STATE OF NEW YORK

S. 7507--C A. 9507--C

SENATE - ASSEMBLY

January 18, 2018

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

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

AN ACT to amend the public health law, in relation to rate methodology for capital expenditures to hospitals and residential nursing facilities; to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs; to direct a review of the feasibility of a burn center in Kings county; and in relation to rates of reimbursement for certain residential health care facilities (Part A); to amend the public health law, in relation to payments to residential health care facilities; to amend the social services law and the public health law, in relation to assisted living program providers licensed in the state; to amend the social services law, in relation to payments for certain medical assistance provided to eligible persons participating in the New York traumatic brain injury waiver program; to amend the public health law, in relation to limitations on licensed home care service agency contracts and registration of licensed home care services agencies; to amend the social services law, in relation to advertising by fiscal intermediaries; and in relation to medicaid reimbursement rates for hospice providers (Part B); to amend the social services law and the public health law, in relation to health homes and penalties for managed care providers (Part C); to amend the

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

LBD12671-05-8

social services law and the public health law, in relation to drug coverage, updating the professional dispensing fee and copayments; and in relation to the Medicaid drug cap (Part D); intentionally omitted (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); intentionally omitted (Part I); to amend the state finance law, in relation to the false claims act (Part J); to amend the public health law and the social services law in relation to home care services and direct care costs; and to amend chapter 59 of the laws of 2011 amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the medicaid global cap (Part K); intentionally omitted (Part L); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part M); 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); intentionally omitted (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); intentionally omitted (Part R); intentionally omitted (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the public health law, in relation to the definitions of telehealth, and to amend the social services law, in relation to payment for telehealh services and remote patient monitoring and to repeal certain provisions of the public health law relating thereto (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 relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof, in relation to the effectiveness thereof; to amend chapter 906 of the laws of 1984, amending the social services law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, in relation to the effectiveness thereof; 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; to amend the social services law, in relation to agreements with pharmaceutical manufacturers; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; and to amend the public health law, in relation to participation and membership in a demonstration period (Part T); to amend part NN of chapter 58 of the laws of 2015, amending the mental hygiene law relating to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs, in relation to the effectiveness thereof (Part U); to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto (Part V); intentionally omitted (Part W); to amend chapter 111 of the laws of 2010, amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part X); to amend the education law, in relation to persons practicing in certain licensed programs or services who are exempt from practice requirements of professionals licensed by the department of education; to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to extending the expiration of certain provisions thereof; to amend chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, in relation to extending the expiration of certain provisions; and to amend chapter 130 of the laws of 2010, amending the education law and other laws relating to the registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof (Part Y); to amend the social services law, in relation to adding demonstration waivers to waivers allowable for home and community-based services; to amend the social services law, in relation to adding successor federal waivers to waivers granted under subsection (c) of section 1915 of the federal social security law, in relation to nursing facility services; to amend the social services law, in relation to waivers for high quality and integrated care; to amend the mental hygiene law, in relation to adding new and successor federal waivers to waivers in relation to home and community-based services; to amend part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to expansion of comprehensive health services plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to extending provisions thereof; to amend the public health law, in relation to managed long term care plans, health and long term care services and developmental disability individual support and care coordination organizations; to amend chapter 165 of

the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to extending the provisions thereof; to amend the mental hygiene law, in relation to reimbursement rates; and to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to extending the provisions thereof (Part Z); to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to the inclusion and development of certain cost of living adjustments (Part AA); to amend the public health law, in relation to expanding the list of controlled substances (Part BB); to amend the public health law, in relation to inquiries or complaints of professional misconduct (Part CC); to amend the education law, in relation to authorizing a licensed pharmacist to administer influenza vaccine to children between two and eighteen years of age pursuant to a non-patient specific regimen; to amend the public health law, in relation to reporting requirements for vaccines administered by pharmacists to individuals less than nineteen years of age; to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, in relation to making the provisions permanent; to amend chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, in relation to making certain provisions permanent; and to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to making certain provisions permanent (Part DD); to amend the social services law, in relation to insurance payments for independent practitioner services for individuals with developmental disabilities (Part EE); to amend the mental hygiene law, in relation to establishing the office of the independent substance use disorder and mental health ombudsman (Part FF); to amend the mental hygiene law, in relation to a certified peer recovery advocate services program (Part GG); to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams; and to repeal certain provisions of the public health law relating thereto (Part HH); to amend the mental hygiene law, in relation to state-operated individualized residential alternatives; and to amend part Q of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the closure or transfer of a state-operated individualized residential alternative, in relation to the effectiveness thereof (Part II); to amend the mental hygiene law, the public health law and the executive law, in relation to establishing a training program for first responders for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities (Part JJ); to amend the state finance law, in relation to requiring bids submitted to the state or any agency or department of the state to contain a certification concerning sexual harassment (Subpart A); to amend the civil practice law and rules, in relation to prohibiting mandatory arbitration clauses (Subpart B); to amend the public officers law, in relation to reimbursement of funds paid by state agencies, state entities and public entities for the payment of awards adjudicated in sexual harassment claims (Subpart C); to amend the

general obligations law and the civil practice law and rules, in relation to nondisclosure agreements (Subpart D); to amend the labor law, in relation to the establishment of a model policy regarding the prevention of sexual harassment and a model training program to prevent sexual harassment in the workplace (Subpart E); and to amend the executive law, in relation to sexual harassment relating to non-employees (Subpart F) (Part KK); to amend the public health law, in relation to authorizing a voluntary public water system consolidation study (Part LL); to amend the public health law, in relation to pharmacy audits by pharmacy benefit managers; to amend the public health law, in relation to contracts between pharmacy benefit managers and pharmacies; to amend the insurance law, in relation to outpatient treatment; to amend the public health law, in relation to establishing the children and recovering mothers program and a workgroup to study and evaluate barriers and challenges in identifying and treating expectant mothers, newborns and new parents with a substance use disorder; to amend the public health law, in relation to screening students for lead when enrolling in child care, pre-school or kindergarten; to amend the public health law, in relation to the lead service line replacement grant program; to direct the New York state department of health to conduct a study of the high burden of asthma in the boroughs of Brooklyn and Manhattan in the city of New York; and to amend the insurance law, in relation to providing coverage for pasteurized donor human milk (PDHM) (Part MM); and to amend the public health law and the state finance law, in relation to enacting the opioid stewardship act; and providing for the repeal of such provisions upon expiration thereof (Part NN)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2018-2019 state fiscal year. Each component is wholly contained within a Part identified as Parts A through NN. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Intentionally omitted.

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

5-d. (a) Notwithstanding any inconsistent provision of this section, section twenty-eight hundred seven-w of this article or any other contrary provision of law, and subject to the availability of federal financial participation, for periods on and after January first, two thousand thirteen, through [~~December~~] **March** thirty-first, two thousand [~~eighteen~~] **twenty**, all funds available for distribution pursuant to this

section, except for funds distributed pursuant to subparagraph (v) of paragraph (b) of subdivision five-b of this section, and all funds available for distribution pursuant to section twenty-eight hundred seven-w of this article, shall be reserved and set aside and distributed in accordance with the provisions of this subdivision.

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

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

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

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

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

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

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

(C) No facility shall experience a reduction in indigent care pool payments pursuant to this subdivision that: for the calendar year beginning January first, two thousand thirteen, is greater than two and one-half percent; for the calendar year beginning January first, two thousand fourteen, is greater than five percent; and, for the calendar year beginning on January first, two thousand fifteen[~~,~~]**;** is greater than seven and one-half percent, and for the calendar year beginning on January first, two thousand sixteen, is greater than ten percent; and for the calendar year beginning on January first, two thousand seventeen, is greater than twelve and one-half percent; and for the calendar year beginning on January first, two thousand eighteen, is greater than fifteen percent**; and for the calendar year beginning on January first, two thousand nineteen, is greater than seventeen and one-half percent**.

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

(c) The commissioner shall annually report to the governor and the legislature on the distribution of funds under this subdivision including, but not limited to:

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

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

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

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

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

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

§ 6. The commissioner of health is directed to conduct a study to review the feasibility of creating a burn center in Kings County.

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

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

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

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

(g) Notwithstanding any other provision of law or regulation to the contrary, any residential health care facility established pursuant to this article located in a county with a population of more than seven-

ty-two thousand and less then seventy-five thousand persons based on the two thousand ten federal census, and operating between one hundred ten and one hundred thirty beds, being reimbursed by the department on a fee-for-services basis, shall be reimbursed at a rate of no less than one hundred seventeen percent of the fee-for-service rate of reimbursement calculated pursuant to this section for that facility for inpatient services provided on or after March first, two thousand eighteen.

§ 9. This act shall take effect immediately; provided, however, that the amendments to section 4403-f of the public health law made by section seven of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART B

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

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

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

(k) (i) Existing assisted living program providers may apply to the department of health for approval to add up to nine additional assisted living program beds that do not require major renovation or construction. Eligible applicants are those that agree to dedicate such beds to serve only individuals receiving medical assistance, are in good standing with the department of health, and are in compliance with appropriate state and local requirements as determined by the department of health.

(ii) Existing assisted living program providers licensed on or before April first, two thousand eighteen may submit applications under this paragraph beginning no later than June thirtieth, two thousand eighteen and until a deadline to be determined by the department of health. Existing assisted living program providers licensed on or before April first, two thousand twenty may submit such applications beginning no later than June thirtieth, two thousand twenty and until a deadline to be determined by the department of health.

(iii) The number of additional assisted living program beds approved under this paragraph shall be based on the total number of previously awarded beds either withdrawn by applicants or denied by the department of health. The commissioner of health shall utilize an expedited review process allowing certification of the additional beds within ninety days of such department's receipt of a satisfactory application.

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

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

(A) Dedicate such beds to serve only individuals receiving medical assistance;

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

(C) Enter into an agreement with an existing managed care entity.

(iii) The commissioner of health is authorized to award any assisted living program beds for which a solicitation is made under subparagraph (i) of this paragraph, but which are not awarded, to applicants that meet all applicable criteria pursuant to a solicitation made under subparagraph (ii) of this paragraph.

(m) Beginning April first, two thousand twenty-three, additional assisted living program beds shall be approved on a case by case basis whenever the commissioner of health is satisfied that public need exists at the time and place and under circumstances proposed by the applicant.

(i) The consideration of public need may take into account factors such as, but not limited to, regional occupancy rates for adult care facilities and assisted living program occupancy rates and the extent to which the project will serve individuals receiving medical assistance.

(ii) Existing assisted living program providers may apply for approval to add up to nine additional assisted living program beds that do not require major renovation or construction under an expedited review process. The expedited review process is available to applicants that are in good standing with the department of health, and are in compliance with appropriate state and local requirements as determined by the department of health. The expedited review process shall allow certification of the additional beds for which the commissioner of health is satisfied that public need exists within ninety days of such department's receipt of a satisfactory application.

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

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

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

under the medical assistance program or pursuant to title XVIII of the federal social security act. In addition, the commissioner is authorized to submit the appropriate waivers, including but not limited to those authorized pursuant to sections eleven hundred fifteen and nineteen hundred fifteen of the federal social security act or successor provisions, and any other waivers necessary to require on or after April first, two thousand twelve, medical assistance recipients who are twenty-one years of age or older and who require community-based long term care services, as specified by the commissioner, for **a continuous period of** more than one hundred and twenty days, to receive such services through an available plan certified pursuant to this section or other program model that meets guidelines specified by the commissioner that support coordination and integration of services. Such guidelines shall address the requirements of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) of subdivision three of this section as well as payment methods that ensure provider accountability for cost effective quality outcomes. Such other program models may include long term home health care programs that comply with such guidelines. Copies of such original waiver applications and amendments thereto shall be provided to the chairs of the senate finance committee, the assembly ways and means committee and the senate and assembly health committees simultaneously with their submission to the federal government**.**

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

(vii) If another long term care plan certified under this section is available, medical assistance recipients required to enroll in such plans pursuant to this section, including recipients who have been assigned to a provider by the commissioner, may change plans without cause within ninety days of either notification of enrollment or the effective date of enrollment into a plan, whichever is later, by submitting a request to the entity designated by the department in a format to be determined by the department. In accordance with federal statutes and regulations, after such ninety-day period, the department may prohibit a recipient from changing plans more frequently than once every twelve months, except for good cause. Good cause may include poor quality of care, lack of access to covered services, lack of access to providers experienced in dealing with the enrollee's care needs, or as otherwise determined by the commissioner.

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

(11) a person who is eligible for medical assistance pursuant to paragraph (b) of subdivision four of section three hundred sixty-six of the social services law; [~~**and**~~]

(12) Native Americans**; and**

(13) a person who is permanently placed in a nursing home for a consecutive period of three months or more. In implementing this provision, the department shall continue to support service delivery and outcomes that result in community living for enrollees.

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

11-b. In cases of a managed long term care plan merger, acquisition, or other similar arrangement approved by the department, any receiving

plan that is a party to the arrangement shall submit a report to the department within twelve months of the effective date of the transaction. Such reports shall be in a form and format to be determined by the department and shall include, but not be limited to, information about the enrollees transferred and enrollee service authorization data before and after transfer. The department shall make a summary of the report available to the public.

§ 7. Intentionally omitted.

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

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

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

§ 9-a. Subdivision 7 of section 4403-f of the public health law is amended by adding a new paragraph (j) to read as follows:

(j) Limitations on licensed home care service agency contracts. (i) The commissioner may establish methodologies to limit the number of licensed home care services agencies licensed pursuant to article thirty-six of the public health law with which managed long term care plans may enter into contracts, provided that such limitations are consistent with the specifications set forth in this paragraph.

(ii) Managed long term care plans operating in the city of New York and/or the counties of Nassau, Suffolk, and Westchester may enter into contracts with licensed home care services agencies in such region in a maximum number calculated based upon the following methodology:

(A) As of October first, two thousand eighteen, one contract per seventy-five members enrolled in the plan within such region; and

(B) As of October first, two thousand nineteen, one contract per one hundred members enrolled in the plan within such region.

(iii) Managed long term care plans operating in counties other than those in the city of New York and the counties of Nassau, Suffolk, and Westchester may enter into contracts with licensed home care services agencies in such region in a maximum number calculated based upon the following methodology:

(A) As of October first, two thousand eighteen, one contract per forty-five members enrolled in the plan within such region.

(B) As of October first, two thousand nineteen, one contract per sixty members enrolled in the plan within such region.

(iv) Notwithstanding subparagraphs (ii) and (iii) of this paragraph, a managed long term care plan shall not enter into less than the number of contracts with licensed home care services agencies in each county in which the plan operates as is necessary to remain consistent with network adequacy standards, as determined by the department in accordance with federal regulations.

(v) When calculating the number of additional contracts that a managed long term care plan may enter using the methodologies established pursuant to this paragraph, any fractional result shall be rounded down.

(vi) The commissioner may increase the number of licensed home care services agencies with which a managed long term care plan may contract, on a county by county basis, if the commissioner determines that such increase is necessary to: ensure adequate access to services in the geographic area including, but not limited to, special needs services and services that are culturally and linguistically appropriate; or to avoid disruption in services in the geographic area.

(vii) Any licensed home care services agency that ceases operation as a result of this paragraph shall conform with all applicable requirements, including but not limited to demonstrating to the department's satisfaction continuity of care for individuals receiving services from the agency.

(viii) The commissioner may require managed long term care plans to provide evidence of compliance with this paragraph, on an annual basis.

(ix) In implementing the provisions of this paragraph, the commissioner shall, to the extent practicable, consider and select methodologies that seek to maximize continuity of care and minimize disruption to the provider labor workforce, and shall, to the extent practicable and consistent with the ratios set forth herein, continue to support contracts between managed long term care plans and licensed home care services agencies that are based on a commitment to quality and value.

