

# STATE OF NEW YORK

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8007--B

## IN SENATE

January 19, 2022

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

AN ACT to amend the public health law, in relation to the implementation of the Nurses Across New York (NANY) program (Part A); to amend the education law, in relation to enacting the interstate medical licensure compact; and to amend the education law, in relation to enacting the nurse licensure compact (Part B); intentionally omitted (Part C); to amend the social services law, in relation to establishing health care and mental hygiene worker bonuses (Part D); to amend the public health law, in relation to increasing general public health work base grants for both full-service and partial-service counties and allow for local health departments to claim up to seventy-five percent of personnel service costs (Part E); to amend the public health law, in relation to the modernization of the emergency medical system (Part F); intentionally omitted (Part G); to repeal sections 91 and 92 of part H of chapter 59 of the laws of 2011 relating to the year to year rate of growth of Department of Health state funds and Medicaid funding, relating to the state Medicaid spending cap and related processes (Part H); relating to provide a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates (Part I); to amend the public health law, in relation to extending the statutory requirement to reweight and rebase acute hospital rates (Part J); to amend the public health law, in relation to the creation of a new statewide health care facility transformation program (Part K); to amend the public health law, in relation to streamlining and adding criteria to the certificate of need process (Part L); to amend the public health law, in relation to the definition of revenue in the minimum spending statute for nursing homes and the rates of payment and rates of reimbursement for residential health care facilities, and in relation to making a temporary payment to facilities in severe financial distress (Part M); to amend the social services law, in relation to Medicaid eligibility requirements for seniors and disabled individuals; and to repeal certain provisions of such law relating

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

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thereto (Part N); to amend the social services law and the public health law, in relation to providing increased rates for private duty nursing services that are provided to medically fragile adults (Subpart A); to amend the public health law, in relation to establishing a state-level program of all-inclusive care for the elderly; to amend the social services law, in relation to making technical corrections to such law; and repealing certain provisions of the social services law relating thereto (Subpart B); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws, relating to general hospital inpatient reimbursement for annual rates, in relation to supplemental Medicaid managed care payments (Subpart C) (Part O); to amend the public health law and the social services law, in relation to requiring Medicaid managed care organizations, the essential plan and qualified health plans to contract with national cancer institute-designated cancer centers, where such centers agree to certain terms and conditions; and providing for the repeal of certain provisions upon expiration thereof (Part P); to amend the public health law and the social services law, in relation to permitting the commissioner of health to submit a waiver that expands eligibility for New York's basic health program and increases the federal poverty limit cap for basic health program eligibility from two hundred to two hundred fifty percent; to amend the social services law, in relation to allowing pregnant individuals to be eligible for the basic health program and maintain coverage in the basic health program for one year post pregnancy and to deem a child born to an individual covered under the basic health program to be eligible for medical assistance; and providing for the repeal of certain provisions upon the expiration thereof (Part Q); to amend the insurance law, in relation to requiring that provision be made for pregnancy termination procedures in every individual or group policy or contract which provides coverage or indemnity for hospital, surgical or medical care and which offers maternity care coverage (Part R); to amend the social services law, in relation to including expanded pre-natal and post-partum care as standard coverage when determined to be necessary and the continuance of eligibility for pregnant individuals to receive medical assistance in certain situations; and to repeal section 369-hh of the social services law (Part S); intentionally omitted (Part T); to amend the public health law, in relation to expanding benefits in the Child Health Plus Program, eliminating the premium contribution for certain households and transferring Child Health Plus rate setting authority from the Department of Financial Services to the Department of Health (Part U); to amend the public health law, in relation to the delivery of health care services via telehealth and modifying the definition of telehealth provider (Part V); intentionally omitted (Part W); intentionally omitted (Part X); to amend the domestic relations law, in relation to marriage certificates (Part Y); 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 extending the physicians medical malpractice program; 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 Z); intentionally omitted (Part AA); intentionally omitted (Part BB); to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; (Part CC); in relation to establishing a cost of living adjustment for designated human services programs (Part DD); to amend the mental hygiene law, in relation to a 9-8-8 suicide prevention and behavioral health crisis hotline system (Part EE); to amend the social services law, in relation to reinvesting savings recouped from behavioral health transition into managed care back into behavioral health services (Part FF); to amend chapter 57 of the laws of 2019 amending the public health law relating to waiver of certain regulations, in relation to the effectiveness thereof (Part GG); to amend the public health law, in relation to requiring a stock of opioid agonist medication for the treatment of an opioid use disorder (Part HH); to amend the mental hygiene law, in relation to community residences for addiction (Part II); intentionally omitted (Part JJ); intentionally omitted (Part KK); to amend chapter 56 of the laws of 2013 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and referencing the office of addiction services and supports; to amend part H of chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services referencing the office of addiction services and supports and in relation to the effectiveness thereof (Part LL); to amend Kendra's law, in relation to extending the expiration thereof (Part MM); to amend the mental hygiene law, in relation to rental and mortgage payments for the mentally ill (Part NN); intentionally omitted (Part OO); to amend the social services law and the public health law, in relation to protecting access to pharmacy services (Part PP); to amend the social services law, in relation to removing certain restrictions on access to home care services; and to repeal certain provisions of such law relating thereto (Part QQ); to amend the public health law, the state finance law and part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund Medicaid expenditures, in relation to fair pay for home care aides (Part RR); to amend the public health law, in relation to enacting the quality incentive vital access provider program act (Part SS); relating to exemptions from certain provisions of the state finance law and the economic development law (Part TT); to amend the mental hygiene law, in relation to funding for services of the office of addiction services and supports (Part UU); to amend the mental hygiene law, in relation to creating the office of addiction and mental health services (Part VV); to amend the mental hygiene law, the state finance law and the general municipal law, in relation to establishing a state crisis intervention demonstration program and a crisis intervention team training fund (Part WW); and to direct the department of health to conduct a statewide study on the support and administration needs of the consumer-directed personal care program (Part XX)

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 necessary to implement the state health and mental hygiene budget for the 2022-2023 state fiscal year. Each component is wholly contained within a Part identified as Parts A through XX. 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. Short title. This act shall be known and may be cited as the "nurses across New York (NANY) program".

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

§ 2807-aa. Nurse loan repayment program. 1.(a) Monies shall be made available, subject to appropriations, for purposes of loan repayment in accordance with the provisions of this section for registered professional nurses and licensed practical nurses licensed to practice pursuant to title eight of the education law. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law and sections one hundred forty-two and one hundred forty-three of the economic development law, or any other contrary provision of law, such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner without a competitive bid or request for proposals.

(i) Funding awarded pursuant to this section shall be awarded to repay loans of nurses who work in areas determined to be underserved communities by the commissioner and who agree to work in such areas for a period of three consecutive years. A nurse may be deemed to be practicing in an underserved area if they practice in a facility or physician's office that primarily serves an underserved population as determined by the commissioner, without regard to whether the population or the facility or physician's office is located in an underserved area.

(ii) Funding awarded pursuant to this section shall not exceed the total qualifying outstanding debt of the nurse from student loans to cover tuition and other related educational expenses, made by or guaranteed by the federal or state government, or made by a lending or educational institution approved under title IV of the federal higher education act. Loan repayment awards shall be used solely to repay such outstanding debt.

(iii) A nurse receiving funds pursuant to this section shall be eligible for a loan repayment award to be determined by the commissioner over a three-year period distributed as follows: thirty percent of total award for the first year; thirty percent of total award for the second year; and any unpaid balance of the total award not to exceed the maximum award amount for the third year.

(iv) In the event that a three-year commitment pursuant to the agreement referenced in subparagraph (i) of this paragraph is not fulfilled,

the recipient shall be responsible for repayment of amounts paid which shall be calculated in accordance with the formula set forth in subdivision (b) of section two hundred fifty-four-o of title forty-two of the United States Code, as amended.

(b) The commissioner may postpone, change or waive the service obligation and repayment amounts set forth in subparagraphs (i) and (iv) of paragraph (a) of this subdivision in individual circumstances where there is compelling need or hardship.

2. To develop a streamlined application process for the nurse loan repayment program set forth in subdivision one of this section, the department shall appoint a work group from recommendations made by associations representing nurses, general hospitals and other health care facilities. Such recommendations shall be made by September thirtieth, two thousand twenty-two.

3. In the event there are undistributed funds within amounts made available for distributions pursuant to this section, such funds may be reallocated and distributed in current or subsequent distribution periods in a manner determined by the commissioner for the purpose set forth in this section.

§ 3. This act shall take effect immediately; provided, however, that section two of this act shall be deemed to have been in full force and effect on and after April 1, 2022.

## PART B

Section 1. The education law is amended by adding a new article 169 to read as follows:

### ARTICLE 169

#### INTERSTATE MEDICAL LICENSURE COMPACT

##### Section 8860. Short title.

8861. Purpose.

8862. Definitions.

8863. Eligibility.

8864. Designation of state of principal license.

8865. Application and issuance of expedited licensure.

8866. Fees for expedited licensure.

8867. Renewal and continued participation.

8868. Coordinated information system.

8869. Joint investigations.

8870. Disciplinary actions.

8871. Interstate medical licensure compact commission.

8872. Powers and duties of the interstate commission.

8873. Finance powers.

8874. Organization and operation of the interstate commission.

8875. Rulemaking functions of the interstate commission.

8876. Oversight of interstate compact.

8877. Enforcement of interstate compact.

8878. Default procedures.

8879. Dispute resolution.

8880. Member states, effective date and amendment.

8881. Withdrawal.

8882. Dissolution.

8883. Severability and construction.

8884. Binding effect of compact and other laws.

§ 8860. Short title. This article shall be known and may be cited as the "interstate medical licensure compact".

1     § 8861. Purpose. In order to strengthen access to health care, and in  
2 recognition of the advances in the delivery of health care, the member  
3 states of the interstate medical licensure compact have allied in common  
4 purpose to develop a comprehensive process that complements the existing  
5 licensing and regulatory authority of state medical boards, provides a  
6 streamlined process that allows physicians to become licensed in multi-  
7 ple states, thereby enhancing the portability of a medical license and  
8 ensuring the safety of patients. The compact creates another pathway  
9 for licensure and does not otherwise change a state's existing medical  
10 practice act. The compact also adopts the prevailing standard for licen-  
11 sure and affirms that the practice of medicine occurs where the patient  
12 is located at the time of the physician-patient encounter, and there-  
13 fore, requires the physician to be under the jurisdiction of the state  
14 medical board where the patient is located. State medical boards that  
15 participate in the compact retain the jurisdiction to impose an adverse  
16 action against a license to practice medicine in that state issued to a  
17 physician through the procedures in the compact.

18     § 8862. Definitions. In this compact:

19     1. "Bylaws" means those bylaws established by the interstate commis-  
20 sion pursuant to section eighty-eight hundred seventy-one of this arti-  
21 cle for its governance, or for directing and controlling its actions and  
22 conduct.

23     2. "Commissioner" means the voting representative appointed by each  
24 member board pursuant to section eighty-eight hundred seventy-one of  
25 this article.

26     3. "Conviction" means a finding by a court that an individual is quil-  
27 ty of a criminal offense through adjudication, or entry of a plea of  
28 guilt or no contest to the charge by the offender. Evidence of an entry  
29 of a conviction of a criminal offense by the court shall be considered  
30 final for purposes of disciplinary action by a member board.

