take effect one year after it
10 shall have become a law;

11 (d) section eleven of this act shall take effect January 1, 2019;

12 (e) sections fourteen, fifteen, sixteen, seventeen and eighteen of
13 this act shall apply to all policies and contracts issued, renewed,
14 modified, altered or amended on or after the first of January next
15 succeeding such effective date;

16 (f) the division of criminal justice services shall designate and
17 establish the secure centralized location required by subdivision 4 of
18 section 838-a of the executive law, as added by section twenty-one of
19 this act, within 180 days of the effective date of this act; and
20 provided, further, that notwithstanding the provisions of section 2805-i
21 of the public health law to the contrary, every hospital shall retain
22 custody of unreported sexual offense evidence kits until such time as
23 the centralized storage facility is established and designated pursuant
24 to subdivision 4 of section 838-a of the executive law;

25 (g) such sexual assault forensic examination telemedicine pilot
26 program, as added by section twenty-four of this act, shall be estab-
27 lished by the commissioner of health no later than the one hundred twen-
28 tieth day after it shall have become a law; and

29 (h) effective immediately, the addition, amendment and/or repeal of
30 any rule or regulation necessary for the implementation of this act on
31 its effective date are authorized to be made and completed on or before
32 such effective date.

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

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