(x) This subparagraph applies where implementation of the limits on contracts with licensed home care service agencies of this paragraph (i) would otherwise require an enrollee's care to be transferred from the enrollee's current licensed home care service agency to another licensed care service agency, and (ii) the enrollee (or the enrollee's authorized representative) wants the enrollee to continue to be cared for by one or more employees of the current licensed home care service agency, and that continuation would otherwise be provided. In such a case: the enrollee's managed long term care plan may contract with the enrollee's current licensed home care service agency for the purpose of continuing the enrollee's care by such employee or employees, and the contract shall not count towards the limits on contracts under this paragraph for a period of three months.

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

4. The public health and health planning council shall not approve an application for licensure unless it is satisfied as to: (a) the public need for the existence of the licensed home health care service agency at the time and place and under the circumstances proposed; (b) the character, competence and standing in the community of the applicant's

incorporators, directors, sponsors, stockholders or operators; (c) the financial resources of the proposed licensed home health care service agency and its sources of financial revenues; and (d) such other matters as it shall deem pertinent.

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

§ 9-c. Subdivision 2 of section 3605-a of the public health law, as added by chapter 959 of the laws of 1984, is amended to read as follows:

2. No such license shall be revoked, suspended, limited, annulled or denied without a hearing. However, a license may be temporarily suspended or limited without a hearing for a period not in excess of thirty days upon written notice to the agency following a finding by the department that the public health or safety is in imminent danger. Notwithstanding the provisions of this section, no licensed home care services agency shall be permitted to operate unless it has registered with the department pursuant to section thirty-six hundred five-b of this article.

§ 9-d. The public health law is amended by adding a new section 3605-b to read as follows:

§ 3605-b. Registration of licensed home care services agencies. 1. (a) Notwithstanding any provision of law to the contrary, no licensed home care services agency (LHCSA) licensed pursuant to section thirty-six hundred five of this article shall be operated, provide nursing services, home health aide services, or personal care services, or receive reimbursement from any source for the provision of such services during any period of time on or after January first, two thousand nineteen, unless it has registered with the commissioner in a manner prescribed by the department.

(b) A LHCSA that fails to submit a complete and accurate set of all required registration materials by the deadline established by the commissioner shall be required to pay a fee of five hundred dollars for each month or part thereof that the LHCSA is in default. A LHCSA that failed to register in the prior year by the deadline of the current year shall not be permitted to register for the upcoming registration period unless it submits any unpaid late fees.

(c) The department shall post on its public website a list of all LHCSAs, which shall indicate the current registration status of each LHCSA.

(d) The department shall institute proceedings to revoke the license of any LHCSA that fails to register for two annual registration periods, whether or not such periods are consecutive. The department shall have the discretion to pursue revocation of the license of a LHCSA on grounds that it evidences a pattern of late registration over the course of multiple years.

§ 9-e. Effective April 1, 2018, the commissioner of health shall place a moratorium on the processing and approval of applications seeking licensure of a licensed home care services agency pursuant to section 3605 of the public health law that have not received establishment approval or contingent establishment approval by the public health and health planning council, except for: (a) an application seeking licensure of a licensed home care services agency that is submitted with an application for approval as an assisted living program authorized pursuant to section 461-l of the social services law; (b) an application seeking approval to transfer ownership for an existing licensed home care services agency that has been licensed and operating for a minimum of five years for the purpose of consolidating ownership of two or more

licensed home care services agencies; and (c) an application seeking licensure of a home care services agency where the applicant demonstrates to the satisfaction of the commissioner of health that submission of the application to the public health and health planning council for consideration would be appropriate on grounds that the application addresses a serious concern such as a lack of access to home care services in the geographic area or a lack of adequate and appropriate care, language and cultural competence, or special needs services. Such moratorium shall expire on March 31, 2020. In implementing the provisions of this section, the commissioner shall, to the extent practicable, review and, where appropriate, prioritize presentation to the public health and health planning council of complete applications under paragraph (b) of this section where the applicants demonstrate, to the satisfaction of the commissioner, that the proposed change in ownership is consistent with the goals of paragraph (j) of subdivision 7 of section 4403-f of the public health law.

§ 9-f. Section 365-f of the social services law is amended by adding a new subdivision 4-c to read as follows:

4-c. Advertising by fiscal intermediaries. (a) A fiscal intermediary shall not publish any advertisement that is false or misleading. For purposes of this subdivision, an advertisement is any material produced in any medium that can reasonably be interpreted as intended to market the fiscal intermediary's services to medical assistance recipients.

(b) Fiscal intermediaries shall submit all advertisements to the department prior to dissemination. Fiscal intermediaries shall not disseminate any advertisement until it has been approved by the department. The department shall render a decision on such submissions within thirty days.

(c) Upon a fiscal intermediary's receipt of notification by the commissioner that the fiscal intermediary has disseminated a false or misleading advertisement, or that the fiscal intermediary disseminated an advertisement without the department's approval, the fiscal intermediary shall have thirty days to cease disseminating or remove such advertisement.

(d) Upon the commissioner's determination that a fiscal intermediary has disseminated two advertisements that are either false or misleading or that were not approved by the department, such entity shall be prohibited from providing fiscal intermediary services and any authorization granted shall be immediately revoked, suspended, limited or annulled pursuant to subdivision four-b of this section. The department shall maintain a list of such entities and shall make such list available to contracting entities listed in subparagraph (i) of paragraph (a) of subdivision four-a of this section.

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

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

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

5. The commissioner shall establish a methodology as of July first, two thousand eighteen subject to federal financial participation that

shall ensure a prospective ten-percent increase in the medicaid reimbursement rates for hospice providers, relative to the reimbursement rate, as of March thirty-first, two thousand eighteen, for services provided by such providers on and after April first, two thousand eighteen.

§ 12. This act shall take effect immediately; provided, however, that the amendments to paragraph (b) of subdivision 7 of section 4403-f of the public health law made by sections three, four and five of this act shall not affect the expiration of such paragraph pursuant to subdivision (i) of section 111 of part H of chapter 59 of the laws of 2011, as amended, and shall be deemed to expire therewith; provided, further, that the amendments to section 4403-f of the public health law made by sections three, four, five, six and nine-a of this act shall not affect the repeal of such section pursuant to chapter 659 of the laws of 1997, as amended, and shall be deemed repealed therewith; provided, further, that section four of this act shall take effect on October 1, 2018; provided, further, that section nine-b of this act shall take effect April 1, 2020; provided further that the commissioner of health is authorized to issue regulations establishing the methodology for the determination of public need pursuant to subdivision 4 of section 3605 of the public health law, as amended by section two of this act, prior to such date; provided, further, that section nine-f of this act shall apply to marketing contracts entered into after the effective date of this act; and provided, further that the amendments to section 364-j of the social services law made by section ten of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART C

Section 1. Intentionally omitted.

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

2-d. The commissioner shall establish reasonable targets for health home participation by enrollees of special needs managed care plans designated pursuant to subdivision four of section three hundred sixty-five-m of this title and by high-risk enrollees of other Medicaid managed care plans operating pursuant to section three hundred sixty-four-j of this title, and shall encourage both the managed care providers and the health homes to work collaboratively with each other to achieve such targets. The commissioner may assess penalties under this subdivision in instances of failure to meet the participation targets established pursuant to this subdivision, where the department has determined that such failure reflected the absence of a good faith and reasonable effort to achieve the participation targets, except that managed care providers shall not be penalized for the failure of a health home to work collaboratively toward meeting the participation targets and a health home shall not be penalized for the failure of a managed care provider to work collaboratively toward meeting the participation targets.

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

6. "Provider" shall mean: (a) any residential health care facility licensed under article twenty-eight of this chapter; or any certified home health agency, licensed home care services agency or long term home health care program certified under article thirty-six of this chapter;

any hospice program certified pursuant to article forty of this chapter; or any adult home, enriched housing program or residence for adults licensed under article seven of the social services law**; or (b) a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to all those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of the social services law, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act**.

§ 3-a. Subdivision 7 of section 2899-a of the public health law, as amended by chapter 88 of the laws of 2016, is amended to read as follows:

7. The department promptly shall make all determinations and actions required by subdivision five of section eight hundred forty-five-b of the executive law upon receipt of the information from the division of criminal justice services and the federal bureau of investigation**, provided that when rendering a determination to propose denial of employment eligibility, the department shall provide the individual who is the subject of the criminal history information check with a copy of such criminal history information and a copy of article twenty-three-A of the correction law and inform such individual of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services**. The department shall create a permanent record, update the information in accordance with section eight hundred forty-five-b of the executive law and make only records or information received from the division of criminal justice services available to providers pursuant to this section.

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

(b) Residential health care facilities licensed pursuant to article twenty-eight of this chapter and certified home health care agencies and long-term home health care programs certified or approved pursuant to article thirty-six of this chapter **or a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to all those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of the social services law, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act**, may, subject to the availability of federal financial participation, claim as reimbursable costs under the medical assistance program, costs reflecting the fee established pursuant to law by the division of criminal justice services for processing a criminal history information check, the fee imposed by the federal bureau of investigation for a national criminal history check, and costs associated with obtaining the fingerprints, provided, however, that for the purposes of determining rates of payment pursuant to article twenty-eight of this chapter for residential

health care facilities, such reimbursable fees and costs shall be reflected as timely as practicable in such rates within the applicable rate period.

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

10. Notwithstanding subdivision eleven of section eight hundred forty-five-b of the executive law, a certified home health agency, licensed home care services agency or long term home health care program certified, licensed or approved under article thirty-six of this chapter or a home care services agency exempt from certification or licensure under article thirty-six of this chapter, a hospice program under article forty of this chapter, or an adult home, enriched housing program or residence for adults licensed under article seven of the social services law, **or a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to all enrollees enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of the social services law, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act** may temporarily approve a prospective employee while the results of the criminal history information check and the determination are pending, upon the condition that the provider conducts appropriate direct observation and evaluation of the temporary employee, while he or she is temporarily employed, and the care recipient**; provided, however, that for a health home, or any subcontractor of a health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to all enrollees enrolled pursuant to a diagnosis of developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of the social services law, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act, direct observation and evaluation of temporary employees shall not be required until April first, two thousand nineteen**. The results of such observations shall be documented in the temporary employee's personnel file and shall be maintained. For purposes of providing such appropriate direct observation and evaluation, the provider shall utilize an individual employed by such provider with a minimum of one year's experience working in an agency certified, licensed or approved under article thirty-six of this chapter or an adult home, enriched housing program or residence for adults licensed under article seven of the social services law**, a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of the social services law, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of**

the federal social security act. If the temporary employee is working under contract with another provider certified, licensed or approved under article thirty-six of this chapter, such contract provider's appropriate direct observation and evaluation of the temporary employee, shall be considered sufficient for the purposes of complying with this subdivision.

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

3. For purposes of this section, the term "provider" or "provider agency" shall mean: an authorized agency; the office of children and family services; juvenile detention facilities subject to the certification of the office of children and family services; programs established pursuant to article nineteen-H of the executive law; non-residential or residential programs or facilities licensed or operated by the office of mental health or the office for people with developmental disabilities except family care homes; licensed child day care centers, including head start programs which are funded pursuant to title V of the federal economic opportunity act of nineteen hundred sixty-four, as amended; early intervention service established pursuant to section twenty-five hundred forty of the public health law; preschool services established pursuant to section forty-four hundred ten of the education law; school-age child care programs; special act school districts as enumerated in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended; programs and facilities licensed by the office of alcoholism and substance abuse services; residential schools which are operated, supervised or approved by the education department; health homes, or any subcontractor of such health homes, who contracts with or is approved or otherwise authorized by the department of health to provide health home services to all those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of this chapter, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act; publicly-funded emergency shelters for families with children, provided, however, for purposes of this section, when the provider or provider agency is a publicly-funded emergency shelter for families with children, then all references in this section to the "potential for regular and substantial contact with individuals who are cared for by the agency" shall mean the potential for regular and substantial contact with children who are served by such shelter; and any other facility or provider agency, as defined in subdivision four of section four hundred eighty-eight of this chapter, in regard to the employment of staff, or use of providers of goods and services and staff of such providers, consultants, interns and volunteers.

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

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person

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

§ 8. Notwithstanding any inconsistent provision of sections 112 and 163 of the state finance law, or sections 142 and 143 of the economic development law, or any other contrary provision of law, excepting the 13 responsible vendor requirements of the state finance law, including, but not limited to, sections 163 and 139-k of the state finance law, the commissioner of health is authorized to amend or otherwise extend the terms of a contract awarded prior to the effective date and entered into pursuant to subdivision 24 of section 206 of the public health law, as added by section 39 of part C of chapter 58 of the laws of 2008, and a contract awarded prior to the effective date and entered into to conduct enrollment broker and conflict-free evaluation services for the Medicaid program, both for a period of three years, without a competitive bid or request for proposal process, upon determination that the existing contractor is qualified to continue to provide such services, and provided that efficiency savings are achieved during the period of extension; and provided, further, that the department of health shall submit a request for applications for such contract during the time period specified in this section and may terminate the contract identi-

fied herein prior to expiration of the extension authorized by this section.

§ 9. This act shall take effect immediately; provided, however, that the amendments to subdivision 6 of section 2899 of the public health law made by section three of this act shall take effect on the same date and in the same manner as section 8 of chapter 471 of the laws of 2016, as amended, takes effect and shall not affect the expiration of such subdivision and shall be deemed to expire therewith; provided, further that section three-a of this act shall take effect on the one hundred eightieth day after it shall have become a law.

PART D

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

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

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 6. Intentionally omitted.

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

(h) opioids prescribed in violation of the treatment plan standards of subdivision eight of section thirty-three hundred thirty-one of the public health law or treatment plan standards as otherwise required by the commissioner.

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

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

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

§ 280. Medicaid drug cap. 1. The legislature hereby finds and declares that there is a significant public interest for the Medicaid program to manage drug costs in a manner that ensures patient access while providing financial stability for the state and participating providers. Since two thousand eleven, the state has taken significant steps to contain costs in the Medicaid program by imposing a statutory limit on annual growth. Drug expenditures, however, continually outpace other

cost components causing significant pressure on the state, providers, and patient access operating under the Medicaid global cap. It is therefore intended that the department establish a Medicaid drug cap as a separate component within the Medicaid global cap as part of a focused and sustained effort to balance the growth of drug expenditures with the growth of total Medicaid expenditures.

2. The commissioner shall establish a year to year department of health [~~state funds~~] **state funds** Medicaid drug [~~spending~~] **expenditure** growth target as follows:

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

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

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

3. The department and the division of the budget shall assess on a quarterly basis the projected total amount to be expended in the year on a cash basis by the Medicaid program for each drug, and the projected annual amount of **state funds Medicaid** drug expenditures **on a cash basis** for all drugs, which shall be a component of the projected department of health state funds Medicaid expenditures calculated for purposes of sections ninety-one and ninety-two of part H of chapter fifty-nine of the laws of two thousand eleven. For purposes of this section, state funds Medicaid drug expenditures include amounts expended for drugs in both the Medicaid fee-for-service **program** and Medicaid managed care programs, minus the amount of any drug rebates or supplemental drug rebates received by the department, including rebates pursuant to subdivision five of this section with respect to rebate targets. **The department and the division of the budget shall report quarterly to the drug utilization review board the projected state funds Medicaid drug expenditures including the amounts, in aggregate thereof, attributable to the net cost of: changes in the utilization of drugs by Medicaid recipients; changes in the number of Medicaid recipients; changes to the cost of brand name drugs and changes to the cost of generic drugs. The information contained in the report shall not be publicly released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial competitive, or proprietary nature of the information.**

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

(b) If the department intends to refer a drug to the drug utilization review board pursuant to paragraph (a) of this subdivision, the depart-

ment shall notify the manufacturer of such drug and shall attempt to reach agreement with the manufacturer on a rebate for the drug prior to referring the drug to the drug utilization review board for review.