31     4. "Expedited license" means a full and unrestricted medical license  
32 granted by a member state to an eligible physician through the process  
33 set forth in the compact.

34     5. "Interstate commission" means the interstate commission created  
35 pursuant to section eighty-eight hundred seventy-one of this article.

36     6. "License" means authorization by a state for a physician to engage  
37 in the practice of medicine, which would be unlawful without the author-  
38 ization.

39     7. "Medical practice act" means laws and regulations governing the  
40 practice of allopathic and osteopathic medicine within a member state.

41     8. "Member board" means a state agency in a member state that acts in  
42 the sovereign interests of the state by protecting the public through  
43 licensure, regulation, and education of physicians as directed by the  
44 state government.

45     9. "Member state" means a state that has enacted the compact.

46     10. "Practice of medicine" means the clinical prevention, diagnosis,  
47 or treatment of human disease, injury, or condition requiring a physi-  
48 cian to obtain and maintain a license in compliance with the medical  
49 practice act of a member state.

50     11. "Physician" means any person who:

51     (a) Is a graduate of a medical school accredited by the Liaison  
52 Committee on Medical Education, the Commission on Osteopathic College  
53 Accreditation, or a medical school listed in the International Medical  
54 Education Directory or its equivalent;

55     (b) Passed each component of the United States Medical Licensing Exam-  
56 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-

ination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(d) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(e) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(f) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(g) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(h) Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(i) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

12. "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

13. "Rule" means a written statement by the interstate commission promulgated pursuant to section eighty-eight hundred seventy-two of this article that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

14. "State" means any state, commonwealth, district, or territory of the United States.

15. "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

§ 8863. Eligibility. 1. A physician must meet the eligibility requirements as defined in subdivision eleven of section eighty-eight hundred sixty-two of this article to receive an expedited license under the terms and provisions of the compact.

2. A physician who does not meet the requirements of subdivision eleven of section eighty-eight hundred sixty-two of this article may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

§ 8864. Designation of state of principal license. 1. A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(a) the state of primary residence for the physician, or

(b) the state where at least twenty-five percent of the practice of medicine occurs, or



1 (c) the location of the physician's employer, or  
2 (d) if no state qualifies under paragraph (a), (b), or (c) of this  
3 subdivision, the state designated as state of residence for purpose of  
4 federal income tax.

5 2. A physician may redesignate a member state as state of principal  
6 license at any time, as long as the state meets the requirements of  
7 subdivision one of this section.

8 3. The interstate commission is authorized to develop rules to facili-  
9 tate redesignation of another member state as the state of principal  
10 license.

11 § 8865. Application and issuance of expedited licensure. 1. A physi-  
12 cian seeking licensure through the compact shall file an application for  
13 an expedited license with the member board of the state selected by the  
14 physician as the state of principal license.

15 2. Upon receipt of an application for an expedited license, the member  
16 board within the state selected as the state of principal license shall  
17 evaluate whether the physician is eligible for expedited licensure and  
18 issue a letter of qualification, verifying or denying the physician's  
19 eligibility, to the interstate commission.

20 (a) Static qualifications, which include verification of medical  
21 education, graduate medical education, results of any medical or licens-  
22 ing examination, and other qualifications as determined by the inter-  
23 state commission through rule, shall not be subject to additional prima-  
24 ry source verification where already primary source verified by the  
25 state of principal license.

26 (b) The member board within the state selected as the state of princi-  
27 pal license shall, in the course of verifying eligibility, perform a  
28 criminal background check of an applicant, including the use of the  
29 results of fingerprint or other biometric data checks compliant with the  
30 requirements of the Federal Bureau of Investigation, with the exception  
31 of federal employees who have suitability determination in accordance  
32 with U.S. C.F.R. § 731.202.

33 (c) Appeal on the determination of eligibility shall be made to the  
34 member state where the application was filed and shall be subject to the  
35 law of that state.

36 3. Upon verification under subdivision two of this section, physicians  
37 eligible for an expedited license shall complete the registration proc-  
38 ess established by the interstate commission to receive a license in a  
39 member state selected pursuant to subdivision one of this section,  
40 including the payment of any applicable fees.

41 4. After receiving verification of eligibility under subdivision two  
42 of this section and any fees under subdivision three of this section, a  
43 member board shall issue an expedited license to the physician. This  
44 license shall authorize the physician to practice medicine in the issu-  
45 ing state consistent with the medical practice act and all applicable  
46 laws and regulations of the issuing member board and member state.

47 5. An expedited license shall be valid for a period consistent with  
48 the licensure period in the member state and in the same manner as  
49 required for other physicians holding a full and unrestricted license  
50 within the member state.

51 6. An expedited license obtained through the compact shall be termi-  
52 nated if a physician fails to maintain a license in the state of princi-  
53 pal licensure for a non-disciplinary reason, without redesignation of a  
54 new state of principal licensure.



1 7. The interstate commission is authorized to develop rules regarding  
2 the application process, including payment of any applicable fees, and  
3 the issuance of an expedited license.

4 § 8866. Fees for expedited licensure. 1. A member state issuing an  
5 expedited license authorizing the practice of medicine in that state may  
6 impose a fee for a license issued or renewed through the compact.

7 2. The interstate commission is authorized to develop rules regarding  
8 fees for expedited licenses.

9 § 8867. Renewal and continued participation. 1. A physician seeking to  
10 renew an expedited license granted in a member state shall complete a  
11 renewal process with the interstate commission if the physician:

12 (a) Maintains a full and unrestricted license in a state of principal  
13 license;

14 (b) Has not been convicted, received adjudication, deferred adjudi-  
15 cation, community supervision, or deferred disposition for any offense  
16 by a court of appropriate jurisdiction;

17 (c) Has not had a license authorizing the practice of medicine subject  
18 to discipline by a licensing agency in any state, federal, or foreign  
19 jurisdiction, excluding any action related to non-payment of fees  
20 related to a license; and

21 (d) Has not had a controlled substance license or permit suspended or  
22 revoked by a state or the United States drug enforcement administration.

23 2. Physicians shall comply with all continuing professional develop-  
24 ment or continuing medical education requirements for renewal of a  
25 license issued by a member state.

26 3. The interstate commission shall collect any renewal fees charged  
27 for the renewal of a license and distribute the fees to the applicable  
28 member board.

29 4. Upon receipt of any renewal fees collected in subdivision three of  
30 this section, a member board shall renew the physician's license.

31 5. Physician information collected by the interstate commission during  
32 the renewal process will be distributed to all member boards.

33 6. The interstate commission is authorized to develop rules to address  
34 renewal of licenses obtained through the compact.

35 § 8868. Coordinated information system. 1. The interstate commission  
36 shall establish a database of all physicians licensed, or who have  
37 applied for licensure, under section eighty-eight hundred sixty-five of  
38 this article.

39 2. Notwithstanding any other provision of law, member boards shall  
40 report to the interstate commission any public action or complaints  
41 against a licensed physician who has applied or received an expedited  
42 license through the compact.

43 3. Member boards shall report disciplinary or investigatory informa-  
44 tion determined as necessary and proper by rule of the interstate  
45 commission.

46 4. Member boards may report any non-public complaint, disciplinary, or  
47 investigatory information not required by subdivision three of this  
48 section to the interstate commission.

49 5. Member boards shall share complaint or disciplinary information  
50 about a physician upon request of another member board.

51 6. All information provided to the interstate commission or distrib-  
52 uted by member boards shall be confidential, filed under seal, and used  
53 only for investigatory or disciplinary matters.

54 7. The interstate commission is authorized to develop rules for  
55 mandated or discretionary sharing of information by member boards.

1     § 8869. Joint investigations. 1. Licensure and disciplinary records of  
2     physicians are deemed investigative.

3     2. In addition to the authority granted to a member board by its  
4     respective medical practice act or other applicable state law, a member  
5     board may participate with other member boards in joint investigations  
6     of physicians licensed by the member boards.

7     3. A subpoena issued by a member state shall be enforceable in other  
8     member states.

9     4. Member boards may share any investigative, litigation, or compli-  
10    ance materials in furtherance of any joint or individual investigation  
11    initiated under the compact.

12    5. Any member state may investigate actual or alleged violations of  
13    the statutes authorizing the practice of medicine in any other member  
14    state in which a physician holds a license to practice medicine.

15    § 8870. Disciplinary actions. 1. Any disciplinary action taken by any  
16    member board against a physician licensed through the compact shall be  
17    deemed unprofessional conduct which may be subject to discipline by  
18    other member boards, in addition to any violation of the medical prac-  
19    tice act or regulations in that state.

20    2. If a license granted to a physician by the member board in the  
21    state of principal license is revoked, surrendered or relinquished in  
22    lieu of discipline, or suspended, then all licenses issued to the physi-  
23    cian by member boards shall automatically be placed, without further  
24    action necessary by any member board, on the same status. If the member  
25    board in the state of principal license subsequently reinstates the  
26    physician's license, a license issued to the physician by any other  
27    member board shall remain encumbered until that respective member board  
28    takes action to reinstate the license in a manner consistent with the  
29    medical practice act of that state.

30    3. If disciplinary action is taken against a physician by a member  
31    board not in the state of principal license, any other member board may  
32    deem the action conclusive as to matter of law and fact decided, and:

33    (a) impose the same or lesser sanction or sanctions against the physi-  
34    cian so long as such sanctions are consistent with the medical practice  
35    act of that state; or

36    (b) pursue separate disciplinary action against the physician under  
37    its respective medical practice act, regardless of the action taken in  
38    other member states.

39    4. If a license granted to a physician by a member board is revoked,  
40    surrendered, or relinquished in lieu of discipline, or suspended, then  
41    any license or licenses issued to the physician by any other member  
42    board or boards shall be suspended, automatically and immediately with-  
43    out further action necessary by the other member board or boards, for  
44    ninety days upon entry of the order by the disciplining board, to permit  
45    the member board or boards to investigate the basis for the action under  
46    the medical practice act of that state. A member board may terminate the  
47    automatic suspension of the license it issued prior to the completion of  
48    the ninety day suspension period in a manner consistent with the medical  
49    practice act of that state.

50    § 8871. Interstate medical licensure compact commission. 1. The member  
51    states hereby create the "interstate medical licensure compact commis-  
52    sion".

53    2. The purpose of the interstate commission is the administration of  
54    the interstate medical licensure compact, which is a discretionary state  
55    function.

1 3. The interstate commission shall be a body corporate and joint agen-  
2 cy of the member states and shall have all the responsibilities, powers,  
3 and duties set forth in the compact, and such additional powers as may  
4 be conferred upon it by a subsequent concurrent action of the respective  
5 legislatures of the member states in accordance with the terms of the  
6 compact.

7 4. The interstate commission shall consist of two voting represen-  
8 tatives appointed by each member state who shall serve as commissioners.  
9 In states where allopathic and osteopathic physicians are regulated by  
10 separate member boards, or if the licensing and disciplinary authority  
11 is split between multiple member boards within a member state, the  
12 member state shall appoint one representative from each member board. A  
13 commissioner shall be a or an:

14 (a) Allopathic or osteopathic physician appointed to a member board;

15 (b) Executive director, executive secretary, or similar executive of a  
16 member board; or

17 (c) Member of the public appointed to a member board.