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

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

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

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

(a) the drug's impact on the Medicaid drug spending growth target and the adequacy of capitation rates of participating Medicaid managed care plans, and the drug's affordability and value to the Medicaid program; or

(b) significant and unjustified increases in the price of the drug; or

(c) whether the drug may be priced disproportionately to its therapeutic benefits.

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

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

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

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

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

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

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

(iii) information relating to value-based pricing;

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

(v) the extent of utilization of the drug;

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

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

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

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

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

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

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

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

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

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

(iv) the extent of utilization of the drug;

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

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

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

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

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

7. (a) If, after taking into account all rebates and supplemental rebates received by the department, including rebates received to date pursuant to this section, total Medicaid drug expenditures are still projected to exceed the annual growth limitation imposed by subdivision two of this section, the commissioner [~~of health~~] may: [~~subject drugs to prior approval in accordance with existing processes and procedures, which may include all drugs of a manufacturer that has not entered into a supplemental rebate agreement required by this section;~~] **subject any drug of a manufacturer referred to the drug utilization review board under this section to prior approval in accordance with existing processes and procedures when such manufacturer has not entered into a supplemental rebate agreement as required by this section;** directing managed care plans to remove from their Medicaid formularies those drugs [~~with respect to which a~~] **that the drug utilization review board recommends a target rebate amount for and the** manufacturer has failed to enter into a rebate agreement required by this section; promoting the use of cost effective and clinically appropriate drugs other than those of a manufacturer who **has a drug that the drug utilization review board recommends a target rebate amount and the manufacturer** has failed to enter into a rebate agreement required by this section; allowing manufacturers to accelerate rebate payments under existing rebate contracts; and such other actions as authorized by law. The commissioner shall provide written notice to the legislature thirty days prior to taking action pursuant to this paragraph, unless action is necessary in the fourth quarter of a fiscal year to prevent total Medicaid drug expenditures from exceeding the limitation imposed by subdivision two of this section, in which case such notice to the legislature may be less than thirty days.

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

8. The commissioner shall report by February first annually to the drug utilization review board on savings achieved through the drug cap in the last year. Such report shall provide data on what savings were

achieved through actions pursuant to subdivisions three, five and seven of this section, respectively, and what savings were achieved through other means and how such savings were calculated and implemented.

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

PART E

Intentionally Omitted

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Intentionally Omitted

PART I

Intentionally Omitted

PART J

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

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

§ 2. The state finance law is amended by adding a new section 190-b to read as follows:

§ 190-b. Medicaid fraud recovery reporting. The attorney general shall make an annual report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate health committee, and chair of the assembly health committee by April fifteenth of each year. Such report shall include the amount of monies recovered by the

medicaid fraud control unit pursuant to the false claims act for the preceding calendar year.

§ 3. This act shall take effect September 30, 2018.

PART K

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

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

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

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

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

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

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

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

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

(iv) All reports shall be certified by the owner, administrator, chief executive officer, or public official responsible for the operation of

the provider. The cost report form shall include a certification form, which shall specify who must certify the report.

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

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

§ 3. Section 2807-c of the public health law is amended by adding a new subdivision 34 to read as follows:

34. Enhanced safety net hospital program. (a) For the purposes of this subdivision, "enhanced safety net hospital" shall mean a hospital which:

(i) in any of the previous three calendar years, has met the following criteria:

(A) not less than fifty percent of the patients it treats receive medicaid or are medically uninsured;

(B) not less than forty percent of its inpatient discharges are covered by medicaid;

(C) twenty-five percent or less of its discharged patients are commercially insured;

(D) not less than three percent of the patients it provides services to are attributed to the care of uninsured patients; and

(E) provides care to uninsured patients in its emergency room, hospital based clinics and community based clinics, including the provision of important community services, such as dental care and prenatal care;

(ii) is a public hospital operated by a county, municipality, public benefit corporation or the state university of New York;

(iii) is federally designated as a critical access hospital; or

(iv) is federally designated as a sole community hospital.

(b) Within amounts appropriated, the commissioner shall adjust medical assistance rates to enhanced safety net hospitals for the purposes of

supporting critically needed health care services and to ensure the continued maintenance and operation of such hospitals.

(c) Payments made pursuant to this subdivision may be added to rates of payment or made as aggregate payments to eligible general hospitals.

§ 4. This act shall take effect immediately.

PART L

Intentionally Omitted

PART M

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

(a) The superintendent of financial services and the commissioner of health or their designee shall, from funds available in the hospital excess liability pool created pursuant to subdivision 5 of this section, purchase a policy or policies for excess insurance coverage, as authorized by paragraph 1 of subsection (e) of section 5502 of the insurance law; or from an insurer, other than an insurer described in section 5502 of the insurance law, duly authorized to write such coverage and actually writing medical malpractice insurance in this state; or shall purchase equivalent excess coverage in a form previously approved by the superintendent of financial services for purposes of providing equivalent excess coverage in accordance with section 19 of chapter 294 of the laws of 1985, for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse the hospital where the hospital purchases equivalent excess coverage as defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this section for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July

1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018**, and between July 1, 2018 and June 30, 2019** for physicians or dentists certified as eligible for each such period or periods pursuant to subdivision 2 of this section by a general hospital licensed pursuant to article 28 of the public health law; provided that no single insurer shall write more than fifty percent of the total excess premium for a given policy year; and provided, however, that such eligible physicians or dentists must have in force an individual policy, from an insurer licensed in this state of primary malpractice insurance coverage in amounts of no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand dollars for all claimants under that policy during the period of such excess coverage for such occurrences or be endorsed as additional insureds under a hospital professional liability policy which is offered through a voluntary attending physician ("channeling") program previously permitted by the superintendent of financial services during the period of such excess coverage for such occurrences. During such period, such policy for excess coverage or such equivalent excess coverage shall, when combined with the physician's or dentist's primary malpractice insurance coverage or coverage provided through a voluntary attending physician ("channeling") program, total an aggregate level of two million three hundred thousand dollars for each claimant and six million nine hundred thousand dollars for all claimants from all such policies with respect to occurrences in each of such years provided, however, if the cost of primary malpractice insurance coverage in excess of one million dollars, but below the excess medical malpractice insurance coverage provided pursuant to this act, exceeds the rate of nine percent per annum, then the required level of primary malpractice insurance coverage in excess of one million dollars for each claimant shall be in an amount of not less than the dollar amount of such coverage available at nine percent per annum; the required level of such coverage for all claimants under that policy shall be in an amount not less than three times the dollar amount of coverage for each claimant; and excess coverage, when combined with such primary malpractice insurance coverage, shall increase the aggregate level for each claimant by one million dollars and three million dollars for all claimants; and provided further, that, with respect to policies of primary medical malpractice coverage that include occurrences between April 1, 2002 and June 30, 2002, such requirement that coverage be in amounts no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand dollars for all claimants for such occurrences shall be effective April 1, 2002.

§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 16

of part H of chapter 57 of the laws of 2017, is amended to read as follows:

(3)(a) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018**, and between July 1, 2018 and June 30, 2019** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, [~~and~~] between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018**, and between July 1, 2018 and June 30, 2019** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary. The superintendent of financial services shall determine and certify to each general hospital and to the

commissioner of health the ratable share of such cost allocable to the period July 1, 1987 to December 31, 1987, to the period January 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June 30, 2017, and to the period July 1, 2017 [~~and~~] **to** June 30, 2018**, and to the period July 1, 2018 to June 30, 2019**.

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

(a) To the extent funds available to the hospital excess liability pool pursuant to subdivision 5 of this section as amended, and pursuant to section 6 of part J of chapter 63 of the laws of 2001, as may from time to time be amended, which amended this subdivision, are insufficient to meet the costs of excess insurance coverage or equivalent excess coverage for coverage periods during the period July 1, 1992 to June 30, 1993, during the period July 1, 1993 to June 30, 1994, during the period July 1, 1994 to June 30, 1995, during the period July 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30, 1997, during the period July 1, 1997 to June 30, 1998, during the period July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30, 2000, during the period July 1, 2000 to June 30, 2001, during the period July 1, 2001 to October 29, 2001, during the period April 1, 2002 to June 30, 2002, during the period July 1, 2002 to June 30, 2003, during the period July 1, 2003 to June 30, 2004, during the period July 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30, 2006, during the period July 1, 2006 to June 30, 2007, during the period July 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30, 2009, during the period July 1, 2009 to June 30, 2010, during the period

July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June 30, 2012, during the period July 1, 2012 to June 30, 2013, during the period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to June 30, 2015, during the period July 1, 2015 [~~and~~] to June 30, 2016, during the period July 1, 2016 [~~and~~] to June 30, 2017, [~~and~~] during the period July 1, 2017 [~~and~~] to June 30, 2018, and during the period July 1, 2018 to June 30, 2019 allocated or reallocated in accordance with paragraph (a) of subdivision 4-a of this section to rates of payment applicable to state governmental agencies, each physician or dentist for whom a policy for excess insurance coverage or equivalent excess coverage is purchased for such period shall be responsible for payment to the provider of excess insurance coverage or equivalent excess coverage of an allocable share of such insufficiency, based on the ratio of the total cost of such coverage for such physician to the sum of the total cost of such coverage for all physicians applied to such insufficiency.

(b) Each provider of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019 shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,

2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018**, or covering the period July 1, 2018 to June 30, 2019** determined in accordance with paragraph (a) of this subdivision fails, refuses or neglects to make payment to the provider of excess insurance coverage or equivalent excess coverage in such time and manner as determined by the superintendent of financial services pursuant to paragraph (b) of this subdivision, excess insurance coverage or equivalent excess coverage purchased for such physician or dentist in accordance with this section for such coverage period shall be cancelled and shall be null and void as of the first day on or after the commencement of a policy period where the liability for payment pursuant to this subdivision has not been met.

(d) Each provider of excess insurance coverage or equivalent excess coverage shall notify the superintendent of financial services and the commissioner of health or their designee of each physician and dentist eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018**, or covering the period July 1, 2018 to June 30, 2019** that has made payment to such provider of excess insurance coverage or equivalent excess coverage in accordance with paragraph (b) of this subdivision and of each physician and dentist who has failed, refused or neglected to make such payment.

(e) A provider of excess insurance coverage or equivalent excess coverage shall refund to the hospital excess liability pool any amount allocable to the period July 1, 1992 to June 30, 1993, and to the period July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the

period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001, and to the period April 1, 2002 to June 30, 2002, and to the period July 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30, 2004, and to the period July 1, 2004 to June 30, 2005, and to the period July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and to the period July 1, 2014 to June 30, 2015, and to the period July 1, 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and to the period July 1, 2017 to June 30, 2018**, and to the period July 1, 2018 to June 30, 2019** received from the hospital excess liability pool for purchase of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to October 29, 2001, and covering the period April 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30, 2009, and covering the period July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to June 30, 2013, and covering the period July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30, 2018**, and covering the period July 1, 2018 to June 30, 2019** for a physician or dentist where such excess insurance coverage or equivalent excess coverage is cancelled in accordance with paragraph (c) of this subdivision.

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

§ 40. The superintendent of financial services shall establish rates for policies providing coverage for physicians and surgeons medical malpractice for the periods commencing July 1, 1985 and ending June 30, [**~~2018~~**] **2019**; provided, however, that notwithstanding any other provision of law, the superintendent shall not establish or approve any increase in rates for the period commencing July 1, 2009 and ending June 30, 2010. The superintendent shall direct insurers to establish segregated accounts for premiums, payments, reserves and investment income attributable to such premium periods and shall require periodic reports by the

insurers regarding claims and expenses attributable to such periods to monitor whether such accounts will be sufficient to meet incurred claims and expenses. On or after July 1, 1989, the superintendent shall impose a surcharge on premiums to satisfy a projected deficiency that is attributable to the premium levels established pursuant to this section for such periods; provided, however, that such annual surcharge shall not exceed eight percent of the established rate until July 1, [~~2018~~] **2019**, at which time and thereafter such surcharge shall not exceed twenty-five percent of the approved adequate rate, and that such annual surcharges shall continue for such period of time as shall be sufficient to satisfy such deficiency. The superintendent shall not impose such surcharge during the period commencing July 1, 2009 and ending June 30, 2010. On and after July 1, 1989, the surcharge prescribed by this section shall be retained by insurers to the extent that they insured physicians and surgeons during the July 1, 1985 through June 30, [~~2018~~] **2019** policy periods; in the event and to the extent physicians and surgeons were insured by another insurer during such periods, all or a pro rata share of the surcharge, as the case may be, shall be remitted to such other insurer in accordance with rules and regulations to be promulgated by the superintendent. Surcharges collected from physicians and surgeons who were not insured during such policy periods shall be apportioned among all insurers in proportion to the premium written by each insurer during such policy periods; if a physician or surgeon was insured by an insurer subject to rates established by the superintendent during such policy periods, and at any time thereafter a hospital, health maintenance organization, employer or institution is responsible for responding in damages for liability arising out of such physician's or surgeon's practice of medicine, such responsible entity shall also remit to such prior insurer the equivalent amount that would then be collected as a surcharge if the physician or surgeon had continued to remain insured by such prior insurer. In the event any insurer that provided coverage during such policy periods is in liquidation, the property/casualty insurance security fund shall receive the portion of surcharges to which the insurer in liquidation would have been entitled. The surcharges authorized herein shall be deemed to be income earned for the purposes of section 2303 of the insurance law. The superintendent, in establishing adequate rates and in determining any projected deficiency pursuant to the requirements of this section and the insurance law, shall give substantial weight, determined in his discretion and judgment, to the prospective anticipated effect of any regulations promulgated and laws enacted and the public benefit of stabilizing malpractice rates and minimizing rate level fluctuation during the period of time necessary for the development of more reliable statistical experience as to the efficacy of such laws and regulations affecting medical, dental or podiatric malpractice enacted or promulgated in 1985, 1986, by this act and at any other time. Notwithstanding any provision of the insurance law, rates already established and to be established by the superintendent pursuant to this section are deemed adequate if such rates would be adequate when taken together with the maximum authorized annual surcharges to be imposed for a reasonable period of time whether or not any such annual surcharge has been actually imposed as of the establishment of such rates.

§ 5. Section 5 and subdivisions (a) and (e) of section 6 of 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 effec-

tiveness of certain provisions of such chapter, as amended by section 19 of part H of chapter 57 of the laws of 2017, are amended to read as follows:

§ 5. The superintendent of financial services and the commissioner of health shall determine, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [~~and~~] June 15, 2018**, and June 15, 2019** the amount of funds available in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, and whether such funds are sufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or [~~to~~] July 1, 2017 to June 30, 2018**, or July 1, 2018 to June 30, 2019** as applicable.

(a) This section shall be effective only upon a determination, pursuant to section five of this act, by the superintendent of financial services and the commissioner of health, and a certification of such determination to the state director of the budget, the chair of the senate committee on finance and the chair of the assembly committee on ways and means, that the amount of funds in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, is insufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018**, or July 1, 2018 to June 30, 2019** as applicable.

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

§ 6. Section 20 of 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 thereto, is amended to read as follows:

§ 20. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage period ending the thirtieth of June, two thousand [~~seventeen~~] **eighteen**, shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand [~~seventeen~~] **eighteen**; provided, however, if the total number of physicians or dentists for whom such excess coverage or equivalent excess coverage was purchased for the policy year ending the thirtieth of June, two thousand [~~seventeen~~] **eighteen** exceeds the total number of physicians or dentists certified as eligible for the coverage period beginning the first of July, two thousand [~~seventeen~~] **eighteen**, then the general hospitals may certify additional eligible physicians or dentists in a number equal to such general hospital's proportional share of the total number of physicians or dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand [~~seventeen~~] **eighteen**, as applied to the difference between the number of eligible physicians or dentists for whom a policy for excess coverage or equivalent excess coverage was purchased for the coverage period ending the thirtieth of June, two thousand [~~seventeen~~] **eighteen** and the number of such eligible physicians or dentists who have applied for excess coverage or equivalent excess coverage for the coverage period beginning the first of July, two thousand [~~seventeen~~] **eighteen**.