18 5. The interstate commission shall meet at least once each calendar  
19 year. A portion of this meeting shall be a business meeting to address  
20 such matters as may properly come before the commission, including the  
21 election of officers. The chairperson may call additional meetings and  
22 shall call for a meeting upon the request of a majority of the member  
23 states.

24 6. The bylaws may provide for meetings of the interstate commission to  
25 be conducted by telecommunication or electronic communication.

26 7. Each commissioner participating at a meeting of the interstate  
27 commission is entitled to one vote. A majority of commissioners shall  
28 constitute a quorum for the transaction of business, unless a larger  
29 quorum is required by the bylaws of the interstate commission. A commis-  
30 sioner shall not delegate a vote to another commissioner. In the absence  
31 of its commissioner, a member state may delegate voting authority for a  
32 specified meeting to another person from that state who shall meet the  
33 requirements of subdivision four of this section.

34 8. The interstate commission shall provide public notice of all meet-  
35 ings and all meetings shall be open to the public. The interstate  
36 commission may close a meeting, in full or in portion, where it deter-  
37 mines by a two-thirds vote of the commissioners present that an open  
38 meeting would be likely to:

39 (a) Relate solely to the internal personnel practices and procedures  
40 of the interstate commission;

41 (b) Discuss matters specifically exempted from disclosure by federal  
42 statute;

43 (c) Discuss trade secrets, commercial, or financial information that  
44 is privileged or confidential;

45 (d) Involve accusing a person of a crime, or formally censuring a  
46 person;

47 (e) Discuss information of a personal nature where disclosure would  
48 constitute a clearly unwarranted invasion of personal privacy;

49 (f) Discuss investigative records compiled for law enforcement  
50 purposes; or

51 (g) Specifically relate to the participation in a civil action or  
52 other legal proceeding.

53 9. The interstate commission shall keep minutes which shall fully  
54 describe all matters discussed in a meeting and shall provide a full and  
55 accurate summary of actions taken, including record of any roll call  
56 votes.

1 10. The interstate commission shall make its information and official  
2 records, to the extent not otherwise designated in the compact or by its  
3 rules, available to the public for inspection.

4 11. The interstate commission shall establish an executive committee,  
5 which shall include officers, members, and others as determined by the  
6 bylaws. The executive committee shall have the power to act on behalf of  
7 the interstate commission, with the exception of rulemaking, during  
8 periods when the interstate commission is not in session. When acting on  
9 behalf of the interstate commission, the executive committee shall over-  
10 see the administration of the compact including enforcement and compli-  
11 ance with the provisions of the compact, its bylaws and rules, and other  
12 such duties as necessary.

13 12. The interstate commission may establish other committees for  
14 governance and administration of the compact.

15 § 8872. Powers and duties of the interstate commission. The interstate  
16 commission shall have the duty and power to:

17 1. Oversee and maintain the administration of the compact;

18 2. Promulgate rules which shall be binding to the extent and in the  
19 manner provided for in the compact;

20 3. Issue, upon the request of a member state or member board, advisory  
21 opinions concerning the meaning or interpretation of the compact, its  
22 bylaws, rules, and actions;

23 4. Enforce compliance with compact provisions, the rules promulgated  
24 by the interstate commission, and the bylaws, using all necessary and  
25 proper means, including but not limited to the use of judicial process;

26 5. Establish and appoint committees including, but not limited to, an  
27 executive committee as required by section eighty-eight hundred seven-  
28 ty-one of this article, which shall have the power to act on behalf of  
29 the interstate commission in carrying out its powers and duties;

30 6. Pay, or provide for the payment of the expenses related to the  
31 establishment, organization, and ongoing activities of the interstate  
32 commission;

33 7. Establish and maintain one or more offices;

34 8. Borrow, accept, hire, or contract for services of personnel;

35 9. Purchase and maintain insurance and bonds;

36 10. Employ an executive director who shall have such powers to employ,  
37 select or appoint employees, agents, or consultants, and to determine  
38 their qualifications, define their duties, and fix their compensation;

39 11. Establish personnel policies and programs relating to conflicts of  
40 interest, rates of compensation, and qualifications of personnel;

41 12. Accept donations and grants of money, equipment, supplies, materi-  
42 als and services, and to receive, utilize, and dispose of it in a manner  
43 consistent with the conflict of interest policies established by the  
44 interstate commission;

45 13. Lease, purchase, accept contributions or donations of, or other-  
46 wise to own, hold, improve, or use, any property, real, personal, or  
47 mixed;

48 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
49 otherwise dispose of any property, real, personal, or mixed;

50 15. Establish a budget and make expenditures;

51 16. Adopt a seal and bylaws governing the management and operation of  
52 the interstate commission;

53 17. Report annually to the legislatures and governors of the member  
54 states concerning the activities of the interstate commission during the  
55 preceding year. Such reports shall also include reports of financial

1 audits and any recommendations that may have been adopted by the inter-  
2 state commission;

3 18. Coordinate education, training, and public awareness regarding the  
4 compact, its implementation, and its operation;

5 19. Maintain records in accordance with the bylaws;

6 20. Seek and obtain trademarks, copyrights, and patents; and

7 21. Perform such functions as may be necessary or appropriate to  
8 achieve the purposes of the compact.

9 § 8873. Finance powers. 1. The interstate commission may levy on and  
10 collect an annual assessment from each member state to cover the cost of  
11 the operations and activities of the interstate commission and its  
12 staff. The total assessment must be sufficient to cover the annual budg-  
13 et approved each year for which revenue is not provided by other sourc-  
14 es. The aggregate annual assessment amount shall be allocated upon a  
15 formula to be determined by the interstate commission, which shall  
16 promulgate a rule binding upon all member states.

17 2. The interstate commission shall not incur obligations of any kind  
18 prior to securing the funds adequate to meet the same.

19 3. The interstate commission shall not pledge the credit of any of the  
20 member states, except by, and with the authority of, the member state.

21 4. The interstate commission shall be subject to a yearly financial  
22 audit conducted by a certified or licensed public accountant and the  
23 report of the audit shall be included in the annual report of the inter-  
24 state commission.

25 § 8874. Organization and operation of the interstate commission. 1.  
26 The interstate commission shall, by a majority of commissioners present  
27 and voting, adopt bylaws to govern its conduct as may be necessary or  
28 appropriate to carry out the purposes of the compact within twelve  
29 months of the first interstate commission meeting.

30 2. The interstate commission shall elect or appoint annually from  
31 among its commissioners a chairperson, a vice-chairperson, and a treas-  
32 urer, each of whom shall have such authority and duties as may be speci-  
33 fied in the bylaws. The chairperson, or in the chairperson's absence or  
34 disability, the vice-chairperson, shall preside at all meetings of the  
35 interstate commission.

36 3. Officers selected pursuant to subdivision two of this section shall  
37 serve without remuneration from the interstate commission.

38 4. The officers and employees of the interstate commission shall be  
39 immune from suit and liability, either personally or in their official  
40 capacity, for a claim for damage to or loss of property or personal  
41 injury or other civil liability caused or arising out of, or relating  
42 to, an actual or alleged act, error, or omission that occurred, or that  
43 such person had a reasonable basis for believing occurred, within the  
44 scope of interstate commission employment, duties, or responsibilities;  
45 provided that such person shall not be protected from suit or liability  
46 for damage, loss, injury, or liability caused by the intentional or  
47 willful and wanton misconduct of such person.

48 (a) The liability of the executive director and employees of the  
49 interstate commission or representatives of the interstate commission,  
50 acting within the scope of such person's employment or duties for acts,  
51 errors, or omissions occurring within such person's state, may not  
52 exceed the limits of liability set forth under the constitution and laws  
53 of that state for state officials, employees, and agents. The interstate  
54 commission is considered to be an instrumentality of the states for the  
55 purposes of any such action. Nothing in this paragraph shall be  
56 construed to protect such person from suit or liability for damage,



1 loss, injury, or liability caused by the intentional or willful and  
2 wanton misconduct of such person.

3 (b) The interstate commission shall defend the executive director, its  
4 employees, and subject to the approval of the attorney general or other  
5 appropriate legal counsel of the member state represented by an inter-  
6 state commission representative, shall defend such interstate commission  
7 representative in any civil action seeking to impose liability arising  
8 out of an actual or alleged act, error or omission that occurred within  
9 the scope of interstate commission employment, duties or responsibil-  
10 ities, or that the defendant had a reasonable basis for believing  
11 occurred within the scope of interstate commission employment, duties,  
12 or responsibilities, provided that the actual or alleged act, error, or  
13 omission did not result from intentional or willful and wanton miscon-  
14 duct on the part of such person.

15 (c) To the extent not covered by the state involved, member state, or  
16 the interstate commission, the representatives or employees of the  
17 interstate commission shall be held harmless in the amount of a settle-  
18 ment or judgment, including attorney's fees and costs, obtained against  
19 such persons arising out of an actual or alleged act, error, or omission  
20 that occurred within the scope of interstate commission employment,  
21 duties, or responsibilities, or that such persons had a reasonable basis  
22 for believing occurred within the scope of interstate commission employ-  
23 ment, duties, or responsibilities, provided that the actual or alleged  
24 act, error, or omission did not result from intentional or willful and  
25 wanton misconduct on the part of such persons.

26 § 8875. Rulemaking functions of the interstate commission. 1. The  
27 interstate commission shall promulgate reasonable rules in order to  
28 effectively and efficiently achieve the purposes of the compact.  
29 Notwithstanding the foregoing, in the event the interstate commission  
30 exercises its rulemaking authority in a manner that is beyond the scope  
31 of the purposes of the compact, or the powers granted hereunder, then  
32 such an action by the interstate commission shall be invalid and have no  
33 force or effect.

34 2. Rules deemed appropriate for the operations of the interstate  
35 commission shall be made pursuant to a rulemaking process that substan-  
36 tially conforms to the federal Model State Administrative Procedure Act  
37 of 2010, and subsequent amendments thereto.

38 3. Not later than thirty days after a rule is promulgated, any person  
39 may file a petition for judicial review of the rule in the United States  
40 District Court for the District of Columbia or the federal district  
41 where the interstate commission has its principal offices, provided that  
42 the filing of such a petition shall not stay or otherwise prevent the  
43 rule from becoming effective unless the court finds that the petitioner  
44 has a substantial likelihood of success. The court shall give deference  
45 to the actions of the interstate commission consistent with applicable  
46 law and shall not find the rule to be unlawful if the rule represents a  
47 reasonable exercise of the authority granted to the interstate commis-  
48 sion.

49 § 8876. Oversight of interstate compact. 1. The executive, legisla-  
50 tive, and judicial branches of state government in each member state  
51 shall enforce the compact and shall take all actions necessary and  
52 appropriate to effectuate the compact's purposes and intent. The  
53 provisions of the compact and the rules promulgated hereunder shall have  
54 standing as statutory law but shall not override existing state authori-  
55 ty to regulate the practice of medicine.



1 2. All courts shall take judicial notice of the compact and the rules  
2 in any judicial or administrative proceeding in a member state pertain-  
3 ing to the subject matter of the compact which may affect the powers,  
4 responsibilities or actions of the interstate commission.

5 3. The interstate commission shall be entitled to receive all service  
6 of process in any such proceeding, and shall have standing to intervene  
7 in the proceeding for all purposes. Failure to provide service of proc-  
8 ess to the interstate commission shall render a judgment or order void  
9 as to the interstate commission, the compact, or promulgated rules.

10 § 8877. Enforcement of interstate compact. 1. The interstate commis-  
11 sion, in the reasonable exercise of its discretion, shall enforce the  
12 provisions and rules of the compact.

13 2. The interstate commission may, by majority vote of the commission-  
14 ers, initiate legal action in the United States District Court for the  
15 District of Columbia, or, at the discretion of the interstate commis-  
16 sion, in the federal district where the interstate commission has its  
17 principal offices, to enforce compliance with the provisions of the  
18 compact, and its promulgated rules and bylaws, against a member state in  
19 default. The relief sought may include both injunctive relief and  
20 damages. In the event judicial enforcement is necessary, the prevailing  
21 party shall be awarded all costs of such litigation including reasonable  
22 attorney's fees.

23 3. The remedies herein shall not be the exclusive remedies of the  
24 interstate commission. The interstate commission may avail itself of  
25 any other remedies available under state law or the regulation of a  
26 profession.

27 § 8878. Default procedures. 1. The grounds for default include, but  
28 are not limited to, failure of a member state to perform such obli-  
29 gations or responsibilities imposed upon it by the compact, or the rules  
30 and bylaws of the interstate commission promulgated under the compact.

31 2. If the interstate commission determines that a member state has  
32 defaulted in the performance of its obligations or responsibilities  
33 under the compact, or the bylaws or promulgated rules, the interstate  
34 commission shall:

35 (a) Provide written notice to the defaulting state and other member  
36 states, of the nature of the default, the means of curing the default,  
37 and any action taken by the interstate commission. The interstate  
38 commission shall specify the conditions by which the defaulting state  
39 must cure its default; and

40 (b) Provide remedial training and specific technical assistance  
41 regarding the default.

42 3. If the defaulting state fails to cure the default, the defaulting  
43 state shall be terminated from the compact upon an affirmative vote of a  
44 majority of the commissioners and all rights, privileges, and benefits  
45 conferred by the compact shall terminate on the effective date of termi-  
46 nation. A cure of the default does not relieve the offending state of  
47 obligations or liabilities incurred during the period of the default.

48 4. Termination of membership in the compact shall be imposed only  
49 after all other means of securing compliance have been exhausted. Notice  
50 of intent to terminate shall be given by the interstate commission to  
51 the governor, the majority and minority leaders of the defaulting  
52 state's legislature, and each of the member states.

53 5. The interstate commission shall establish rules and procedures to  
54 address licenses and physicians that are materially impacted by the  
55 termination of a member state, or the withdrawal of a member state.

1 6. The member state which has been terminated is responsible for all  
2 dues, obligations, and liabilities incurred through the effective date  
3 of termination including obligations, the performance of which extends  
4 beyond the effective date of termination.

5 7. The interstate commission shall not bear any costs relating to any  
6 state that has been found to be in default or which has been terminated  
7 from the compact, unless otherwise mutually agreed upon in writing  
8 between the interstate commission and the defaulting state.

9 8. The defaulting state may appeal the action of the interstate  
10 commission by petitioning the United States District Court for the  
11 District of Columbia or the federal district where the interstate  
12 commission has its principal offices. The prevailing party shall be  
13 awarded all costs of such litigation including reasonable attorney's  
14 fees.

15 § 8879. Dispute resolution. 1. The interstate commission shall  
16 attempt, upon the request of a member state, to resolve disputes which  
17 are subject to the compact and which may arise among member states or  
18 member boards.

19 2. The interstate commission shall promulgate rules providing for both  
20 mediation and binding dispute resolution as appropriate.

21 § 8880. Member states, effective date and amendment. 1. Any state is  
22 eligible to become a member state of the compact.

23 2. The compact shall become effective and binding upon legislative  
24 enactment of the compact into law by no less than seven states. There-  
25 after, it shall become effective and binding on a state upon enactment  
26 of the compact into law by that state.

27 3. The governors of non-member states, or their designees, shall be  
28 invited to participate in the activities of the interstate commission on  
29 a non-voting basis prior to adoption of the compact by all states.

30 4. The interstate commission may propose amendments to the compact for  
31 enactment by the member states. No amendment shall become effective and  
32 binding upon the interstate commission and the member states unless and  
33 until it is enacted into law by unanimous consent of the member states.

34 § 8881. Withdrawal. 1. Once effective, the compact shall continue in  
35 force and remain binding upon each and every member state; provided that  
36 a member state may withdraw from the compact by specifically repealing  
37 the statute which enacted the compact into law.

38 2. Withdrawal from the compact shall be by the enactment of a statute  
39 repealing the same, but shall not take effect until one year after the  
40 effective date of such statute and until written notice of the with-  
41 drawal has been given by the withdrawing state to the governor of each  
42 other member state.

43 3. The withdrawing state shall immediately notify the chairperson of  
44 the interstate commission in writing upon the introduction of legis-  
45 lation repealing the compact in the withdrawing state.

46 4. The interstate commission shall notify the other member states of  
47 the withdrawing state's intent to withdraw within sixty days of its  
48 receipt of notice provided under subdivision three of this section.

49 5. The withdrawing state is responsible for all dues, obligations and  
50 liabilities incurred through the effective date of withdrawal, including  
51 obligations, the performance of which extend beyond the effective date  
52 of withdrawal.

53 6. Reinstatement following withdrawal of a member state shall occur  
54 upon the withdrawing state reenacting the compact or upon such later  
55 date as determined by the interstate commission.

1 7. The interstate commission is authorized to develop rules to address  
2 the impact of the withdrawal of a member state on licenses granted in  
3 other member states to physicians who designated the withdrawing member  
4 state as the state of principal license.

5 § 8882. Dissolution. 1. The compact shall dissolve effective upon the  
6 date of the withdrawal or default of the member state which reduces the  
7 membership in the compact to one member state.

8 2. Upon the dissolution of the compact, the compact becomes null and  
9 void and shall be of no further force or effect, and the business and  
10 affairs of the interstate commission shall be concluded and surplus  
11 funds shall be distributed in accordance with the bylaws.

12 § 8883. Severability and construction. 1. The provisions of the  
13 compact shall be severable, and if any phrase, clause, sentence, or  
14 provision is deemed unenforceable, the remaining provisions of the  
15 compact shall be enforceable.

16 2. The provisions of the compact shall be liberally construed to  
17 effectuate its purposes.

18 3. Nothing in the compact shall be construed to prohibit the applica-  
19 bility of other interstate compacts to which the states are members.

20 § 8884. Binding effect of compact and other laws. 1. Nothing contained  
21 in this article shall prevent the enforcement of any other law of a  
22 member state that is not inconsistent with the compact.

23 2. All laws in a member state in conflict with the compact are super-  
24 seded to the extent of the conflict.

25 3. All lawful actions of the interstate commission, including all  
26 rules and bylaws promulgated by the commission, are binding upon the  
27 member states.

28 4. All agreements between the interstate commission and the member  
29 states are binding in accordance with their terms.

30 5. In the event any provision of the compact exceeds the constitu-  
31 tional limits imposed on the legislature of any member state, such  
32 provision shall be ineffective to the extent of the conflict with the  
33 constitutional provision in question in that member state.

34 § 2. Article 170 of the education law is renumbered article 171 and a  
35 new article 170 is added to title 8 of the education law to read as  
36 follows:

#### ARTICLE 170

#### NURSE LICENSURE COMPACT

#### Section 8900. Nurse licensure compact.

40 8901. Findings and declaration of purpose.

41 8902. Definitions.

42 8903. General provisions and jurisdiction.

43 8904. Applications for licensure in a party state.

44 8905. Additional authorities invested in party state licensing  
45 boards.

46 8906. Coordinated licensure information system and exchange of  
47 information.

48 8907. Establishment of the interstate commission of nurse licen-  
49 sure compact administrators.

50 8908. Rulemaking.

51 8909. Oversight, dispute resolution and enforcement.

52 8910. Effective date, withdrawal and amendment.

53 8911. Construction and severability.

54 § 8900. Nurse licensure compact. The nurse license compact as set  
55 forth in the article is hereby adopted and entered into with all party  
56 states joining therein.

1 § 8901. Findings and declaration of purpose 1. Findings. The party  
2 states find that:

3 a. The health and safety of the public are affected by the degree of  
4 compliance with and the effectiveness of enforcement activities related  
5 to state nurse licensure laws;

6 b. Violations of nurse licensure and other laws regulating the prac-  
7 tice of nursing may result in injury or harm to the public;

8 c. The expanded mobility of nurses and the use of advanced communi-  
9 cation technologies as part of our nation's health care delivery system  
10 require greater coordination and cooperation among states in the areas  
11 of nurse licensure and regulation;

12 d. New practice modalities and technology make compliance with indi-  
13 vidual state nurse licensure laws difficult and complex;

14 e. The current system of duplicative licensure for nurses practicing  
15 in multiple states is cumbersome and redundant for both nurses and  
16 states; and

17 f. Uniformity of nurse licensure requirements throughout the states  
18 promotes public safety and public health benefits.

19 2. Declaration of purpose. The general purposes of this compact are  
20 to:

21 a. Facilitate the states' responsibility to protect the public's  
22 health and safety;

23 b. Ensure and encourage the cooperation of party states in the areas  
24 of nurse licensure and regulation;

25 c. Facilitate the exchange of information between party states in the  
26 areas of nurse regulation, investigation and adverse actions;

27 d. Promote compliance with the laws governing the practice of nursing  
28 in each jurisdiction;

29 e. Invest all party states with the authority to hold a nurse account-  
30 able for meeting all state practice laws in the state in which the  
31 patient is located at the time care is rendered through the mutual  
32 recognition of party state licenses;

33 f. Decrease redundancies in the consideration and issuance of nurse  
34 licenses; and

35 g. Provide opportunities for interstate practice by nurses who meet  
36 uniform licensure requirements.

37 § 8902. Definitions. 1. Definitions. As used in this compact:

38 a. "Adverse action" means any administrative, civil, equitable or  
39 criminal action permitted by a state's laws which is imposed by a  
40 licensing board or other authority against a nurse, including actions  
41 against an individual's license or multistate licensure privilege such  
42 as revocation, suspension, probation, monitoring of the licensee, limi-  
43 tation on the licensee's practice, or any other encumbrance on licensure  
44 affecting a nurse's authorization to practice, including issuance of a  
45 cease and desist action.

46 b. "Alternative program" means a non-disciplinary monitoring program  
47 approved by a licensing board.

48 c. "Coordinated licensure information system" means an integrated  
49 process for collecting, storing and sharing information on nurse licen-  
50 sure and enforcement activities related to nurse licensure laws that is  
51 administered by a nonprofit organization composed of and controlled by  
52 licensing boards.

53 d. "Commission" means the interstate commission of nurse licensure  
54 compact administrators.

55 e. "Current significant investigative information" means:

1 1. Investigative information that a licensing board, after a prelimi-  
2 nary inquiry that includes notification and an opportunity for the nurse  
3 to respond, if required by state law, has reason to believe is not  
4 groundless and, if proved true, would indicate more than a minor infrac-  
5 tion; or

6 2. Investigative information that indicates that the nurse represents  
7 an immediate threat to public health and safety regardless of whether  
8 the nurse has been notified and had an opportunity to respond; or

9 3. Any information concerning a nurse reported to a licensing board by  
10 a health care entity, health care professional, or any other person,  
11 which indicates that the nurse demonstrated an impairment, gross incom-  
12 petence, or unprofessional conduct that would present an imminent danger  
13 to a patient or the public health, safety, or welfare.