§ 7. This act shall take effect immediately.

PART N

Section 1. The opening paragraph of subdivision 1 of section 1 of part C of chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services, is amended to read as follows:

Subject to available appropriations, the commissioners of the office of mental health, office of mental retardation and developmental disabilities, office of alcoholism and substance abuse services, [~~department of health,~~] office of children and family services and the state office for the aging shall establish an annual cost of living adjustment (COLA), subject to the approval of the director of the budget, effective April first of each state fiscal year, provided, however, that in state fiscal year 2006-07, the cost of living adjustment will be effective October first, to project for the effects of inflation, for rates of payments, contracts or any other form of reimbursement for the programs listed in paragraphs (i), (ii), (iii), (iv)[~~,~~] **and** (v) [~~and (vi)~~] of subdivision four of this section. The COLA shall be applied to the appropriate portion of reimbursable costs or contract amounts.

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

§ 3. This act shall take effect immediately.

PART O

Intentionally Omitted

PART P

Intentionally Omitted

PART Q

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

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

2. The commissioner and the president of the dormitory authority shall enter into an agreement, subject to approval by the director of the budget, and subject to section sixteen hundred eighty-r of the public authorities law, for the purposes of awarding, distributing, and administering the funds made available pursuant to this section. Such funds may be distributed by the commissioner for grants to general hospitals, residential health care facilities, adult care facilities licensed under title two of article seven of the social services law, diagnostic and treatment centers and clinics licensed pursuant to this chapter or the mental hygiene law, children's residential treatment facilities licensed pursuant to article thirty-one of the mental hygiene law, assisted living programs approved by the department pursuant to section four hundred sixty-one-l of the social services law, and community-based health care providers as defined in subdivision three of this section for grants in support of the purposes set forth in this section. A copy of such agreement, and any amendments thereto, shall be provided to the chair of the senate finance committee, the chair of the assembly ways and means committee, and the director of the division of the budget no later than thirty days prior to the release of a request for applications for funding under this program. Projects awarded, in whole or part, under sections twenty-eight hundred twenty-five-a and twenty-eight

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

3. Notwithstanding section one hundred sixty-three of the state finance law or any inconsistent provision of law to the contrary, up to four hundred seventy-five million dollars of the funds appropriated for this program shall be awarded without a competitive bid or request for proposal process for grants to health care providers (hereafter "applicants"). Provided, however, that a minimum of: (a) sixty million dollars of total awarded funds shall be made to community-based health care providers, which for purposes of this section shall be defined as a diagnostic and treatment center licensed or granted an operating certificate under this article; a mental health clinic licensed or granted an operating certificate under article thirty-one of the mental hygiene law; a substance use disorder treatment clinic licensed or granted an operating certificate under article thirty-two of the mental hygiene law; a primary care provider; a clinic licensed or granted an operating certificate under article sixteen of the mental hygiene law; a home care provider certified or licensed pursuant to article thirty-six of this chapter; or hospices licensed or granted an operating certificate pursuant to article forty of this chapter and (b) forty-five million dollars of the total awarded funds shall be made to residential health care facilities.

4. Notwithstanding any inconsistent subdivision of this section or any other provision of law to the contrary, the commissioner, with the approval of the director of the budget, may expend up to twenty million dollars of the funds appropriated for this program pursuant to subdivision three of this section, not including funds dedicated for community-based health care providers under paragraph (a) of such subdivision or for residential health care facilities under paragraph (b) of such subdivision, for awards made pursuant to paragraph (l) of subdivision three of section four hundred sixty-one-l of the social services law, provided that funding shall be prioritized for awards made pursuant to subparagraph (i) of such paragraph, with remaining funding available for awards made pursuant to subparagraphs (ii) and (iii) of such paragraph.

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

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

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

(c) the geographic distribution of funds;

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

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

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

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

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

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

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

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

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

PART R

Intentionally Omitted

PART S

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

SUBPART A

Intentionally omitted.

SUBPART B

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

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital,

public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. **No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health or substance use disorder services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve; (b) require a provider licensed pursuant to article thirty-one of the mental hygiene law or certified pursuant to article thirty-two of the mental hygiene law to obtain an operating certificate from the department if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.**

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

(f) No provision of this article or any other provision of law shall be construed to require a provider licensed pursuant to article twenty-eight of the public health law or certified pursuant to article thirty-two of this chapter to obtain an operating certificate from the office of mental health if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of the office of mental health in consultation with the commissioner of the department of health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

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

(b) **(i)** Methadone, or such other controlled substance designated by the commissioner of health as appropriate for such use, may be administered to an addict, as defined in section thirty-three hundred two of the public health law, by individual physicians, groups of physicians and public or private medical facilities certified pursuant to article twenty-eight or thirty-three of the public health law as part of a chemical dependence program which has been issued an operating certificate by the commissioner pursuant to subdivision (b) of section 32.09 of this article, provided, however, that such administration must be done in accordance with all applicable federal and state laws and regulations. Individual physicians or groups of physicians who have obtained authorization from the federal government to administer buprenorphine to addicts may do so without obtaining an operating certificate from the commissioner. **(ii) No provision of this article or any other provision of law shall be construed to require a provider licensed pursuant to article twenty-eight of the public health law or article thirty-one of this chapter to obtain an operating certificate from the office of alcoholism and substance abuse services if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of alcoholism and substance abuse services in consultation with the commissioner of the department of health and the commissioner of the office of mental health, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.**

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

SUBPART C

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

(q) a hospital as defined in article twenty-eight of this chapter**, including residential health care facilities serving special needs populations**;

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

(t) **credentialed alcoholism and substance abuse counselors credentialed by the office of alcoholism and substance abuse services or by a credentialing entity approved by such office pursuant to section 19.07 of the mental hygiene law;**

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

(v) clinics licensed or certified under article sixteen of the mental hygiene law and certified and non-certified day and residential programs funded or operated by the office for people with developmental disabilities; and

(w) any other provider as determined by the commissioner pursuant to regulation **or, in consultation with the commissioner, by the commissioner of the office of mental health, the commissioner of the office of**

alcoholism and substance abuse services, or the commissioner of the office for people with developmental disabilities pursuant to regulation.

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

3. "Originating site" means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth. Originating sites shall be limited to**: (a)** facilities licensed under articles twenty-eight and forty of this chapter[~~,~~]**; (b)** facilities as defined in subdivision six of section 1.03 of the mental hygiene law[~~,~~]**; (c) certified and non-certified day and residential programs funded or operated by the office for people with developmental disabilities; (d)** private physician's or dentist's offices located within the state of New York[~~,~~]**; (e)** any type of adult care facility licensed under title two of article seven of the social services law[~~,~~]; **(f)** public, private and charter elementary and secondary schools, school age child care programs, and child day care centers within the state of New York; and[~~, when a patient is receiving health care services by means of remote patient monitoring,~~] **(g)** the patient's place of residence located within the state of New York or other temporary location located within or outside the state of New York.

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

7. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an originating site that is transmitted to a telehealth provider at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. **Such technologies may include additional interaction triggered by previous transmissions, such as interactive queries conducted through communication technologies or by telephone.** Such conditions shall include, but not be limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring shall be ordered by a physician licensed pursuant to article one hundred thirty-one of the education law, a nurse practitioner licensed pursuant to article one hundred thirty-nine of the education law, or a midwife licensed pursuant to article one hundred forty of the education law, with which the patient has a substantial and ongoing relationship.

§ 4. Section 2999-dd of the public health law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

§ 2999-dd. Telehealth delivery of services. **1.** Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law.

2. The department of health, the office of mental health, the office of alcoholism and substance abuse services, and the office for people with developmental disabilities shall coordinate on the issuance of a single guidance document, to be updated as appropriate, that shall: (a) identify any differences in regulations or policies issued by the agencies, including with respect to reimbursement pursuant to section three hundred sixty-seven-u of the social services law; and (b) be designed to assist consumers, providers, and health plans in understanding and

facilitating the appropriate use of telehealth in addressing barriers to care.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the commissioner of the department of health, the commissioner of the office of mental health, the commissioner of the office of alcoholism and substance abuse services, and the commissioner of the office for people with developmental disabilities are authorized and directed to issue, amend and/or repeal any rule or regulation necessary for the implementation of this act on or before its effective date.

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

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

PART T

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

(a) section eleven of this act shall expire and be deemed repealed March 31, [~~2018~~] **2020**;

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

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

§ 3. Section 2 of part II of chapter 54 of the laws of 2016, amending part C of chapter 58 of the laws of 2005 relating to authorizing reimbursements for expenditures made by or on behalf of social services

districts for medical assistance for needy persons and administration thereof, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed [~~two years after it shall have become a law~~] March 31, 2020.

§ 4. Section 3 of 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, as amended by section 25-a of part B of chapter 56 of the laws of 2013, is amended to read as follows:

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

§ 5. Section 4-a of part A of 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, as amended by section 9 of part I of chapter 57 of the laws of 2017, is amended to read as follows:

§ 4-a. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, section 21 of chapter 1 of the laws of 1999, or any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after January 1, [~~2010~~] 2017 through March 31, 2019, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities or units of such facilities providing services primarily to children under twenty-one years of age, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply no greater than zero trend factors attributable to the 2017, 2018, and 2019 calendar [~~year~~] years in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such no greater than zero trend factors attributable to such 2017, 2018, and 2019 calendar [~~year~~] years shall also be applied to rates of payment provided on and after January 1, [~~2010~~] 2017 through March 31, 2019 for personal care services provided in those local social services districts, including New York city, whose rates of payment for such services are established by such local social services districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations[~~,~~]; and provided further, however, that for rates of payment for assisted living program services provided on and after January 1, [~~2010~~] 2017 through March 31, 2019, such trend factors attributable to the 2017, 2018, and 2019 calendar [~~year~~] years shall be established at no greater than zero percent.

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

(e) During the period from April first, two thousand fifteen through March thirty-first, two thousand [~~seventeen,~~] twenty, the commissioner may, in lieu of a managed care provider, negotiate directly and enter into an agreement with a pharmaceutical manufacturer for the provision of supplemental rebates relating to pharmaceutical utilization by enrollees of managed care providers pursuant to section three hundred sixty-four-j of this title and may also negotiate directly and enter into such an agreement relating to pharmaceutical utilization by medical assistance recipients not so enrolled. Such rebates shall be limited to drug utilization in the following classes: antiretrovirals approved by the FDA for the treatment of HIV/AIDS and hepatitis C agents for which the pharmaceutical manufacturer has in effect a rebate agreement with the federal secretary of health and human services pursuant to 42 U.S.C. § 1396r-8, and for which the state has established standard clinical criteria. No agreement entered into pursuant to this paragraph shall have an initial term or be extended beyond [~~March thirty-first, two thousand twenty~~] the expiration or repeal of this paragraph.

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

(ii) The commissioner shall establish adequate rates of reimbursement which shall take into account both the impact of the commissioner negotiating such rebates and any limitations imposed on the managed care provider's ability to establish clinical criteria relating to the utilization of such drugs. In developing the managed care provider's reimbursement rate, the commissioner shall identify the amount of reimbursement for such drugs as a separate and distinct component from the reimbursement otherwise made for prescription drugs as prescribed by this section.

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

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

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

(vi) All prior authorization and utilization review determinations related to the coverage of any drug subject to this paragraph shall be subject to article forty-nine of the public health law, section three hundred sixty-four-j of this title, and article forty-nine of the insurance law, as applicable. Nothing in this paragraph shall diminish any rights relating to access, prior authorization, or appeal relating to

any drug class or drug afforded to a recipient under any other provision of law.

§ 5-b. Subdivision 1 of section 60 of part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, is amended and a new subdivision 1-a is added to read as follows:

1. [~~sections~~] section one [~~and fifty-two~~] of this act shall expire and be deemed repealed March 31, [~~2020~~] 2023;

1-a. section fifty-two of this act shall expire and be deemed repealed March 31, 2020;

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

(ii) Participation and membership during a three year demonstration period in a physician committee of the Medical Society of the State of New York or the New York State Osteopathic Society whose purpose is to confront and refer to treatment physicians who are thought to be suffering from alcoholism, drug abuse, or mental illness. Such demonstration period shall commence on April first, nineteen hundred eighty and terminate on May thirty-first, nineteen hundred eighty-three. An additional demonstration period shall commence on June first, nineteen hundred eighty-three and terminate on March thirty-first, nineteen hundred eighty-six. An additional demonstration period shall commence on April first, nineteen hundred eighty-six and terminate on March thirty-first, nineteen hundred eighty-nine. An additional demonstration period shall commence April first, nineteen hundred eighty-nine and terminate March thirty-first, nineteen hundred ninety-two. An additional demonstration period shall commence April first, nineteen hundred ninety-two and terminate March thirty-first, nineteen hundred ninety-five. An additional demonstration period shall commence on April first, nineteen hundred ninety-five and terminate on March thirty-first, nineteen hundred ninety-eight. An additional demonstration period shall commence on April first, nineteen hundred ninety-eight and terminate on March thirty-first, two thousand three. An additional demonstration period shall commence on April first, two thousand three and terminate on March thirty-first, two thousand thirteen. An additional demonstration period shall commence April first, two thousand thirteen and terminate on March thirty-first, two thousand eighteen. An additional demonstration period shall commence April first, two thousand eighteen and terminate on March thirty-first, two thousand twenty-three provided, however, that the commissioner may prescribe requirements for the continuation of such demonstration program, including periodic reviews of such programs and submission of any reports and data necessary to permit such reviews. During these additional periods, the provisions of this subparagraph shall also apply to a physician committee of a county medical society.

§ 6. This act shall take effect immediately; provided, however, that the amendments to paragraph (e) of subdivision 7 of section 367-a of the social services law made by section five-a of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith; and provided, further, however that the amendments to subparagraph (ii) of paragraph (c) of subdivision 11 of section 230 of the public health law made by section five-c of this act shall not affect the expiration of such subparagraph and shall be deemed to expire therewith.

PART U

Section 1. Section 2 of 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, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART V

Section 1. Section 7 of part R2 of 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, as amended by section 3 of part G of chapter 60 of the laws of 2014, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART W

Intentionally Omitted

PART X

Section 1. Section 3 of part A of 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, as amended by section 1 of part LL of chapter 58 of the laws of 2015, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART Y

Section 1. Legislative intent. In order to provide a permanent solution ending the entity exemption, the intent of this legislation is to provide needed clarity as to the activities and services that need to be performed by licensed practitioners and those that do not require such license thereby no longer necessitating the need for continuing the exemption beyond what is provided herein.

§ 2. Subdivision 10 of section 7605 of the education law, as added by section 4 of part AA of chapter 57 of the laws of 2013, is amended and two new subdivisions 12 and 13 are added to read as follows:

10. (a) A person without a license from: performing assessments [~~such as~~] including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining

need for services [~~unrelated to a behavioral health diagnosis or treatment plan. Such licensure shall not be required to create, develop or implement a service plan unrelated to a behavioral health diagnosis or treatment plan~~]; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

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

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

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training

and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

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

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

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

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

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

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

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

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

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

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

12. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activ-

ities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before one year from the date that the regulations issued in accordance with section six of the chapter of the laws of two thousand eighteen which added this subdivision appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided, however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

13. The activities or services provided by a person with a master's level degree in psychology or its equivalent, working under the supervision of a licensed psychologist in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

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

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

(m) Provide peer services.