14 f. "Encumbrance" means a revocation or suspension of, or any limita-  
15 tion on, the full and unrestricted practice of nursing imposed by a  
16 licensing board.

17 g. "Home state" means the party state which is the nurse's primary  
18 state of residence.

19 h. "Licensing board" means a party state's regulatory body responsible  
20 for issuing nurse licenses.

21 i. "Multistate license" means a license to practice as a registered  
22 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which  
23 is issued by a home state licensing board, and which authorizes the  
24 licensed nurse to practice in all party states under a multistate licen-  
25 sure privilege.

26 j. "Multistate licensure privilege" means a legal authorization asso-  
27 ciated with a multistate license permitting the practice of nursing as  
28 either a RN or a LPN/VN in a remote state.

29 k. "Nurse" means RN or LPN/VN, as those terms are defined by each  
30 party state's practice laws.

31 l. "Party state" means any state that has adopted this compact.

32 m. "Remote state" means a party state, other than the home state.

33 n. "Single-state license" means a nurse license issued by a party  
34 state that authorizes practice only within the issuing state and does  
35 not include a multistate licensure privilege to practice in any other  
36 party state.

37 o. "State" means a state, territory or possession of the United States  
38 and the District of Columbia.

39 p. "State practice laws" means a party state's laws, rules and regu-  
40 lations that govern the practice of nursing, define the scope of nursing  
41 practice, and create the methods and grounds for imposing discipline.  
42 "State practice laws" shall not include requirements necessary to obtain  
43 and retain a license, except for qualifications or requirements of the  
44 home state.

45 § 8903. General provisions and jurisdiction. 1. General provisions and  
46 jurisdiction. a. A multistate license to practice registered or licensed  
47 practical/vocational nursing issued by a home state to a resident in  
48 that state will be recognized by each party state as authorizing a nurse  
49 to practice as a registered nurse (RN) or as a licensed  
50 practical/vocational nurse (LPN/VN), under a multistate licensure privi-  
51 lege, in each party state.

52 b. A state shall implement procedures for considering the criminal  
53 history records of applicants for an initial multistate license or  
54 licensure by endorsement. Such procedures shall include the submission  
55 of fingerprints or other biometric-based information by applicants for  
56 the purpose of obtaining an applicant's criminal history record informa-



tion from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

c. Each party state shall require its licensing board to authorize an applicant to obtain or retain a multistate license in the home state only if the applicant:

i. Meets the home state's qualifications for licensure or renewal of licensure, and complies with all other applicable state laws;

ii. (1) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(2) Has graduated from a foreign RN or LPN/VN prelicensure education program that has been: (A) approved by the authorized accrediting body in the applicable country, and (B) verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

iii. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

iv. Has successfully passed an NCLEX-RN or NCLEX-PN examination or recognized predecessor, as applicable;

v. Is eligible for or holds an active, unencumbered license;

vi. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

vii. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

viii. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

ix. Is not currently enrolled in an alternative program;

x. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

xi. Has a valid United States social security number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

e. A nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the



1 laws of each party state. However, the single-state license granted to  
2 these individuals will not be recognized as granting the privilege to  
3 practice nursing in any other party state. Nothing in this compact shall  
4 affect the requirements established by a party state for the issuance of  
5 a single-state license.

6 g. Any nurse holding a home state multistate license, on the effective  
7 date of this compact, may retain and renew the multistate license issued  
8 by the nurse's then-current home state, provided that:

9 i. A nurse, who changes primary state of residence after this  
10 compact's effective date, shall meet all applicable requirements set  
11 forth in this article to obtain a multistate license from a new home  
12 state.

13 ii. A nurse who fails to satisfy the multistate licensure requirements  
14 set forth in this article due to a disqualifying event occurring after  
15 this compact's effective date shall be ineligible to retain or renew a  
16 multistate license, and the nurse's multistate license shall be revoked  
17 or deactivated in accordance with applicable rules adopted by the  
18 commission.

19 § 8904. Applications for licensure in a party state. 1. Applications  
20 for licensure in a party state. a. Upon application for a multistate  
21 license, the licensing board in the issuing party state shall ascertain,  
22 through the coordinated licensure information system, whether the appli-  
23 cant has ever held, or is the holder of, a license issued by any other  
24 state, whether there are any encumbrances on any license or multistate  
25 licensure privilege held by the applicant, whether any adverse action  
26 has been taken against any license or multistate licensure privilege  
27 held by the applicant and whether the applicant is currently participat-  
28 ing in an alternative program.

29 b. A nurse may hold a multistate license, issued by the home state, in  
30 only one party state at a time.

31 c. If a nurse changes primary state of residence by moving between two  
32 party states, the nurse must apply for licensure in the new home state,  
33 and the multistate license issued by the prior home state will be deac-  
34 tivated in accordance with applicable rules adopted by the commission.

35 i. The nurse may apply for licensure in advance of a change in primary  
36 state of residence.

37 ii. A multistate license shall not be issued by the new home state  
38 until the nurse provides satisfactory evidence of a change in primary  
39 state of residence to the new home state and satisfies all applicable  
40 requirements to obtain a multistate license from the new home state.

41 d. If a nurse changes primary state of residence by moving from a  
42 party state to a non-party state, the multistate license issued by the  
43 prior home state will convert to a single-state license, valid only in  
44 the former home state.

45 § 8905. Additional authorities invested in party state licensing  
46 boards. 1. Licensing board authority. In addition to the other powers  
47 conferred by state law, a licensing board shall have the authority to:

48 a. Take adverse action against a nurse's multistate licensure privi-  
49 lege to practice within that party state.

50 i. Only the home state shall have the power to take adverse action  
51 against a nurse's license issued by the home state.

52 ii. For purposes of taking adverse action, the home state licensing  
53 board shall give the same priority and effect to reported conduct  
54 received from a remote state as it would if such conduct had occurred  
55 within the home state. In so doing, the home state shall apply its own  
56 state laws to determine appropriate action.

1 b. Issue cease and desist orders or impose an encumbrance on a nurse's  
2 authority to practice within that party state.

3 c. Complete any pending investigations of a nurse who changes primary  
4 state of residence during the course of such investigations. The licens-  
5 ing board shall also have the authority to take appropriate action or  
6 actions and shall promptly report the conclusions of such investigations  
7 to the administrator of the coordinated licensure information system.  
8 The administrator of the coordinated licensure information system shall  
9 promptly notify the new home state of any such actions.

10 d. Issue subpoenas for both hearings and investigations that require  
11 the attendance and testimony of witnesses, as well as the production of  
12 evidence. Subpoenas issued by a licensing board in a party state for the  
13 attendance and testimony of witnesses or the production of evidence from  
14 another party state shall be enforced in the latter state by any court  
15 of competent jurisdiction, according to the practice and procedure of  
16 that court applicable to subpoenas issued in proceedings pending before  
17 it. The issuing authority shall pay any witness fees, travel expenses,  
18 mileage and other fees required by the service statutes of the state in  
19 which the witnesses or evidence are located.

20 e. Obtain and submit, for each nurse licensure applicant, fingerprint  
21 or other biometric-based information to the federal bureau of investi-  
22 gation for criminal background checks, receive the results of the feder-  
23 al bureau of investigation record search on criminal background checks  
24 and use the results in making licensure decisions.

25 f. If otherwise permitted by state law, recover from the affected  
26 nurse the costs of investigations and disposition of cases resulting  
27 from any adverse action taken against that nurse.

28 g. Take adverse action based on the factual findings of the remote  
29 state, provided that the licensing board follows its own procedures for  
30 taking such adverse action.

31 2. Adverse actions. a. If adverse action is taken by the home state  
32 against a nurse's multistate license, the nurse's multistate licensure  
33 privilege to practice in all other party states shall be deactivated  
34 until all encumbrances have been removed from the multistate license.  
35 All home state disciplinary orders that impose adverse action against a  
36 nurse's multistate license shall include a statement that the nurse's  
37 multistate licensure privilege is deactivated in all party states during  
38 the pendency of the order.

39 b. Nothing in this compact shall override a party state's decision  
40 that participation in an alternative program may be used in lieu of  
41 adverse action. The home state licensing board shall deactivate the  
42 multistate licensure privilege under the multistate license of any nurse  
43 for the duration of the nurse's participation in an alternative program.

44 § 8906. Coordinated licensure information system and exchange of  
45 information. 1. Coordinated licensure information system and exchange  
46 of information. a. All party states shall participate in a coordinated  
47 licensure information system of all licensed registered nurses (RNs) and  
48 licensed practical/vocational nurses (LPNs/VNs). This system will  
49 include information on the licensure and disciplinary history of each  
50 nurse, as submitted by party states, to assist in the coordination of  
51 nurse licensure and enforcement efforts.

52 b. The commission, in consultation with the administrator of the coor-  
53 ordinated licensure information system, shall formulate necessary and  
54 proper procedures for the identification, collection and exchange of  
55 information under this compact.

1 c. All licensing boards shall promptly report to the coordinated  
2 licensure information system any adverse action, any current significant  
3 investigative information, denials of applications with the reasons for  
4 such denials and nurse participation in alternative programs known to  
5 the licensing board regardless of whether such participation is deemed  
6 nonpublic or confidential under state law.

7 d. Current significant investigative information and participation in  
8 nonpublic or confidential alternative programs shall be transmitted  
9 through the coordinated licensure information system only to party state  
10 licensing boards.

11 e. Notwithstanding any other provision of law, all party state licens-  
12 ing boards contributing information to the coordinated licensure infor-  
13 mation system may designate information that may not be shared with  
14 non-party states or disclosed to other entities or individuals without  
15 the express permission of the contributing state.

16 f. Any personally identifiable information obtained from the coordi-  
17 nated licensure information system by a party state licensing board  
18 shall not be shared with non-party states or disclosed to other entities  
19 or individuals except to the extent permitted by the laws of the party  
20 state contributing the information.

21 g. Any information contributed to the coordinated licensure informa-  
22 tion system that is subsequently required to be expunged by the laws of  
23 the party state contributing that information shall also be expunged  
24 from the coordinated licensure information system.

25 h. The compact administrator of each party state shall furnish a  
26 uniform data set to the compact administrator of each other party state,  
27 which shall include, at a minimum:

28 i. Identifying information;  
29 ii. Licensure data;  
30 iii. Information related to alternative program participation; and  
31 iv. Other information that may facilitate the administration of this  
32 compact, as determined by commission rules.

33 i. The compact administrator of a party state shall provide all inves-  
34 tigative documents and information requested by another party state.

35 § 8907. Establishment of the interstate commission of nurse licensure  
36 compact administrators. 1. Commission of nurse licensure compact admin-  
37 istrators. The party states hereby create and establish a joint public  
38 entity known as the interstate commission of nurse licensure compact  
39 administrators. The commission is an instrumentality of the party  
40 states.

41 2. Venue. Venue is proper, and judicial proceedings by or against the  
42 commission shall be brought solely and exclusively, in a court of compe-  
43 tent jurisdiction where the principal office of the commission is  
44 located. The commission may waive venue and jurisdictional defenses to  
45 the extent it adopts or consents to participate in alternative dispute  
46 resolution proceedings.

47 3. Sovereign immunity. Nothing in this compact shall be construed to  
48 be a waiver of sovereign immunity.

49 4. Membership, voting and meetings. a. Each party state shall have and  
50 be limited to one administrator. The head of the state licensing board  
51 or designee shall be the administrator of this compact for each party  
52 state. Any administrator may be removed or suspended from office as  
53 provided by the law of the state from which the administrator is  
54 appointed. Any vacancy occurring in the commission shall be filled in  
55 accordance with the laws of the party state in which the vacancy exists.

1 b. Each administrator shall be entitled to one vote with regard to the  
2 promulgation of rules and creation of bylaws and shall otherwise have an  
3 opportunity to participate in the business and affairs of the commis-  
4 sion. An administrator shall vote in person or by such other means as  
5 provided in the bylaws. The bylaws may provide for an administrator's  
6 participation in meetings by telephone or other means of communication.

7 c. The commission shall meet at least once during each calendar year.  
8 Additional meetings shall be held as set forth in the bylaws or rules of  
9 the commission.

10 d. All meetings shall be open to the public, and public notice of  
11 meetings shall be given in the same manner as required under the rule-  
12 making provisions in section eighty-nine hundred three of this article.

13 5. Closed meetings. a. The commission may convene in a closed, nonpub-  
14 lic meeting if the commission shall discuss:

15 i. Noncompliance of a party state with its obligations under this  
16 compact;

17 ii. The employment, compensation, discipline or other personnel  
18 matters, practices or procedures related to specific employees or other  
19 matters related to the commission's internal personnel practices and  
20 procedures;

21 iii. Current, threatened or reasonably anticipated litigation;

22 iv. Negotiation of contracts for the purchase or sale of goods,  
23 services or real estate;

24 v. Accusing any person of a crime or formally censuring any person;

25 vi. Disclosure of trade secrets or commercial or financial information  
26 that is privileged or confidential;

27 vii. Disclosure of information of a personal nature where disclosure  
28 would constitute a clearly unwarranted invasion of personal privacy;

29 viii. Disclosure of investigatory records compiled for law enforcement  
30 purposes;

31 ix. Disclosure of information related to any reports prepared by or on  
32 behalf of the commission for the purpose of investigation of compliance  
33 with this compact; or

34 x. Matters specifically exempted from disclosure by federal or state  
35 statute.

36 b. If a meeting, or portion of a meeting, is closed pursuant to this  
37 paragraph the commission's legal counsel or designee shall certify that  
38 the meeting may be closed and shall reference each relevant exempting  
39 provision. The commission shall keep minutes that fully and clearly  
40 describe all matters discussed in a meeting and shall provide a full and  
41 accurate summary of actions taken, and the reasons therefor, including a  
42 description of the views expressed. All documents considered in  
43 connection with an action shall be identified in such minutes. All  
44 minutes and documents of a closed meeting shall remain under seal,  
45 subject to release by a majority vote of the commission or order of a  
46 court of competent jurisdiction.

47 c. The commission shall, by a majority vote of the administrators,  
48 prescribe bylaws or rules to govern its conduct as may be necessary or  
49 appropriate to carry out the purposes and exercise the powers of this  
50 compact, including but not limited to:

51 i. Establishing the fiscal year of the commission;

52 ii. Providing reasonable standards and procedures:

53 (1) For the establishment and meetings of other committees; and

54 (2) Governing any general or specific delegation of any authority or  
55 function of the commission;

1 iii. Providing reasonable procedures for calling and conducting meet-  
2 ings of the commission, ensuring reasonable advance notice of all meet-  
3 ings and providing an opportunity for attendance of such meetings by  
4 interested parties, with enumerated exceptions designed to protect the  
5 public's interest, the privacy of individuals, and proprietary informa-  
6 tion, including trade secrets. The commission may meet in closed session  
7 only after a majority of the administrators vote to close a meeting in  
8 whole or in part. As soon as practicable, the commission must make  
9 public a copy of the vote to close the meeting revealing the vote of  
10 each administrator, with no proxy votes allowed;

11 iv. Establishing the titles, duties and authority and reasonable  
12 procedures for the election of the officers of the commission;

13 v. Providing reasonable standards and procedures for the establishment  
14 of the personnel policies and programs of the commission. Notwithstand-  
15 ing any civil service or other similar laws of any party state, the  
16 bylaws shall exclusively govern the personnel policies and programs of  
17 the commission; and

18 vi. Providing a mechanism for winding up the operations of the commis-  
19 sion and the equitable disposition of any surplus funds that may exist  
20 after the termination of this compact after the payment or reserving of  
21 all of its debts and obligations.

22 6. General provisions. a. The commission shall publish its bylaws and  
23 rules, and any amendments thereto, in a convenient form on the website  
24 of the commission.

25 b. The commission shall maintain its financial records in accordance  
26 with the bylaws.

27 c. The commission shall meet and take such actions as are consistent  
28 with the provisions of this compact and the bylaws.

29 7. Powers of the commission. The commission shall have the following  
30 powers:

31 a. To promulgate uniform rules to facilitate and coordinate implemen-  
32 tation and administration of this compact. The rules shall have the  
33 force and effect of law and shall be binding in all party states;

34 b. To bring and prosecute legal proceedings or actions in the name of  
35 the commission, provided that the standing of any licensing board to sue  
36 or be sued under applicable law shall not be affected;

37 c. To purchase and maintain insurance and bonds;

38 d. To borrow, accept or contract for services of personnel, including,  
39 but not limited to, employees of a party state or nonprofit organiza-  
40 tions;

41 e. To cooperate with other organizations that administer state  
42 compacts related to the regulation of nursing, including but not limited  
43 to sharing administrative or staff expenses, office space or other  
44 resources;

45 f. To hire employees, elect or appoint officers, fix compensation,  
46 define duties, grant such individuals appropriate authority to carry out  
47 the purposes of this compact, and to establish the commission's person-  
48 nel policies and programs relating to conflicts of interest, qualifica-  
49 tions of personnel and other related personnel matters;

50 g. To accept any and all appropriate donations, grants and gifts of  
51 money, equipment, supplies, materials and services, and to receive,  
52 utilize and dispose of the same; provided that at all times the commis-  
53 sion shall avoid any appearance of impropriety or conflict of interest;

54 h. To lease, purchase, accept appropriate gifts or donations of, or  
55 otherwise to own, hold, improve or use, any property, whether real,



1 personal or mixed; provided that at all times the commission shall avoid  
2 any appearance of impropriety;

3 i. To sell, convey, mortgage, pledge, lease, exchange, abandon or  
4 otherwise dispose of any property, whether real, personal or mixed;

5 j. To establish a budget and make expenditures;

6 k. To borrow money;

7 l. To appoint committees, including advisory committees comprised of  
8 administrators, state nursing regulators, state legislators or their  
9 representatives, and consumer representatives, and other such interested  
10 persons;

11 m. To provide and receive information from, and to cooperate with, law  
12 enforcement agencies;

13 n. To adopt and use an official seal; and

14 o. To perform such other functions as may be necessary or appropriate  
15 to achieve the purposes of this compact consistent with the state regu-  
16 lation of nurse licensure and practice.

17 8. Financing of the commission. a. The commission shall pay, or  
18 provide for the payment of, the reasonable expenses of its establish-  
19 ment, organization and ongoing activities.

20 b. The commission may also levy on and collect an annual assessment  
21 from each party state to cover the cost of its operations, activities  
22 and staff in its annual budget as approved each year. The aggregate  
23 annual assessment amount, if any, shall be allocated based upon a formu-  
24 la to be determined by the commission, which shall promulgate a rule  
25 that is binding upon all party states.

26 c. The commission shall not incur obligations of any kind prior to  
27 securing the funds adequate to meet the same; nor shall the commission  
28 pledge the credit of any of the party states, except by, and with the  
29 authority of, such party state.

30 d. The commission shall keep accurate accounts of all receipts and  
31 disbursements. The receipts and disbursements of the commission shall be  
32 subject to the audit and accounting procedures established under its  
33 bylaws. However, all receipts and disbursements of funds handled by the  
34 commission shall be audited yearly by a certified or licensed public  
35 accountant, and the report of the audit shall be included in and become  
36 part of the annual report of the commission.

37 9. Qualified immunity, defense and indemnification. a. The administra-  
38 tors, officers, executive director, employees and representatives of the  
39 commission shall be immune from suit and liability, either personally or  
40 in their official capacity, for any claim for damage to or loss of prop-  
41 erty or personal injury or other civil liability caused by or arising  
42 out of any actual or alleged act, error or omission that occurred, or  
43 that the person against whom the claim is made had a reasonable basis  
44 for believing occurred, within the scope of the commission's employment,  
45 duties or responsibilities; provided that nothing in this paragraph  
46 shall be construed to protect any such person from suit or liability for  
47 any damage, loss, injury or liability caused by the intentional, willful  
48 or wanton misconduct of that person.

49 b. The commission shall defend any administrator, officer, executive  
50 director, employee or representative of the commission in any civil  
51 action seeking to impose liability arising out of any actual or alleged  
52 act, error or omission that occurred within the scope of the commis-  
53 sion's employment, duties or responsibilities, or that the person  
54 against whom the claim is made had a reasonable basis for believing  
55 occurred within the scope of the commission's employment, duties or  
56 responsibilities; provided that nothing herein shall be construed to



1 prohibit that person from retaining his or her own counsel; and provided  
2 further that the actual or alleged act, error or omission did not result  
3 from that person's intentional, willful or wanton misconduct.

4 c. The commission shall indemnify and hold harmless any administrator,  
5 officer, executive director, employee or representative of the commis-  
6 sion for the amount of any settlement or judgment obtained against that  
7 person arising out of any actual or alleged act, error or omission that  
8 occurred within the scope of the commission's employment, duties or  
9 responsibilities, or that such person had a reasonable basis for believ-  
10 ing occurred within the scope of the commission's employment, duties or  
11 responsibilities, provided that the actual or alleged act, error or  
12 omission did not result from the intentional, willful or wanton miscon-  
13 duct of that person.

14 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise  
15 its rulemaking powers pursuant to the criteria set forth in this article  
16 and the rules adopted thereunder. Rules and amendments shall become  
17 binding as of the date specified in each rule or amendment and shall  
18 have the same force and effect as provisions of this compact.

19 b. Rules or amendments to the rules shall be adopted at a regular or  
20 special meeting of the commission.

21 2. Notice. a. Prior to promulgation and adoption of a final rule or  
22 rules by the commission, and at least sixty days in advance of the meet-  
23 ing at which the rule will be considered and voted upon, the commission  
24 shall file a notice of proposed rulemaking:

25 i. On the website of the commission; and  
26 ii. On the website of each licensing board or the publication in which  
27 each state would otherwise publish proposed rules.

28 b. The notice of proposed rulemaking shall include:

29 i. The proposed time, date and location of the meeting in which the  
30 rule will be considered and voted upon;

31 ii. The text of the proposed rule or amendment, and the reason for the  
32 proposed rule;

33 iii. A request for comments on the proposed rule from any interested  
34 person; and

35 iv. The manner in which interested persons may submit notice to the  
36 commission of their intention to attend the public hearing and any writ-  
37 ten comments.