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

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

7. (a) Prevent a person without a license from: performing assessments [~~such as~~] including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services [~~unrelated to a behavioral health diagnosis or treatment plan. Such licensure shall not be required to create, develop or implement a service plan unrelated to a behavioral health diagnosis or treatment plan~~]; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse

treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

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

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

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

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

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

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

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

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

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

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

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

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

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

8. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental

hygiene law or a social services district as defined in section sixty-one of the social services law on or before one year from the date that the regulations issued in accordance with section six of the chapter of the laws of two thousand eighteen which added this subdivision appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

§ 5. Subdivision 8 of section 8410 of the education law, as added by section 6 of part AA of chapter 57 of the laws of 2013, is amended and two new subdivisions 9 and 10 are added to read as follows:

8. (a) Prevent a person without a license from: performing assessments [~~such as~~] including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services [~~unrelated to a behavioral health diagnosis or treatment plan. Such licensure shall not be required to create, develop or implement a service plan unrelated to a behavioral health diagnosis or treatment plan~~]; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

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

~~license under this article shall not be required for persons to participate~~]

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

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

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

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

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

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

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

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

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

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

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

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

9. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before one year from the date that the regulations issued in accordance with section six of the chapter of the laws of two thousand eighteen which added this subdivision appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

10. The activities or services provided by a person with a master's level degree required for licensure pursuant to this article, working under the supervision of a professional licensed pursuant to article one hundred fifty-three, one hundred fifty-four or this article in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

§ 6. 1. Not later than September 30, 2018, the state education department (hereinafter referred to as "the department"), in consultation with

the department of mental hygiene, the office of children and family services, the office of temporary and disability assistance, the department of corrections and community supervision, the state office for the aging, and the department of health (hereinafter referred to as "executive agencies") shall develop formal guidance consistent with this chapter for service providers authorized to operate under the respective executive agencies, to identify the tasks and functions performed by each agency's service provider workforce categorized as tasks and functions restricted to licensed personnel including tasks and functions that do not require a license under articles 153, 154 and 163 of the education law. Subsequent to the issuance of formal guidance by the department pursuant to this section, the department shall adopt regulations consistent with this chapter. Such regulations shall not be issued on an emergency basis.

2. Not later than sixty days from the adoption of the regulations required by this section, the executive agencies together shall issue a single report to the governor, the temporary president of the senate, the speaker of the assembly, and the state education department that may include but not be limited to, all matters where any individual agency objects to or has concerns regarding regulations or guidance issued by the department pursuant to subdivision one of this section; a projected fiscal impact or effect of any regulations or guidance on each executive agency; identification of licensed professions shortage areas under each executive agency; identification of appropriate rate, policy, or legislative changes that may address workforce shortages in licensed professions or access to services; an analysis and identification of the need for resources and investment to fortify the state's mental health workforce; an identification of barriers to hiring licensees and the mechanism and oversight structure used to track individuals that are subject to: subdivision 12 of section 7605 of the education law, subdivision 8 of section 7706 of the education law, or subdivision 9 of section 8410 of the education law; or any other pertinent information.

3. Upon issuance of the report required pursuant to subdivision two of this section, the state education department shall have sixty days to issue a report to the governor, the temporary president of the senate, and the speaker of the assembly on any of the matters identified in subdivision two of this section provided that such report may include an analysis of, comments on, or responses to the report issued by subdivision two of this section. The governor shall provide to the executive agencies a copy of the report required by this subdivision.

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

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

a. Nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the office of temporary and disability assistance, the department of corrections and community supervision, the state office for the aging, the department of health, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, provided, however, this section shall not authorize the use of any title authorized pursuant to article 154 of the education law, except that this section shall be deemed repealed [~~on July 1, 2018~~] **one year from the date that the regulations issued in accordance with section six of part Y of the chapter of the laws of 2018 which amended this subdivision appear in the state register, or the date such regulations are adopted, whichever is later; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date such regulations appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law**.

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

a. In relation to activities and services provided under article 153 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law. In relation to activities and services provided under article 163 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, pursuant to authority granted by law. This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively. This section shall be deemed repealed [~~July 1, 2018~~] **one year from the date that the regulations issued in accordance with section six of part Y of the chapter of the laws of 2018 which amended this subdivision appear in the state register, or the date such regulations are adopted, whichever is later; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date such regulations appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws**

of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

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

§ 16. This act shall take effect immediately; provided that sections thirteen, fourteen and fifteen of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 1, 2010 and such sections shall be deemed repealed [~~July 1, 2018~~] one year from the date that the regulations issued in accordance with section six of part Y of the chapter of the laws of 2018 which amended this section appear in the state register, or the date such regulations are adopted, whichever is later; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date such regulations appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; provided further that the amendments to section 9 of chapter 420 of the laws of 2002 amending the education law relating to the profession of social work made by section thirteen of this act shall repeal on the same date as such section repeals; provided further that the amendments to section 17-a of chapter 676 of the laws of 2002 amending the education law relating to the practice of psychology made by section fourteen of this act shall repeal on the same date as such section repeals.

§ 11. This act shall take effect immediately.

PART Z

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

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

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

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

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

7-c. The commissioner of health in consultation with the commissioner of developmental disabilities is authorized to submit the appropriate

waivers, including, but not limited to, those authorized pursuant to section eleven hundred fifteen of the federal social security act, in order to achieve the purposes of high-quality and integrated care and services for a population of persons with developmental disabilities, as such term is defined in section 1.03 of the mental hygiene law. Such waiver applications shall be executed consistent with subdivisions seven, seven-a, and seven-b of this section, to the extent those sections comply with the requirements of section eleven hundred fifteen of the federal social security act. Nothing in subdivision seven of this section shall prevent the commissioner of health, in consultation with the commissioner of developmental disabilities, from submitting waiver applications expanding eligibility under such waivers to children under eighteen years or age who are eligible for medical assistance.

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

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

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

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

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

(4) The provision of home and community based services approved under a waiver program authorized pursuant to **section eleven hundred fifteen of the federal social security act or** subdivision (c) of section nine-

teen hundred fifteen of the federal social security act and subdivisions seven and seven-a of section three hundred sixty-six of the social services law, provided that an operating certificate issued pursuant to this paragraph shall only authorize services in a home or community setting.

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

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

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

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

§ 9. Subdivision 1-a of section 84 of 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, is amended and a new subdivision 1-b is added to read as follows:

1-a. sections seventy-three through eighty-a shall expire and be deemed repealed September 30, [~~2019~~] **2023;**

1-b. the commissioner of the office for people with developmental disabilities shall assess the quality and outcomes of managed care for individuals with developmental disabilities, including their experiences and satisfaction, and report to the temporary president of the senate and the speaker of the assembly no later than December 31, 2022;

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

(a-1) If the commissioner and the commissioner of the office for people with developmental disabilities determine that such organization lacks the experience required in paragraph (a) of this subdivision, the

organization shall have an affiliation arrangement with an entity or entities that are non-profit **organizations or organizations whose shareholders are solely controlled by non-profit organizations** with experience serving persons with developmental disabilities, **as demonstrated by criteria to be determined by the commissioner and the commissioner of the office for people with developmental disabilities, with such criteria** including, but not limited to, residential, day, and employment services such that the affiliated entity will coordinate and plan services operated, certified, funded, authorized or approved by the office for people with developmental disabilities or will oversee and approve such coordination and planning;

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

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

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

(a-1) If the commissioner and the commissioner of the office for people with developmental disabilities determine that such plan lacks the experience required in paragraph (a) of this subdivision, the plan shall have an affiliation arrangement with an entity or entities that are non-profit **organizations or organizations whose shareholders are solely controlled by non-profit organizations** with experience serving persons with developmental disabilities, **as demonstrated by criteria to be determined by the commissioner and the commissioner of the office for people with developmental disabilities, with such criteria** including, but not limited to, residential, day and employment services, such that the affiliated entity will coordinate and plan services operated, certified, funded, authorized or approved by the office for people with developmental disabilities or will oversee and approve such coordination and planning;

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

(d) "Health and long term care services" means **comprehensive health** services **and other services as determined by the commissioner and the commissioner of the office for people with developmental disabilities**, whether provided by state-operated programs or not-for-profit entities, including, but not limited to, habilitation services, home and community-based and institution-based long term care services, and ancillary services, that shall include medical supplies and nutritional supplements, that are necessary to meet the needs of persons whom the plan is

authorized to enroll[~~, and may include primary care and acute care if the DISCO is authorized to provide or arrange for such services~~]. Each person enrolled in a DISCO shall receive health and long term care services designed to achieve person-centered outcomes, to enable that person to live in the most integrated setting appropriate to that person's needs, and to enable that person to interact with nondisabled persons to the fullest extent possible in social, workplace and other community settings, provided that all such services are consistent with such person's wishes to the extent that such wishes are known and in accordance with such person's needs.

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

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

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

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

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

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

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

(c) No person with a developmental disability who is receiving or applying for medical assistance and who is receiving, or eligible to receive, services operated, funded, certified, authorized or approved by the office, shall be required to enroll in a DISCO, HMO or MLTC in order to receive such services until program features and reimbursement rates are approved by the commissioner and the commissioner of health, and until such commissioners determine that a sufficient number of plans that are authorized to coordinate care for individuals pursuant to this section or that are authorized to operate and to exclusively enroll persons with developmental disabilities pursuant to subdivision twenty-seven of section three hundred sixty-four-j of the social services law are operating in such person's county of residence to meet the needs of persons with developmental disabilities, and that such entities meet the standards of this section. No person shall be required to enroll in a DISCO, HMO or MLTC in order to receive services operated, funded, certified, authorized or approved by the office until there are at least two entities operating under this section in such person's county of resi-

dence, unless federal approval is secured to require enrollment when there are less than two such entities operating in such county. **Notwithstanding the foregoing or any other law to the contrary, any health care provider: (i) enrolled in the Medicaid program and (ii) rendering hospital services, as such term is defined in section twenty-eight hundred one of the public health law, to an individual with a developmental disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health services plan operating pursuant to section forty-four hundred three-a of the public health law, including, but not limited to, an individual who is enrolled in a plan authorized by section three hundred sixty-four-j or the social services law, shall accept as full reimbursement the negotiated rate or, in the event that there is no negotiated rate, the rate of payment that the applicable government agency would otherwise pay for such rendered hospital services.**

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

§ 11. This act shall take effect immediately; except that the provisions of sections one, two, three, four, eight and ten of this act shall take effect on the ninetieth day after it shall have become a law; and except that the provisions of sections five, six and seven of this act shall take effect January 1, 1989; and except that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; provided, however, that the provisions of section 364-j of the social services law, as added by section one of this act shall expire and be deemed repealed on and after March 31, [~~2010~~] **2024**, the provisions of section 364-k of the social services law, as added by section two of this act, except subdivision 10 of such section, shall expire and be deemed repealed on and after January 1, 1994, and the provisions of subdivision 10 of section 364-k of the social services law, as added by section two of this act, shall expire and be deemed repealed on January 1, 1995.

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

sections thirteen, fourteen and fifteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART AA

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

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

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

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

PART BB

Section 1. Intentionally omitted.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

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

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

(57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fentanyl).

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

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

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

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

§ 6. Intentionally omitted.

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

(g) Synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or prepara-

tion, which contains any quantity of the following synthetic cannabinoid substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone. Some trade or other names: UR-144.

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

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

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

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

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

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

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

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

(10) {1-(5-fluoropentyl)-1H-indazol-3-yl}(naphthalen-1-y1)methanone. Some trade or other names: THJ-2201.

(h) (1) Cannabimimetic agents. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation that is not approved by the federal food and drug administration (FDA) which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

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

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

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

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

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

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

(3) Such term includes:
(i) 5-(1,1-dimethylheptyl)-2-{(1R,3S)-3-hydroxycyclohexyl}-phenol (CP-47,497);
(ii) 5-(1,1-dimethyloctyl)-2-{(1R,3S)-3-hydroxycyclohexyl}-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);
(iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);
(iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);
(v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);
(vi) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole (JWH-200);
(vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
(viii) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole (JWH-081);
(ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
(x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
(xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
(xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);
(xiii) 1-pentyl-3-{(4-methoxy)-benzoyl}indole (SR-19 and RCS-4);
(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and
(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

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

PART CC

Section 1. Intentionally omitted.

§ 2. Intentionally omitted.

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

(b) When a licensee has pleaded or been found guilty or convicted of committing an act constituting a felony under New York state law or federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York state law, or when a licensee has been charged with committing an act constituting a felony under New York state or federal law or the law of another jurisdiction, where the licensee's alleged conduct, which, if committed within this state, would have constituted a felony under New York state law, and in the commissioner's opinion the licensee's alleged conduct constitutes an imminent danger to the health of the people, or when the duly authorized professional disciplinary agency of another jurisdiction has made a finding substantially equivalent to a finding that the practice of medicine by the licensee in that jurisdiction constitutes an imminent danger to the health of its people, or when a licensee has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction for acts which if committed in this state would have constituted the basis for summary action by the commissioner pursuant to paragraph (a) of this subdivision, the commissioner, after a recommendation by a committee of professional conduct of the state board for professional medical conduct, may order the licensee, by written notice, to discontinue or refrain from practicing medicine in whole or in part or to take certain actions authorized pursuant to this title immediately. The order of the commissioner shall constitute summary action against the licensee and become public upon issuance. The summary suspension shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the date of service of the commissioner's order, end within ninety days

thereafter and otherwise be held in accordance with paragraph (a) of this subdivision, provided, however, that when the commissioner's order is based upon a finding substantially equivalent to a finding that the practice of medicine by the licensee in another jurisdiction constitutes an imminent danger to the health of its people, the hearing shall commence within thirty days after the disciplinary proceedings in that jurisdiction are finally concluded. **If, at any time, the felony charge is dismissed, withdrawn or reduced to a non-felony charge, the commissioner's summary order shall terminate.**

§ 4. This act shall take effect immediately.

PART DD

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

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

(a) report such administration by electronic transmission or [~~fascimile~~] **facsimile** to the patient's attending primary health care practitioner or practitioners, if any, and, to the extent practicable, make himself or herself available to discuss the outcome of such immunization, including any adverse reactions, with the attending primary health care practitioner, [~~or~~] **and** to the statewide immunization registry or the citywide immunization registry, as established pursuant to **and to the extent permitted by** section twenty-one hundred sixty-eight of the public health law; and

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

(c) report such administration, absent of any individually identifiable health information, to the department of health in a manner required by the commissioner of health[~~.~~]**; and**

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

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

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

a. a clearly visible posting of the most current "Recommended Adult Immunization Schedule" published by the advisory committee for immunization practices (ACIP)**; and**

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

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

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

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

b. the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunization to prevent influenza and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

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

(a) **(i)** Any health care provider who administers any vaccine to a person less than nineteen years of age or, on or after September first, two thousand nine, conducts a blood lead analysis of a sample obtained from a person under eighteen years of age in accordance with paragraph (h) of subdivision two of this section; and immunizations received by a person less than nineteen years of age in the past if not already reported, shall report all such immunizations and the results of any blood lead analysis to the department in a format prescribed by the commissioner within fourteen days of administration of such immunizations or of obtaining the results of any such blood lead analysis. Health care providers administering immunizations to persons less than nineteen years of age in the city of New York shall report, in a format prescribed by the city of New York commissioner of health and mental hygiene, all such immunizations to the citywide immunization registry. Health care providers who conduct a blood lead analysis on a person under eighteen years of age and who report the results of such analysis to the city of New York commissioner of health and mental hygiene pursuant to New York city reporting requirements shall be exempt from this requirement for reporting blood lead analysis results to the state commissioner of health; provided, however, blood lead analysis data collected from physician office laboratories by the commissioner of health and mental hygiene of the city of New York pursuant to the health

code of the city of New York shall be provided to the department in a format prescribed by the commissioner.