38 c. Prior to adoption of a proposed rule, the commission shall allow  
39 persons to submit written data, facts, opinions and arguments, which  
40 shall be made available to the public.

41 3. Public hearings on rules. a. The commission shall grant an opportu-  
42 nity for a public hearing before it adopts a rule or amendment.

43 b. The commission shall publish the place, time and date of the sched-  
44 uled public hearing.

45 i. Hearings shall be conducted in a manner providing each person who  
46 wishes to comment a fair and reasonable opportunity to comment orally or  
47 in writing. All hearings will be recorded, and a copy will be made  
48 available upon request.

49 ii. Nothing in this section shall be construed as requiring a separate  
50 hearing on each rule. Rules may be grouped for the convenience of the  
51 commission at hearings required by this section.

52 c. If no one appears at the public hearing, the commission may proceed  
53 with promulgation of the proposed rule.

54 d. Following the scheduled hearing date, or by the close of business  
55 on the scheduled hearing date if the hearing was not held, the commis-  
56 sion shall consider all written and oral comments received.

1 4. Voting on rules. The commission shall, by majority vote of all  
2 administrators, take final action on the proposed rule and shall deter-  
3 mine the effective date of the rule, if any, based on the rulemaking  
4 record and the full text of the rule.

5 5. Emergency rules. Upon determination that an emergency exists, the  
6 commission may consider and adopt an emergency rule without prior  
7 notice, opportunity for comment or hearing, provided that the usual  
8 rulemaking procedures provided in this compact and in this section shall  
9 be retroactively applied to the rule as soon as reasonably possible, in  
10 no event later than ninety days after the effective date of the rule.  
11 For the purposes of this provision, an emergency rule is one that must  
12 be adopted immediately in order to:

13 a. Meet an imminent threat to public health, safety or welfare;  
14 b. Prevent a loss of the commission or party state funds; or  
15 c. Meet a deadline for the promulgation of an administrative rule that  
16 is required by federal law or rule.

17 6. Revisions. The commission may direct revisions to a previously  
18 adopted rule or amendment for purposes of correcting typographical  
19 errors, errors in format, errors in consistency or grammatical errors.  
20 Public notice of any revisions shall be posted on the website of the  
21 commission. The revision shall be subject to challenge by any person for  
22 a period of thirty days after posting. The revision may be challenged  
23 only on grounds that the revision results in a material change to a  
24 rule. A challenge shall be made in writing, and delivered to the  
25 commission, prior to the end of the notice period. If no challenge is  
26 made, the revision will take effect without further action. If the  
27 revision is challenged, the revision may not take effect without the  
28 approval of the commission.

29 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.  
30 a. Each party state shall enforce this compact and take all actions  
31 necessary and appropriate to effectuate this compact's purposes and  
32 intent.

33 b. The commission shall be entitled to receive service of process in  
34 any proceeding that may affect the powers, responsibilities or actions  
35 of the commission, and shall have standing to intervene in such a  
36 proceeding for all purposes. Failure to provide service of process in  
37 such proceeding to the commission shall render a judgment or order void  
38 as to the commission, this compact or promulgated rules.

39 2. Default, technical assistance and termination. a. If the commission  
40 determines that a party state has defaulted in the performance of its  
41 obligations or responsibilities under this compact or the promulgated  
42 rules, the commission shall:

43 i. Provide written notice to the defaulting state and other party  
44 states of the nature of the default, the proposed means of curing the  
45 default or any other action to be taken by the commission; and

46 ii. Provide remedial training and specific technical assistance  
47 regarding the default.

48 b. If a state in default fails to cure the default, the defaulting  
49 state's membership in this compact may be terminated upon an affirmative  
50 vote of a majority of the administrators, and all rights, privileges and  
51 benefits conferred by this compact may be terminated on the effective  
52 date of termination. A cure of the default does not relieve the offend-  
53 ing state of obligations or liabilities incurred during the period of  
54 default.

55 c. Termination of membership in this compact shall be imposed only  
56 after all other means of securing compliance have been exhausted. Notice

1 of intent to suspend or terminate shall be given by the commission to  
2 the governor of the defaulting state and to the executive officer of the  
3 defaulting state's licensing board and each of the party states.

4 d. A state whose membership in this compact has been terminated is  
5 responsible for all assessments, obligations and liabilities incurred  
6 through the effective date of termination, including obligations that  
7 extend beyond the effective date of termination.

8 e. The commission shall not bear any costs related to a state that is  
9 found to be in default or whose membership in this compact has been  
10 terminated unless agreed upon in writing between the commission and the  
11 defaulting state.

12 f. The defaulting state may appeal the action of the commission by  
13 petitioning the U.S. District Court for the District of Columbia or the  
14 federal district in which the commission has its principal offices. The  
15 prevailing party shall be awarded all costs of such litigation, includ-  
16 ing reasonable attorneys' fees.

17 3. Dispute resolution. a. Upon request by a party state, the commis-  
18 sion shall attempt to resolve disputes related to the compact that arise  
19 among party states and between party and non-party states.

20 b. The commission shall promulgate a rule providing for both mediation  
21 and binding dispute resolution for disputes, as appropriate.

22 c. In the event the commission cannot resolve disputes among party  
23 states arising under this compact:

24 i. The party states may submit the issues in dispute to an arbitration  
25 panel, which will be comprised of individuals appointed by the compact  
26 administrator in each of the affected party states, and an individual  
27 mutually agreed upon by the compact administrators of all the party  
28 states involved in the dispute.

29 ii. The decision of a majority of the arbitrators shall be final and  
30 binding.

31 4. Enforcement. a. The commission, in the reasonable exercise of its  
32 discretion, shall enforce the provisions and rules of this compact.

33 b. By majority vote, the commission may initiate legal action in the  
34 U.S. District Court for the District of Columbia or the federal  
35 district in which the commission has its principal offices against a  
36 party state that is in default to enforce compliance with the provisions  
37 of this compact and its promulgated rules and bylaws. The relief sought  
38 may include both injunctive relief and damages. In the event judicial  
39 enforcement is necessary, the prevailing party shall be awarded all  
40 costs of such litigation, including reasonable attorneys' fees.

41 c. The remedies herein shall not be the exclusive remedies of the  
42 commission. The commission may pursue any other remedies available under  
43 federal or state law.

44 § 8910. Effective date, withdrawal and amendment. 1. Effective date.

45 a. This compact shall become effective and binding on the earlier of  
46 the date of legislative enactment of this compact into law by no less  
47 than twenty-six states or the effective date of the chapter of the laws  
48 of two thousand twenty-two that enacted this compact. Thereafter, the  
49 compact shall become effective and binding as to any other compacting  
50 state upon enactment of the compact into law by that state. All party  
51 states to this compact, that also were parties to the prior nurse licen-  
52 sure compact, superseded by this compact, (herein referred to as "prior  
53 compact"), shall be deemed to have withdrawn from said prior compact  
54 within six months after the effective date of this compact.

55 b. Each party state to this compact shall continue to recognize a  
56 nurse's multistate licensure privilege to practice in that party state

1 issued under the prior compact until such party state has withdrawn from  
2 the prior compact.

3 2. Withdrawal. a. Any party state may withdraw from this compact by  
4 enacting a statute repealing the same. A party state's withdrawal shall  
5 not take effect until six months after enactment of the repealing stat-  
6 ute.

7 b. A party state's withdrawal or termination shall not affect the  
8 continuing requirement of the withdrawing or terminated state's licens-  
9 ing board to report adverse actions and significant investigations  
10 occurring prior to the effective date of such withdrawal or termination.

11 c. Nothing contained in this compact shall be construed to invalidate  
12 or prevent any nurse licensure agreement or other cooperative arrange-  
13 ment between a party state and a non-party state that is made in accord-  
14 ance with the other provisions of this compact.

15 3. Amendment. a. This compact may be amended by the party states. No  
16 amendment to this compact shall become effective and binding upon the  
17 party states unless and until it is enacted into the laws of all party  
18 states.

19 b. Representatives of non-party states to this compact shall be  
20 invited to participate in the activities of the commission, on a nonvot-  
21 ing basis, prior to the adoption of this compact by all states.

22 § 8911. Construction and severability. 1. Construction and severabil-  
23 ity. This compact shall be liberally construed so as to effectuate the  
24 purposes thereof. The provisions of this compact shall be severable, and  
25 if any phrase, clause, sentence or provision of this compact is declared  
26 to be contrary to the constitution of any party state or of the United  
27 States, or if the applicability thereof to any government, agency,  
28 person or circumstance is held to be invalid, the validity of the  
29 remainder of this compact and the applicability thereof to any govern-  
30 ment, agency, person or circumstance shall not be affected thereby. If  
31 this compact shall be held to be contrary to the constitution of any  
32 party state, this compact shall remain in full force and effect as to  
33 the remaining party states and in full force and effect as to the party  
34 state affected as to all severable matters.

35 § 3. Section 6501 of the education law is amended by adding a new  
36 subdivision 3 to read as follows:

37 3. a. an applicant for licensure in a qualified high-need healthcare  
38 profession who provides documentation and attestation that he or she  
39 holds a license in good standing from another state, may request the  
40 issuance of a temporary practice permit, which, if granted will permit  
41 the applicant to work under the supervision of a New York state licensee  
42 in accordance with regulations of the commissioner. The department may  
43 grant such temporary practice permit when it appears based on the appli-  
44 cation and supporting documentation received that the applicant will  
45 meet the requirements for licensure in this state because he or she has  
46 provided documentation and attestation that they hold a license in good  
47 standing from another state with significantly comparable licensure  
48 requirements to those of this state, except the department has not been  
49 able to secure direct source verification of the applicant's underlying  
50 credentials (e.g., license verification, receipt of original transcript,  
51 experience verification). Such permit shall be valid for six months or  
52 until ten days after notification that the applicant does not meet the  
53 qualifications for licensure. An additional six months may be granted  
54 upon a determination by the department that the applicant is expected to  
55 qualify for the full license upon receipt of the remaining direct source  
56 verification documents requested by the department in such time period

1 and that the delay in providing the necessary documentation for full  
2 licensure was due to extenuating circumstances which the applicant could  
3 not avoid.

4 b. a temporary practice permit issued under paragraph a of this subdi-  
5 vision shall be subject to the full disciplinary and regulatory authori-  
6 ty of the board of regents and the department, pursuant to this title,  
7 as if such authorization were a professional license issued under this  
8 article.

9 c. for purposes of this subdivision "high-need healthcare profession"  
10 means a licensed healthcare profession of which there are an insuffi-  
11 cient number of licensees to serve in the state or a region of the  
12 state, as determined by the commissioner of health, in consultation with  
13 the commissioner of education. The commissioner of health shall main-  
14 tain a list of such licensed professions, which shall be posted online  
15 and updated from time to time as warranted.

16 § 4. This act shall take effect immediately and shall be deemed to  
17 have been in full force and effect on and after April 1, 2022; provided,  
18 however, section three of this act shall take effect on the ninetieth  
19 day after it shall have become a law. Effective immediately, the addi-  
20 tion, amendment and/or repeal of any rule or regulation necessary for  
21 the implementation of this act on its effective date are authorized to  
22 be made and completed on or before such effective date.