(ii) A pharmacist who administers a vaccine pursuant to subdivision two of section sixty-eight hundred one of the education law, to a person less than nineteen years of age, shall report all such immunizations to the department in a format prescribed by the commissioner within fourteen days of administration of such immunizations. Pharmacists administering immunizations pursuant to subdivision two of section sixty-eight hundred one of the education law to persons less than nineteen years of age in the city of New York shall report, in a format prescribed by the city of New York commissioner of health and mental hygiene, all such immunizations to the citywide immunization registry.

§ 3. Section 8 of 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, as amended by chapter 46 of the laws of 2015, is amended to read as follows:

§ 8. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed July 1, [~~2019~~] **2020**.

§ 4. Section 5 of 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, as amended by chapter 46 of the laws of 2015, is amended to read as follows:

§ 5. This act shall take effect on the ninetieth day after it shall have become a law [~~and~~]**, provided, however, that the provisions of sections one, two and four of this act** shall expire and be deemed repealed July 1, [~~2019~~] **2020** provided, that:

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

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

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

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

§ 5. Section 5 of 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, as amended by chapter 238 of the laws of 2015, is amended to read as follows:

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law [~~and~~]**, provided, however, that the provisions of sections two, three, and four of this act** shall expire [~~7 years after such effective date when upon such date the provisions of this act shall~~] **and** be deemed repealed **July 1, 2020**; provided, however, that the amendments to subdivision 1 of section 6801 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, when upon such date the provisions of section one-a of this act shall take effect; provided, further, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

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

PART EE

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

(e) Amounts payable under this title for medical assistance in the form of clinic services pursuant to article twenty-eight of the public health law [~~and~~], article sixteen of the mental hygiene law and independent practitioner services for individuals with developmental disabilities provided to eligible persons diagnosed with a developmental disability who are also beneficiaries under part B of title XVIII of the federal social security act, or provided to persons diagnosed with a developmental disability who are qualified medicare beneficiaries under part B of title XVIII of such act shall not be less than the approved medical assistance payment level less the amount payable under part B.

§ 2. This act shall take effect immediately.

PART FF

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

§ 33.27 Independent substance use disorder and mental health ombudsman.

(a) There is hereby established the office of the independent substance use disorder and mental health ombudsman program that will be operated or selected by the office of alcoholism and substance abuse services, in consultation with the office of mental health for the purpose of assisting individuals with a substance use disorder and/or mental illness to ensure that they receive appropriate health insurance coverage.

(b) Such ombudsman will identify, investigate, refer and resolve complaints that are made by, or on behalf of, consumers relative to health insurance coverage and access to initial and continuing substance use disorder care and mental health care; accept, investigate, refer and help to resolve complaints that are made by treatment providers relative to health insurance coverage of and reimbursement for initial or continuing substance use disorder and mental health care; accept, investigate, refer and help to resolve complaints that are made by or on behalf of consumers or by providers relative to network adequacy for access to and continuing substance use disorder and mental health care.

(c) Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law and section one hundred forty-two of the economic development law, or any other inconsistent provision of law, funds available for expenditure pursuant to this section for the establishment of an ombudsman for substance use disorder and mental health insurance coverage, may be allocated and distributed by the commissioner of the office of alcoholism and substance abuse services, subject to the approval of the director of the budget, without a competitive bid or request for proposal process for the establishment of an

ombudsman for substance use disorder and mental health insurance coverage. Provided, however, that such allocation or distribution must be based on objective criteria and an allocation methodology that is approved by the director of the budget.

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

PART GG

Section 1. The mental hygiene law is amended by adding a new section 19.18-b to read as follows:

§ 19.18-b Certified peer recovery advocate services program.

1. For purposes of this subdivision "certified peer recovery advocate services" means participant-centered services that emphasize knowledge and wisdom through lived experience in which peers are encouraged to share their own personal experience and first-hand knowledge of substance abuse, addiction, and recovery to support the recovery goals of individuals who use drugs and/or alcohol.

2. The commissioner shall develop and administer a certification process and standards of training and competency for certified peer recovery advocate services.

3. Certified peer recovery advocate services may include but not be limited to:

(a) developing recovery plans;

(b) raising awareness of existing social and other support services;

(c) modeling coping skills;

(d) assisting with applying for benefits;

(e) accompanying clients to medical appointments;

(f) providing non-clinical crisis support, especially after periods of hospitalization or incarceration;

(g) accompanying clients to court appearances and other appointments;

(h) working with participants to identify strengths;

(i) linking participants to formal recovery supports, including, but not limited to, medication assisted treatment;

(j) educating program participants about various modes of recovery, including, but not limited to, medication assisted treatment;

(k) peer engagement coordination with hospital emergency services to assist any patient that has been administered an opioid antagonist by a medical provider to establish connections to treatment, including, but not limited to, medication assisted treatment and other supports after an opioid overdose reversal or after discharge from another substance abuse related emergency department visit; and

(l) peer engagement coordination with law enforcement departments, fire departments and other first responder departments to assist any individual that has been administered an opioid antagonist by a first responder to establish connections to treatment, including, but not limited to, medication assisted treatment and other support services after an opioid overdose reversal.

§ 2. This act shall take effect immediately; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

PART HH

Section 1. Subdivision 1 of section 2805-i of the public health law, as amended by chapter 504 of the laws of 1994 and paragraph (c) as amended by chapter 39 of the laws of 2012, is amended to read as follows:

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section[~~.~~]**;**

(b) contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services[~~.~~]**;**

(c) offering and making available appropriate HIV post-exposure treatment therapies; including a seven day starter pack of HIV post-exposure prophylaxis, in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate**; and**

(d) ensuring sexual assault survivors are not billed for sexual assault forensic exams and are notified orally and in writing of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the exam pursuant to subdivision thirteen of section six hundred thirty-one of the executive law.

§ 2. Subdivision 2 of section 2805-i of the public health law is REPEALED and a new subdivision 2 is added to read as follows:

2. Sexual offense evidence shall be collected and maintained as follows:

(a) All sexual offense evidence shall be kept in a locked, separate and secure area for twenty years from the date of collection; provided that such evidence shall be transferred to a new location(s) pursuant to this subdivision.

(b) Sexual offense evidence shall include, but not be limited to, slides, cotton swabs, clothing and other items. Where appropriate, such items shall be refrigerated and the clothes and swabs shall be dried, stored in paper bags, and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the alleged sexual offense victim's medical record.

(c) Upon collection, the hospital shall notify the alleged sexual offense victim that, after twenty years, the sexual offense evidence will be discarded in compliance with state and local health codes and that the alleged sexual offense victim's clothes or personal effects will be returned to the alleged sexual offense victim at any time upon request. The alleged sexual offense victim shall be given the option of providing contact information for purposes of receiving notice of the planned destruction of such evidence after the expiration of the twenty-year period.

(d) Until April first, two thousand twenty-one, or earlier if determined feasible by the director of budget pursuant to paragraph (g) of this subdivision, hospitals shall be responsible for securing long-term sexual offense evidence pursuant to this section, after which such stor-

age shall be the responsibility of the custodian(s) identified in the plan approved by the director of budget pursuant to paragraph (g) of this subdivision. Hospitals may enter into contracts with other entities that will ensure appropriate and secure long-term storage of sexual offense evidence pursuant to this section until April first, two thousand twenty-one.

(e) Beginning April first, two thousand eighteen, the department, the office of victim services, the division of criminal justice services and the division of state police shall jointly study, evaluate and make recommendations concerning the storage and monitoring of sexual offense evidence for twenty years, including studying options for the use of: state-owned or operated facilities; facilities owned or operated by local government or law enforcement agencies; and facilities owned or operated by private entities.

(f) On or before December first, two thousand nineteen, such agencies shall submit a joint plan to the director of budget, speaker of the assembly, and president pro tempore of the senate, which shall at a minimum include: recommended storage location(s) for sexual offense evidence; a schedule for sexual offense evidence held by hospitals pursuant to this section to be transferred to such storage location(s) by April first, two thousand twenty-one; and tracking, monitoring and notification option(s).

(g) On or before January first, two thousand twenty, the director of budget shall approve a plan that, at a minimum, establishes: storage location(s) for sexual offense evidence by no later than April first, two thousand twenty-one; a reasonable schedule for sexual offense evidence maintained by hospitals pursuant to this section to be transferred to such storage location(s); and tracking, monitoring and notification system(s).

(h) Between thirty and ten days prior to the transfer of sexual offense evidence to the storage location(s) identified in the plan approved by the director of budget pursuant to paragraph (g) of this subdivision, hospitals shall make diligent efforts to notify the alleged sexual offense victim of the transfer of custody for the remainder of the twenty-year storage period.

(i) On April first, two thousand twenty-one, or earlier if determined feasible by the director of budget, responsibility for long-term storage of sexual offense evidence shall transfer to the custodian(s) identified in the plan approved by the director of budget pursuant to paragraph (g) of this subdivision.

(j) After April first, two thousand twenty-one, or earlier if determined feasible by the director of budget, hospitals shall ensure transfer of sexual offense evidence collected pursuant to this section to the custodian(s) identified in the plan approved by the director of budget pursuant to paragraph (g) of this subdivision within ten days of collection of such evidence, while maintaining chain of custody.

(k) At least ninety days prior to the expiration of the twenty-year storage period for any sexual offense evidence, the custodian(s) of the sexual offense evidence shall make diligent efforts to contact the alleged sexual offense victim to notify the alleged sexual offense victim that the sexual offense evidence will be discarded in compliance with state and local health codes and that the alleged sexual offense victim's clothes and personal effects will be returned to the alleged sexual offense victim upon request.

(l) Notwithstanding any other provision in this section, sexual offense evidence shall not continue to be stored where: (i) such

evidence is not privileged and law enforcement requests its release, in which case the custodian(s) shall comply with such request; or (ii) such evidence is privileged and either (A) the alleged sexual offense victim gives permission to release the evidence to law enforcement, or (B) the alleged sexual offense victim signs a statement directing the custodian(s) to dispose of the evidence, in which case the sexual offense evidence will be discarded in compliance with state and local health codes.

§ 3. Subdivision 13 of section 631 of the executive law, as amended by chapter 39 of the laws of 2012, is amended to read as follows:

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and necessary pharmaceuticals; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established office procedure. The office, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the office in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office**; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider**. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to

other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

§ 4. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 34 to read as follows:

(34) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.

§ 5. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 20 to read as follows:

(20) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.

§ 6. Section 4303 of the insurance law is amended by adding a new subsection (rr) to read as follows:

(rr) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the contract shall not be subject to annual deductibles or coinsurance.

§ 7. This act shall take effect immediately, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after the first of January next succeeding such effective date.

PART II

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

1. provide appropriate and timely notification to the temporary president of the senate, and the speaker of the assembly, and to appropriate representatives of impacted labor organizations. Such notification to the representatives of impacted labor organizations shall be made as soon as practicable, but no less than [~~forty-five~~] **ninety** days prior to such closure or transfer except in the case of exigent circumstances impacting the health, safety, or welfare of the residents of the IRA as determined by the office. Provided, however, that nothing herein shall limit the ability of the office to effectuate such closure or transfer; and

§ 2. Section 2 of 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, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed March 31, [~~2018~~] **2020**.

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

PART JJ

Section 1. The mental hygiene law is amended by adding a new section 13.43 to read as follows:

§ 13.43 First responder training.

(a) The commissioner, in consultation with the commissioner of health, the office of fire prevention and control, the municipal police training council, and the superintendent of state police, shall develop a training program and associated training materials, to provide instruction and information to firefighters, police officers and emergency medical services personnel on appropriate recognition and response techniques for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. The training program and associated training materials shall include any other information deemed necessary and appropriate by the commissioner.

(b) Such training shall address appropriate response techniques for dealing with both adults and minors with autism spectrum disorder and other developmental disabilities.

(c) Such training program may be developed as an online program.

§ 2. The public health law is amended by adding a new section 3054 to read as follows:

§ 3054. Emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. In coordination with the commissioner of the office for people with developmental disabilities, the commissioner shall provide the training program relating to handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities and associated training materials pursuant to section 13.43 of the mental hygiene law to all emergency medical services personnel including, but not limited to, first responders, emergency medical technicians, advanced emergency medical technicians and emergency vehicle operators.

§ 3. Section 156 of the executive law is amended by adding a new subdivision 22 to read as follows:

22. In coordination with the commissioner of the office for people with developmental disabilities, provide the training program relating to handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities and associated training materials pursuant to section 13.43 of the mental hygiene law to all firefighters, both paid and volunteer. The office shall adopt all necessary rules and regulations relating to such training, including the process by which training hours are allocated to counties as well as a uniform procedure for requesting and providing additional training hours.

§ 4. Section 840 of the executive law is amended by adding a new subdivision 5 to read as follows:

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

§ 5. The executive law is amended by adding a new section 214-f to read as follows:

§ 214-f. Emergency situations involving people with autism spectrum disorder and other developmental disabilities. The superintendent shall, for all members of the state police:

1. Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with developmental disabilities; and

2. Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the commissioner of the office for people with developmental disabilities may promulgate any rules and regulations necessary for the implementation of this act on or before such effective date.

PART KK

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

SUBPART A

Section 1. The state finance law is amended by adding a new section 139-l to read as follows:

§ 139-l. Statement on sexual harassment, in bids. 1. (a) Every bid hereafter made to the state or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees.

Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."

(b) Every bid hereafter made to the state or any public department or agency thereof, where competitive bidding is not required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, may contain, at the discretion of the department, agency or official, the certification required pursuant to paragraph (a) of this subdivision.

2. Notwithstanding the foregoing, the statement required by paragraph (a) of subdivision one of this section may be submitted electronically in accordance with the provisions of subdivision seven of section one hundred sixty-three of this chapter.

3. A bid shall not be considered for award nor shall any award be made to a bidder who has not complied with subdivision one of this section; provided, however, that if the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

4. Any bid hereafter made to the state or any public department, agency or official thereof, by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement required by subdivision one of this section, shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the corporation.

§ 2. Subdivision 7 of section 163 of the state finance law, as amended by section 10 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

7. Method of procurement. Consistent with the requirements of subdivisions three and four of this section, state agencies shall select among permissible methods of procurement including, but not limited to, an invitation for bid, request for proposals or other means of solicitation pursuant to guidelines issued by the state procurement council. State agencies may accept bids electronically including submission of the statement of non-collusion required by section one hundred thirty-nine-d of this chapter, and the statement of certification required by section one hundred thirty-nine-l of this chapter, and, starting April first, two thousand twelve, and ending March thirty-first, two thousand fifteen, may, for commodity, service and technology contracts require electronic submission as the sole method for the submission of bids for the solicitation. State agencies shall undertake no more than eighty-five such electronic bid solicitations, none of which shall be reverse auctions, prior to April first, two thousand fifteen. In addition, state agencies may conduct up to twenty reverse auctions through electronic means, prior to April first, two thousand fifteen. Prior to requiring the electronic submission of bids, the agency shall make a determination, which shall be documented in the procurement record, that electronic submission affords a fair and equal opportunity for offerers to submit responsive offers. Within thirty days of the completion of the eighty-fifth electronic bid solicitation, or by April first, two thousand fifteen, whichever is earlier, the commissioner shall prepare a report assessing the use of electronic submissions and make recommendations regarding future use of this procurement method. In addition, within thirty days of the completion of the twentieth reverse auction through electronic means, or by April first, two thousand fifteen, whichever is earlier, the commissioner shall prepare a report assessing

the use of reverse auctions through electronic means and make recommendations regarding future use of this procurement method. Such reports shall be published on the website of the office of general services. Except where otherwise provided by law, procurements shall be competitive, and state agencies shall conduct formal competitive procurements to the maximum extent practicable. State agencies shall document the determination of the method of procurement and the basis of award in the procurement record. Where the basis for award is the best value offer, the state agency shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that the amendments to subdivision 7 of section 163 of the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

SUBPART B

Section 1. The civil practice law and rules are amended by adding a new section 7515 to read as follows:

§ 7515. Mandatory arbitration clauses; prohibited. (a) Definitions. As used in this section:

1. The term "employer" shall have the same meaning as provided in subdivision five of section two hundred ninety-two of the executive law.

2. The term "prohibited clause" shall mean any clause or provision in any contract which requires as a condition of the enforcement of the contract or obtaining remedies under the contract that the parties submit to mandatory arbitration to resolve any allegation or claim of an unlawful discriminatory practice of sexual harassment.

3. The term "mandatory arbitration clause" shall mean a term or provision contained in a written contract which requires the parties to such contract to submit any matter thereafter arising under such contract to arbitration prior to the commencement of any legal action to enforce the provisions of such contract and which also further provides language to the effect that the facts found or determination made by the arbitrator or panel of arbitrators in its application to a party alleging an unlawful discriminatory practice based on sexual harassment shall be final and not subject to independent court review.

4. The term "arbitration" shall mean the use of a decision making forum conducted by an arbitrator or panel of arbitrators within the meaning and subject to the provisions of article seventy-five of the civil practice law and rules.

(b) (i) Prohibition. Except where inconsistent with federal law, no written contract, entered into on or after the effective date of this section shall contain a prohibited clause as defined in paragraph two of subdivision (a) of this section.

(ii) Exceptions. Nothing contained in this section shall be construed to impair or prohibit an employer from incorporating a non-prohibited clause or other mandatory arbitration provision within such contract, that the parties agree upon.

(iii) Mandatory arbitration clause null and void. Except where inconsistent with federal law, the provisions of such prohibited clause as defined in paragraph two of subdivision (a) of this section shall be

null and void. The inclusion of such clause in a written contract shall not serve to impair the enforceability of any other provision of such contract.

(c) Where there is a conflict between any collective bargaining agreement and this section, such agreement shall be controlling.

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

SUBPART C

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

§ 17-a. Reimbursement of funds paid by state agencies and state entities for the payment of awards adjudicated in sexual harassment claims. 1. As used in this section, the term "employee" shall mean any person holding a position by election, appointment, or employment in the service of the state of New York, whether or not compensated. The term "employee" shall include a former employee or judicially appointed personal representative.

2. Notwithstanding any law to the contrary, any employee who has been subject to a final judgment of personal liability for intentional wrongdoing related to a claim of sexual harassment, shall reimburse any state agency or entity that makes a payment to a plaintiff for an adjudicated award based on a claim of sexual harassment resulting in a judgment, for his or her proportionate share of such judgment. Such employee shall personally reimburse such state agency or entity within ninety days of the state agency or entity's payment of such award.

3. If such employee fails to reimburse such state agency or entity pursuant to subdivision two of this section within ninety days from the date such state agency or entity makes a payment for the financial award, the comptroller shall, upon obtaining a money judgment, withhold from such employee's compensation the amounts allowable pursuant to section fifty-two hundred thirty-one of the civil practice law and rules.

4. If such employee is no longer employed by such state agency or entity such state agency or entity shall have the right to receive reimbursement through the enforcement of a money judgment pursuant to article fifty-two of the civil practice law and rules.

§ 2. The public officers law is amended by adding a new section 18-a to read as follows:

§ 18-a. Reimbursement of funds paid by a public entity for the payment of awards adjudicated in sexual harassment claims. 1. As used in this section:

(a) The term "public entity" shall mean (i) a county, city, town, village or any other political subdivision or civil division of the state; (ii) a school district, board of cooperative educational services, or any other governmental entity or combination or association of governmental entities operating a public school, college, community college or university; (iii) a public improvement or special district; (iv) a public authority, commission, agency or public benefit corporation; or (v) any other separate corporate instrumentality or unit of government; but shall not include the state of New York or any other public entity the employees of which are covered by section seventeen-a of this article.

(b) The term "employee" shall mean any commissioner, member of a public board or commission, trustee, director, officer, employee, or any

other person holding a position by election, appointment or employment in the service of a public entity, whether or not compensated. The term "employee" shall include a former employee or judicially appointed personal representative.

2. Notwithstanding any law to the contrary, any employee who has been subject to a final judgment of personal liability for intentional wrongdoing related to a claim of sexual harassment, shall reimburse any public entity that makes a payment to a plaintiff for an adjudicated award based on a claim of sexual harassment resulting in a judgment, for his or her proportionate share of such judgment. Such employee shall personally reimburse such public entity within ninety days of the public entity's payment of such award.

3. If such employee fails to reimburse such public entity pursuant to subdivision two of this section within ninety days from the date such public entity makes a payment for the financial award, the chief fiscal officer of such public entity shall, upon obtaining a money judgment, withhold from such employee's compensation the amounts allowable pursuant to section fifty-two hundred thirty-one of the civil practice law and rules.

4. If such employee is no longer employed by such public entity, such public entity shall have the right to receive reimbursement through the enforcement of a money judgment pursuant to article fifty-two of the civil practice law and rules.

§ 3. This act shall take effect immediately.

SUBPART D

Section 1. The general obligations law is amended by adding a new section 5-336 to read as follows:

§ 5-336. Nondisclosure agreements. Notwithstanding any other law to the contrary, no employer, its officers or employees shall have the authority to include or agree to include in any settlement, agreement or other resolution of any claim, the factual foundation for which involves sexual harassment, any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the complainant's preference. Any such term or condition must be provided to all parties, and the complainant shall have twenty-one days to consider such term or condition. If after twenty-one days such term or condition is the complainant's preference, such preference shall be memorialized in an agreement signed by all parties. For a period of at least seven days following the execution of such agreement, the complainant may revoke the agreement, and the agreement shall not become effective or be enforceable until such revocation period has expired.

§ 2. The civil practice law and rules is amended by adding a new section 5003-b to read as follows:

§ 5003-b. Nondisclosure agreements. Notwithstanding any other law to the contrary, for any claim or cause of action, whether arising under common law, equity, or any provision of law, the factual foundation for which involves sexual harassment, in resolving, by agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance or otherwise, no employer, its officer or employee shall have the authority to include or agree to include in such resolution any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the plaintiff's preference. Any such term or condition must be

provided to all parties, and the plaintiff shall have twenty-one days to consider such term or condition. If after twenty-one days such term or condition is the plaintiff's preference, such preference shall be memorialized in an agreement signed by all parties. For a period of at least seven days following the execution of such agreement, the plaintiff may revoke the agreement, and the agreement shall not become effective or be enforceable until such revocation period has expired.

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

SUBPART E

Section 1. The labor law is amended by adding a new section 201-g to read as follows:

§ 201-g. Prevention of sexual harassment. 1. The department shall consult with the division of human rights to create and publish a model sexual harassment prevention guidance document and sexual harassment prevention policy that employers may utilize in their adoption of a sexual harassment prevention policy required by this section.

a. Such model sexual harassment prevention policy shall: (i) prohibit sexual harassment consistent with guidance issued by the department in consultation with the division of human rights and provide examples of prohibited conduct that would constitute unlawful sexual harassment; (ii) include but not be limited to information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment and a statement that there may be applicable local laws; (iii) include a standard complaint form; (iv) include a procedure for the timely and confidential investigation of complaints and ensure due process for all parties; (v) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially; (vi) clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and (vii) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any proceeding under the law is unlawful.

b. Every employer shall adopt the model sexual harassment prevention policy promulgated pursuant to this subdivision or establish a sexual harassment prevention policy to prevent sexual harassment that equals or exceeds the minimum standards provided by such model sexual harassment prevention policy. Such sexual harassment prevention policy shall be provided to all employees in writing. Such model sexual harassment prevention policy shall be publicly available and posted on the websites of both the department and the division of human rights.

2. The department shall consult with the division of human rights and produce a model sexual harassment prevention training program to prevent sexual harassment in the workplace.

a. Such model sexual harassment prevention training program shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the department in consultation with the division of human rights; (ii) examples of conduct that would constitute unlawful sexual harassment; (iii) information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment; and (iv) information

concerning employees' rights of redress and all available forums for adjudicating complaints.

b. The department shall include information in such model sexual harassment prevention training program addressing conduct by supervisors and any additional responsibilities for such supervisors.

c. Every employer shall utilize the model sexual harassment prevention training program pursuant to this subdivision or establish a training program for employees to prevent sexual harassment that equals or exceeds the minimum standards provided by such model training. Such sexual harassment prevention training shall be provided to all employees on an annual basis.

3. The commissioner may promulgate regulations as he or she deems necessary for the purposes of carrying out the provisions of this section.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the department of labor, in consultation with the division of human rights, is authorized to create the model sexual harassment prevention policy and the model sexual harassment prevention training program required to be created and published pursuant to section 201-g of the labor law as added by section one of this act.

SUBPART F

Section 1. The executive law is amended by adding a new section 296-d to read as follows:

§ 296-d. Sexual harassment relating to non-employees. It shall be an unlawful discriminatory practice for an employer to permit sexual harassment of non-employees in its workplace. An employer may be held liable to a non-employee who is a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace or who is an employee of such contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace, with respect to sexual harassment, when the employer, its agents or supervisors knew or should have known that such non-employee was subjected to sexual harassment in the employer's workplace, and the employer failed to take immediate and appropriate corrective action. In reviewing such cases involving non-employees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of the harasser shall be considered.

§ 2. Subdivision 4 of section 292 of the executive law, as amended by chapter 97 of the laws of 2014, is amended to read as follows:

4. The term "unlawful discriminatory practice" includes only those practices specified in sections two hundred ninety-six, two hundred ninety-six-a [~~and~~], two hundred ninety-six-c and two hundred ninety-six-d of this article.

§ 3. This act shall take effect immediately.

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

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

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

PART LL

Section 1. The public health law is amended by adding a new section 1114-a to read as follows:

§ 1114-a. Voluntary public water system consolidation study. 1. There shall be established in the department, by the commissioner, a voluntary public water system consolidation study designed to evaluate the feasibility of the joining of public water systems in order to improve water quality. Such study shall include:

(a) the feasibility of joining of two or more public water systems to form one water system;

(b) the feasibility of the consolidation of one or more public water systems into a larger public water system;

(c) the appropriate technical, managerial and financial capacity necessary for consolidation, including state funding mechanisms and incentives that could be utilized;

(d) potential public health impacts of consolidation, including ability to meet legally required water quality standards and the impact on monitoring, reporting and enforcement of drinking water standards;

(e) appropriate and sufficient guidance from the department necessary for those public water systems interested in consolidation; and

(f) recommendations for public water systems interested in voluntary consolidation.

2. The department shall prepare and submit a report and supporting materials to the governor, the temporary president of the senate and the speaker of the assembly setting forth the information gathered and recommendations to the legislature by January first of the following year.

§ 2. This act shall take effect immediately.

PART MM

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

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

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

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

2. When conducting an audit of a pharmacy's records, a pharmacy benefit manager shall:

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

(b) notify the pharmacy or its contracting agent no later than fifteen days before the date of initial on-site audit. Such notification to the pharmacy or its contracting agent shall be in writing delivered either (i) by mail or common carrier, return receipt requested, or (ii) electronically with electronic receipt confirmation, addressed to the super-

vising pharmacist of record and pharmacy corporate office where applicable, at least fifteen days before the date of an initial on-site audit;

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

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

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

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

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

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

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

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

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

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

4. This section shall not apply to:

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

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

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

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

3. No pharmacy benefit manager shall, with respect to contracts between such pharmacy benefit manager and a pharmacy or, alternatively,

such pharmacy benefit manager and a pharmacy's contracting agent, such as a pharmacy services administrative organization:

(a) prohibit or penalize a pharmacist or pharmacy from disclosing to an individual purchasing a prescription medication information regarding:

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

(2) the availability of any therapeutically equivalent alternative medications or alternative methods of purchasing the prescription medication, including but not limited to, paying a cash price; or

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

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

§ 3. Paragraph 31 of subsection (i) of section 3216 of the insurance law is amended by adding a new subparagraph (E) to read as follows:

(E) This subparagraph shall apply to facilities in this state certified by the office of alcoholism and substance abuse services for the provision of outpatient, intensive outpatient, outpatient rehabilitation and opioid treatment that are participating in the insurer's provider network. Coverage provided under this paragraph shall not be subject to preauthorization. Coverage provided under this paragraph shall not be subject to concurrent review for the first two weeks of continuous treatment, not to exceed fourteen visits, provided the facility notifies the insurer of both the start of treatment and the initial treatment plan within forty-eight hours. The facility shall perform clinical assessment of the patient at each visit, including the periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review tool utilized by the insurer which is designated by the office of alcoholism and substance abuse services and appropriate to the age of the patient, to ensure that the outpatient treatment is medically necessary for the patient. Any utilization review of the treatment provided under this subparagraph may include a review of all services provided during such outpatient treatment, including all services provided during the first two weeks of continuous treatment, not to exceed fourteen visits, of such outpatient treatment. Provided, however, the insurer shall only deny coverage for any portion of the initial two weeks of continuous treatment, not to exceed fourteen visits, for outpatient treatment on the basis that such treatment was not medically necessary if such outpatient treatment was contrary to the evidence-based and peer reviewed clinical review tool utilized by the insurer which is designated by the office of alcoholism and substance abuse services. An insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 4. Paragraph 7 of subsection (l) of section 3221 of the insurance law is amended by adding a new subparagraph (E) to read as follows:

(E) This subparagraph shall apply to facilities in this state certified by the office of alcoholism and substance abuse services for the provision of outpatient, intensive outpatient, outpatient rehabilitation and opioid treatment that are participating in the insurer's provider network. Coverage provided under this paragraph shall not be subject to preauthorization. Coverage provided under this paragraph shall not be

subject to concurrent review for the first two weeks of continuous treatment, not to exceed fourteen visits, provided the facility notifies the insurer of both the start of treatment and the initial treatment plan within forty-eight hours. The facility shall perform clinical assessment of the patient at each visit, including the periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review tool utilized by the insurer which is designated by the office of alcoholism and substance abuse services and appropriate to the age of the patient, to ensure that the outpatient treatment is medically necessary for the patient. Any utilization review of the treatment provided under this subparagraph may include a review of all services provided during such outpatient treatment, including all services provided during the first two weeks of continuous treatment, not to exceed fourteen visits, of such outpatient treatment. Provided, however, the insurer shall only deny coverage for any portion of the initial two weeks of continuous treatment, not to exceed fourteen visits, for outpatient treatment on the basis that such treatment was not medically necessary if such outpatient treatment was contrary to the evidence-based and peer reviewed clinical review tool utilized by the insurer which is designated by the office of alcoholism and substance abuse services. An insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 5. Subsection (l) of section 4303 of the insurance law is amended by adding a new paragraph 5 to read as follows:

(5) This paragraph shall apply to facilities in this state certified by the office of alcoholism and substance abuse services for the provision of outpatient, intensive outpatient, outpatient rehabilitation and opioid treatment that are participating in the corporation's provider network. Coverage provided under this subsection shall not be subject to preauthorization. Coverage provided under this subsection shall not be subject to concurrent review for the first two weeks of continuous treatment, not to exceed fourteen visits, provided the facility notifies the corporation of both the start of treatment and the initial treatment plan within forty-eight hours. The facility shall perform clinical assessment of the patient at each visit, including the periodic consultation with the corporation to ensure that the facility is using the evidence-based and peer reviewed clinical review tool utilized by the corporation which is designated by the office of alcoholism and substance abuse services and appropriate to the age of the patient, to ensure that the outpatient treatment is medically necessary for the patient. Any utilization review of the treatment provided under this paragraph may include a review of all services provided during such outpatient treatment, including all services provided during the first two weeks of continuous treatment, not to exceed fourteen visits, of such outpatient treatment. Provided, however, the corporation shall only deny coverage for any portion of the initial two weeks of continuous treatment, not to exceed fourteen visits, for outpatient treatment on the basis that such treatment was not medically necessary if such outpatient treatment was contrary to the evidence-based and peer reviewed clinical review tool utilized by the corporation which is designated by the office of alcoholism and substance abuse services. A subscriber shall not have any financial obligation to the facility for any treatment under this paragraph other than any copayment, coinsurance, or deductible otherwise required under the contract.

§ 6. The public health law is amended by adding two new sections 2531 and 2532 to read as follows:

§ 2531. Children and recovering mothers program. Subject to appropriation, the commissioner, in consultation with the commissioner of alcoholism and substance abuse services, is authorized to establish the children and recovering mothers program, a program aimed at providing health care providers, hospitals and midwifery birth centers with guidance, education and assistance when providing care to expectant mothers with a substance use disorder. Such program shall:

1. Provide information to both health care providers as well as expectant mothers regarding use of medication assisted treatment for pregnant women, which shall include information regarding buprenorphrine training, tools for providers on effective management of women with a substance use disorder during pregnancy, and a referral list of providers in the area;

2. Provide guidance and referral information for substance use disorder services, home visiting services and other benefits and services that they may be eligible for while expecting and after birth;

3. Develop a system for rapid consultation and referral linkage services for obstetricians and primary care providers statewide who provide care for expectant mothers with substance use disorders;

4. Provide guidance on the identification of signs and symptoms of substance use disorder in expectant mothers; and

5. Anything else deemed necessary to implement the program.

§ 2532. Workgroup. The commissioner, in conjunction with the commissioner of alcoholism and substance abuse services, shall convene a workgroup of stakeholders, including but not limited to, hospitals, local health departments, obstetricians, midwives, pediatricians, and substance use disorder providers to study and evaluate barriers and challenges in identifying and treating expectant mothers, newborns and new parents with a substance use disorder. The workgroup shall report on its findings and recommendations to the commissioner, the commissioner of alcoholism and substance abuse services, the speaker of the assembly and the temporary president of the senate within one year of the effective date of this section.

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

(i) schools for the purpose of verifying immunization status for eligibility for admission, for the purpose of confirming a student has been screened for lead when enrolling in child care, pre-school or kindergarten, and for the provision of appropriate educational materials developed by the department pursuant to section thirteen hundred seventy-a of this chapter on the dangers of lead exposure, and the health risks associated with elevated blood lead levels to the parents or legal guardians of the student with an elevated blood lead level, as such term is defined in subdivision six of section thirteen hundred seventy of this chapter, as well as information on programs that may be available to the student and the parents or legal guardians of the student;

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

§ 1114. Lead service line replacement grant program. 1. [~~To the extent practicable, the~~] The department shall allocate appropriated funds equitably among regions of the state. Within each region, the department shall give priority to municipalities that have a high percentage of elevated childhood blood lead levels, based on the most recent available

data. In distributing the awards allocated for each region to such priority municipalities, the department shall also consider whether the community is low income and the number of lead service lines in need of replacement. The department may request that such municipalities provide such documentation as the department may require to confirm award eligibility.

2. **Further, the department shall establish a statewide plan for lead service line replacement, which shall include, at a minimum, a report on the implementation of subdivision one of this section, resources and techniques for identifying lead service lines throughout the state, the cost of replacing lead service lines, recommendations for municipalities on methods for evaluating the status of lead service lines present and guidance on replacement.**

3. The department shall publish information, application forms, procedures and guidelines relating to the program on its website and in a manner that is accessible to the public and all potential award recipients.

§ 9. a. Notwithstanding any contrary provision of law, the commissioner of the New York state department of health is hereby authorized and directed to prepare or have prepared a study of, and recommendations for, evidence-based interventions to address the high burden of asthma in the boroughs of Brooklyn and Manhattan in the city of New York. Such study shall include an analysis of high risk neighborhoods examining disparities in: income, race and ethnicity, public and private housing, and proximity to major sources of air pollution.

b. The study and recommendations authorized pursuant to subdivision a of this section shall be completed within twenty-four months of the effective date of this act.

§ 10. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 34 to read as follows:

(34) Every policy that provides coverage for hospital, surgical or medical care shall provide the following coverage for pasteurized donor human milk (PDHM), which may include fortifiers as medically indicated, for inpatient use, for which a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk at all or in sufficient quantities or participate in breast feeding despite optimal lactation support. Such infant shall: (i) have a documented birth weight of less than one thousand five hundred grams; or (ii) have a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis.

§ 11. Subsection (1) of section 3221 of the insurance law is amended by adding a new paragraph 20 to read as follows:

(20) Every insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state that provides coverage for hospital, surgical or medical care shall provide the following coverage for pasteurized donor human milk (PDHM), which may include fortifiers as medically indicated, for inpatient use, for which a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk at all or in sufficient quantities or participate in breast feeding despite optimal lactation support. Such infant shall: (i) have a documented birth weight of less than one thousand five hundred grams; or (ii) have a congenital or acquired

condition that places the infant at a high risk for development of necrotizing enterocolitis.

§ 12. Section 4303 of the insurance law is amended by adding a new subsection (oo) to read as follows:

(oo) A medical expense indemnity corporation, a hospital service corporation or a health service corporation that provides coverage for hospital, surgical or medical care shall provide the following coverage for pasteurized donor human milk (PDHM), which may include fortifiers as medically indicated, for inpatient use, for which a licensed medical practitioner has issued an order for an infant who is medically or physically unable to receive maternal breast milk or participate in breast feeding or whose mother is medically or physically unable to produce maternal breast milk at all or in sufficient quantities or participate in breast feeding despite optimal lactation support. Such infant shall: (i) have a documented birth weight of less than one thousand five hundred grams; or (ii) have a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis.

§ 13. This act shall take effect immediately.

PART NN

Section 1. Article 33 of the public health law is amended by adding a new title 2-A to read as follows:

TITLE 2-A

OPIOID STEWARDSHIP ACT

Section 3323. Opioid stewardship fund.

§ 3323. Opioid stewardship fund. 1. Definitions:

(a) "Opioid stewardship payment" shall mean the total amount to be paid into the opioid stewardship fund for each state fiscal year as set forth in subdivision two of this section.

(b) "Ratable share" shall mean the individual portion of the opioid stewardship payment to be paid by each manufacturer and distributor licensed under this article that sells or distributes opioids in the state of New York.

(c) Notwithstanding any inconsistent provision of law to the contrary, "distribute" shall mean to deliver a controlled substance other than by administering or dispensing to the ultimate user, including intra-company transfers between any division, affiliate, subsidiary, parent or other entity under complete common ownership and control. For purposes of this section, "distribute" shall not include controlled substances surrendered to reverse distributors, or donated to recipient entities or third-party intermediaries pursuant to the unused prescription drug donation and redispensing program of section two hundred eighty-b of this chapter.

2. Opioid stewardship payment imposed on manufacturers and distributors. All manufacturers and distributors licensed under this article (hereinafter referred to as "licensees"), that sell or distribute opioids in the state of New York shall be required to pay an opioid stewardship payment. On an annual basis, the commissioner shall certify to the state comptroller the amount of all revenues collected from opioid stewardship payments and any penalties imposed. The amount of revenues so certified shall be deposited quarterly into the opioid stewardship fund established pursuant to section ninety-seven-aaaaa of the state finance law. No licensee shall pass the cost of their ratable share amount to a purchaser, including the ultimate user of the opioid,

or such licensee shall be subject to penalties pursuant to subdivision ten of this section.

3. Determination of opioid stewardship payment. The total opioid stewardship payment amount shall be one hundred million dollars annually, subject to downward adjustments pursuant to subdivision nine of this section.

4. Reports and records. Each manufacturer and distributor licensed under this article that sells or distributes opioids in the state of New York shall provide to the commissioner a report detailing all opioids sold or distributed by such manufacturer or distributor in the state of New York. Such report shall include:

(a) the manufacturer's or distributor's name, address, phone number, federal Drug Enforcement Agency (DEA) registration number and controlled substance license number issued by the department;

(b) the name, address and DEA registration number of the entity to whom the opioid was sold or distributed;

(c) the date of the sale or distribution of the opioid;

(d) the gross receipt total, in dollars, of all opioids sold or distributed;

(e) the name and National Drug Code (NDC) of the opioid sold or distributed;

(f) the number of containers and the strength and metric quantity of controlled substance in each container of the opioid sold or distributed;

(g) the total number of morphine milligram equivalents (MMEs) sold or distributed; and

(h) any other elements as deemed necessary by the commissioner.

4-a. Initial and future reports. (a) Such information shall be reported annually to the department in such form as defined by the commissioner, provided however that the initial report provided pursuant to subdivision four shall consist of all opioids sold or distributed in the state of New York for the two thousand seventeen calendar year, and must be submitted by August 1, 2018. Subsequent annual reports shall be submitted on April first of each year based on the actual opioid sales and distributions of the prior calendar year.

(b) For the purpose of such annual reporting, MMEs shall be determined pursuant to a formulation to be issued by the department and updated as the department deems appropriate.

5. Determination of ratable share. Each manufacturer and distributor licensed under this article that sells or distributes opioids in the state of New York shall pay a portion of the total opioid stewardship payment amount. The ratable share shall be calculated as follows:

(a) The total amount of MMEs sold or distributed in the state of New York by the licensee for the preceding calendar year, as reported by the licensee pursuant to subdivision four of this section, shall be divided by the total amount of MME sold in the state of New York by all licensees pursuant to this article to determine the licensee payment percentage. The licensee payment percentage shall be multiplied by the total opioid stewardship payment. The product of such calculation shall be the licensee's ratable share. The department shall have the authority to adjust the total number of a licensee's MMEs to account for the nature and use of the product, as well as the type of entity purchasing the product from the licensee, when making such determination and adjust the ratable share accordingly.

(b) The licensee's total amount of MME sold or distributed, as well as the total amount of MME sold or distributed by all licensees under this

article, used in the calculation of the ratable share shall not include the MME of those opioids which are: (i) manufactured in New York state, but whose final point of delivery or sale is outside of New York state; (ii) sold or distributed to entities certified to operate pursuant to article thirty-two of the mental hygiene law, or article forty of the public health law; or (iii) the MMEs attributable to buprenorphine, methadone or morphine.

(c) The department shall provide to the licensee, in writing, on or before October fifteenth, two thousand eighteen, the licensee's ratable share for the two thousand seventeen calendar year. Thereafter, the department shall notify the licensee in writing annually on or before October fifteenth of each year based on the opioids sold or distributed for the prior calendar year.

6. Payment of ratable share. The licensee shall make payments quarterly to the department with the first payment of the ratable share, provided that the amount due on January first, two thousand nineteen shall be for the full amount of the first annual payment, with additional payments to be due and owing on the first day of every quarter thereafter.

7. Rebate of ratable share. In any year for which the commissioner determines that a licensee failed to report required information as required by this section, those licensees complying with this section shall receive a reduced assessment of their ratable share in the following year equal to the amount in excess of any overpayment in the prior payment period.

8. Licensee opportunity to appeal. A licensee shall be afforded an opportunity to submit information to the department to justify why the ratable share provided to the licensee, pursuant to paragraph (c) of subdivision five of this section, or amounts paid thereunder are in error or otherwise not warranted. If the department determines thereafter that all or a portion of such ratable share, as determined by the commissioner pursuant to subdivision five of this section, is not warranted, the department may: (a) adjust the ratable share; (b) adjust the assessment of the ratable share in the following year equal to the amount in excess of any overpayment in the prior payment period; or (c) refund amounts paid in error.

9. Department annual review. The department shall annually review the amount of state operating funds spent in the office of alcoholism and substance abuse services (OASAS) budget for opioid prevention, treatment and recovery. The commissioner of OASAS shall certify to the department the amount of annual spending for such services, utilizing available information on patient demographics and the actual cost of services delivered by the state and by state-funded providers. The certification of such spending shall begin in state fiscal year two thousand eighteen-nineteen, and continue annually thereafter. The total amount of such spending shall be provided to the department by the commissioner of OASAS no later than June thirtieth of each year. There shall be no stewardship fund payments beginning on July first in the event state operating funds spent in the OASAS budget for opioid prevention, treatment and recovery in the most recently reported year is equal to or less than state operating funds spent for such purposes in state fiscal year two thousand nine-ten.

10. Penalties. (a) The department may assess a civil penalty in an amount not to exceed one thousand dollars per day against any licensee that fails to comply with subdivisions four and four-a of this section.

(b) In addition to any other civil or criminal penalty provided by law, where a licensee has failed to pay its ratable share in accordance with subdivision six of this section, the department may also assess a penalty of no less than ten percent and no greater than three hundred percent of the ratable share due from such licensee.

(c) Where the ratable share, or any portion thereof, has been passed on to a purchaser by a licensee, the commissioner may impose a penalty not to exceed one million dollars per incident.

§ 2. Subdivision 1 of section 3316 of the public health law is amended by adding a new paragraph (c) to read as follows:

(c) is unlikely during the period of his or her license to complete the reports or to pay the ratable share required by title two-A of this article on or before the required date. Prior evidence of non-compliance shall constitute substantial evidence of such.

§ 3. The state finance law is amended by adding a new section 97-aaaaa to read as follows:

§ 97-aaaaa. Opioid stewardship fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance an account of the miscellaneous special revenue account to be known as the "opioid stewardship fund".

2. Moneys in opioid stewardship fund shall be kept separate and shall not be commingled with any other moneys in the custody of the state comptroller and the commissioner of taxation and finance.

3. The opioid stewardship fund shall consist of moneys appropriated for the purpose of such account, moneys transferred to such account pursuant to law, contributions consisting of promises or grants of any money or property of any kind or value, or any other thing of value, including grants or other financial assistance from any agency of government and moneys required by the provisions of this section or any other law to be paid into or credited to this account.

4. Moneys of the opioid stewardship fund, when allocated, shall be available, subject to the approval of the director of the budget, to support programs operated by the New York state office of alcoholism and substance abuse services or agencies certified, authorized, approved or otherwise funded by the New York state office of alcoholism and substance abuse services to provide opioid treatment, recovery and prevention and education services; and to provide support for the prescription monitoring program registry as established pursuant to section thirty-three hundred forty-three-a of the public health law.

5. At the request of the budget director, the state comptroller shall transfer moneys to support the costs of opioid treatment, recovery, prevention, education services, and other related programs, from the opioid stewardship fund to any other fund of the state to support this purpose.

6. (i) Notwithstanding the provisions of any general or special law, no moneys shall be available from the opioid stewardship fund until a certificate of allocation and a schedule of amounts to be available therefor shall have been issued by the director of the budget, upon the recommendation of the commissioner of the office of alcoholism and substance abuse services, and a copy of such certificate filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

(ii) Such certificate may be amended from time to time by the director of the budget, upon the recommendation of the commissioner of the office of alcoholism and substance abuse services, and a copy of such amendment

shall be filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

7. The moneys, when allocated, shall be paid out of the opioid stewardship fund, pursuant to subdivision four of this section, and subject to the approval of the director of the budget, on the audit and warrant of the comptroller on vouchers certified or approved by (i) the commissioner of the office of alcoholism and substance abuse services or his or her designee; or (ii) the commissioner of the department of health or his or her designee.

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

§ 5. This act shall take effect July 1, 2018 and shall expire and be deemed to be repealed on June 30, 2024, provided that, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

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

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