23 PART C

24 Intentionally Omitted

25 PART D

26 Section 1. The social services law is amended by adding a new section  
27 367-w to read as follows:

28 § 367-w. Health care and mental hygiene worker bonuses. 1. Purpose  
29 and intent. New York's essential front line health care and mental  
30 hygiene workers have seen us through a once-in-a-century public health  
31 crisis and turned our state into a model for battling and beating  
32 COVID-19. To attract talented people into the profession at a time of  
33 such significant strain while also retaining those who have been working  
34 so tirelessly these past two years, we must recognize the efforts of our  
35 health care and mental hygiene workforce and reward them financially for  
36 their service.

37 To do that, the commissioner of health is hereby directed to seek  
38 additional federal spending authority under section 9817 of the American  
39 Rescue Plan Act of 2021 to maximize federal financial participation with  
40 respect to spending on home and community based services and to seek  
41 such other federal approvals as applicable, and, subject to federal  
42 financial participation, to support with federal and state funding  
43 bonuses to be made available during the state fiscal year two thousand  
44 twenty-three to recruit, retain, and reward health care and mental  
45 hygiene workers.

46 2. Definitions. As used in this section, the term:

47 (a) "Employee" means certain front line health care and mental hygiene  
48 practitioners, technicians, assistants and aides and other workers that  
49 provide hands on health or care services to individuals, or that provide  
50 services that are integral to such care on-site in patient and residen-  
51 tial care settings, including, but not limited to, custodians, house-



1 keeping, security, and food service workers, without regard to whether  
2 the person works full-time, part-time, on a salaried, hourly, or tempo-  
3 rary basis, or as an independent contractor, that received an annualized  
4 base salary of one hundred twenty-five thousand dollars or less, to  
5 include such titles as determined by the commissioner, in consultation  
6 with the commissioner of mental health, the commissioner for people with  
7 developmental disabilities, the commissioner of addiction services and  
8 supports, and the commissioner of children and family services, as  
9 applicable, and approved by the director of the budget.

10 (b) "Employer" means a provider enrolled in the medical assistance  
11 program under this title that employs at least one employee and that  
12 bills for services under the state plan or a home and community based  
13 services waiver authorized pursuant to subdivision (c) of section nine-  
14 teen hundred fifteen of the federal social security act, or that has a  
15 provider agreement to bill for services provided or arranged through a  
16 managed care provider under section three hundred sixty-four-j of this  
17 title or a managed long term care plan under section forty-four hundred  
18 three-f of the public health law, to include:

19 (i) providers and facilities licensed, certified or otherwise author-  
20 ized under articles twenty-eight, thirty, thirty-six or forty of the  
21 public health law, articles sixteen, thirty-one, thirty-two or thirty-  
22 six of the mental hygiene law, article seven of this chapter, fiscal  
23 intermediaries under section three hundred sixty-five-f of this title,  
24 pharmacies registered under section six thousand eight hundred eight of  
25 the education law, school based health centers, a health district as  
26 defined in section two of the public health law, or a municipal corpo-  
27 ration;

28 (ii) programs funded by the office of mental health, the office of  
29 addiction services and supports, or the office for people with develop-  
30 mental disabilities; and

31 (iii) other provider types determined by the commissioner and approved  
32 by the director of the budget;

33 (iv) provided, however, that unless the provider is subject to a  
34 certificate of need process as a condition of state licensure or  
35 approval, such provider shall not be an employer under this section  
36 unless at least twenty percent of the provider's patients or persons  
37 served are eligible for services under this title and title XIX of the  
38 federal social security act.

39 (c) Notwithstanding the definition of employer in paragraph (b) of  
40 this subdivision, and without regard to the availability of federal  
41 financial participation, "employer" shall also include an institution of  
42 higher education, a public or nonpublic school, a charter school, an  
43 approved preschool program for students with disabilities, a school  
44 district or boards of cooperative educational services, programs funded  
45 by the office of mental health, programs funded by the office of  
46 addiction services and supports, programs funded by the office for  
47 people with developmental disabilities, programs funded by the office  
48 for the aging, a health district as defined in section two of the public  
49 health law, or a municipal corporation, where such program or entity  
50 employs at least one employee. Such employers shall be required to  
51 enroll in the system designated by the commissioner, or relevant agency  
52 commissioners, in consultation with the director of the budget, for the  
53 purpose of claiming bonus payments under this section. Such system or  
54 process for claiming bonus payments may be different from the system and  
55 process used under subdivision three of this section.



1 (d) "Vesting period" shall mean a series of six-month periods between  
2 the dates of October first, two thousand twenty-one and March thirty-  
3 first, two thousand twenty-four for which employees that are continuous-  
4 ly employed by an employer during such six-month periods, in accordance  
5 with a schedule issued by the commissioner or relevant agency commis-  
6 sioner as applicable, may become eligible for a bonus pursuant to subdi-  
7 vision four of this section.

8 (e) "Base salary" shall mean, for the purposes of this section, the  
9 employee's gross wages with the employer during the vesting period,  
10 excluding any bonuses or overtime pay.

11 (f) "Municipal corporation" means a county outside of a city with a  
12 population of one million or more, a city, including a city with a popu-  
13 lation of one million or more, a town, a village, or a school district.

14 3. Tracking and submission of claims for bonuses. (a) The commis-  
15 sioner, in consultation with the commissioner of labor and the Medicaid  
16 inspector general, and subject to any necessary approvals by the federal  
17 centers for Medicare and Medicaid services, shall develop such forms and  
18 procedures as may be needed to identify the number of hours employees  
19 worked and to provide reimbursement to employers for the purposes of  
20 funding employee bonuses in accordance with hours worked during the  
21 vesting period.

22 (b) Using the forms and processes developed by the commissioner under  
23 this subdivision, employers shall, for a period of time specified by the  
24 commissioner:

25 (i) track the number of hours that employees work during the vesting  
26 period and, as applicable, the number of patients served by the employer  
27 who are eligible for services under this title; and

28 (ii) submit claims for reimbursement of employee bonus payments. In  
29 filling out the information required to submit such claims, employers  
30 shall use information obtained from tracking required pursuant to para-  
31 graph (a) of this subdivision and provide such other information as may  
32 be prescribed by the commissioner. In determining an employee's annual-  
33 ized base salary, the employer shall use information based on payroll  
34 records.

35 (c) Employers shall be responsible for determining whether an employee  
36 is eligible under this section and shall maintain and make available  
37 upon request all records, data and information the employer relied upon  
38 in making the determination that an employee was eligible, in accordance  
39 with paragraph (d) of this subdivision.

40 (d) Employers shall maintain contemporaneous records for all tracking  
41 and claims related information and documents required to substantiate  
42 claims submitted under this section for a period of no less than six  
43 years. Employers shall furnish such records and information, upon  
44 request, to the commissioner, the Medicaid inspector general, the  
45 commissioner of labor, the secretary of the United States Department of  
46 Health and Human Services, and the deputy attorney general for Medicaid  
47 fraud control.

48 4. Payment of worker bonuses. (a) Upon issuance of a vesting schedule  
49 by the commissioner, or relevant agency commissioner as applicable,  
50 employers shall be required to pay bonuses to employees pursuant to such  
51 schedule based on the number of hours worked during the vesting period.  
52 The schedule shall provide for total payments not to exceed three thou-  
53 sand dollars per employee in accordance with the following:

54 (i) employees who have worked an average of at least twenty but less  
55 than thirty hours per week over the course of a vesting period would  
56 receive a five hundred dollar bonus for the vesting period;

1 (ii) employees who have worked an average of at least thirty but less  
2 than thirty-five hours per week over the course of a vesting period  
3 would receive a one thousand dollar bonus for such vesting period;

4 (iii) employees who have worked an average of at least thirty-five  
5 hours per week over the course of a vesting period would receive a one  
6 thousand five hundred dollar bonus for such vesting period;

7 (iv) full-time employees who are exempt from overtime compensation as  
8 established in the labor commissioner's minimum wage orders or otherwise  
9 provided by New York state law or regulation over the course of a vest-  
10 ing period would receive a one thousand five hundred dollar bonus for  
11 such vesting period.

12 (b) Notwithstanding paragraph (a) of this subdivision, the commission-  
13 er may through regulation specify an alternative number of vesting peri-  
14 ods, provided that total payments do not exceed three thousand dollars  
15 per employee.

16 (c) Employees shall be eligible for bonuses for no more than two vest-  
17 ing periods per employer, in an amount equal to but not greater than  
18 three thousand dollars per employee across all employers.

19 (d) Upon completion of a vesting period with an employer, an employee  
20 shall be entitled to receive the bonus and the employer shall be  
21 required to pay the bonus no later than the date specified under this  
22 subdivision, provided however that prior to such date the employee does  
23 not terminate, through action or inaction, the employment relationship  
24 with the employer, in accordance with any employment agreement, includ-  
25 ing a collectively bargained agreement, if any, between the employee and  
26 employer.

27 (e) Any bonus due and payable to an employee under this section shall  
28 be made by the employer no later than thirty days after the bonus is  
29 paid to the employer.

30 (f) An employer shall be required to submit a claim for a bonus to the  
31 department no later than thirty days after an employee's eligibility for  
32 a bonus vests, in accordance with and upon issuance of the schedule  
33 issued by the commissioner or relevant agency commissioner.

34 (g) No portion of any funds received from claims under subparagraph  
35 (ii) of paragraph (b) of subdivision three of this section for employee  
36 bonuses shall be returned to any person other than the employee to whom  
37 the bonus is due or used to reduce the total compensation an employer is  
38 obligated to pay to an employee under section thirty-six hundred four-  
39 teen-c of the public health law, section six hundred fifty-two of the  
40 labor law, or any other provisions of law or regulations, or pursuant to  
41 any collectively bargained agreement.

42 (h) No portion of any bonus available pursuant to this subdivision  
43 shall be payable to a person who has been suspended or excluded under  
44 the medical assistance program during the vesting period and at the time  
45 an employer submits a claim under this section.

46 (i) The use of any accruals or other leave, including but not limited  
47 to sick, vacation, or time used under the family medical leave act,  
48 shall be credited towards and included in the calculation of the average  
49 number of hours worked per week over the course of the vesting period.

50 5. Audits, investigations and reviews. (a) The Medicaid inspector  
51 general shall, in coordination with the commissioner, conduct audits,  
52 investigations and reviews of employers required to submit claims under  
53 this section. Such claims, inappropriately paid, under this section  
54 shall constitute overpayments as that term is defined under the regu-  
55 lations governing the medical assistance program. The Medicaid inspector  
56 general may recover such overpayments to employers as it would an over-

1 payment under the medical assistance program, impose sanctions up to and  
2 including exclusion from the medical assistance program, impose penal-  
3 ties, and take any other action authorized by law where:

4 (i) an employer claims a bonus not due to an employee or a bonus  
5 amount in excess of the correct bonus amount due to an employee;

6 (ii) an employer claims, receives and fails to pay any part of the  
7 bonus due to a designated employee; or

8 (iii) an employer fails to claim a bonus due to an employee.

9 (b) Any employer identified in paragraph (a) of this subdivision who  
10 fails to identify, claim and pay any bonus for more than ten percent of  
11 its employees eligible for the bonus shall also be subject to additional  
12 penalties under subdivision four of section one hundred forty-five-b of  
13 this article.

14 (c) Any employer who fails to pay any part of the bonus payment to a  
15 designated employee shall remain liable to pay such bonus to that  
16 employee, regardless of any recovery, sanction or penalty the Medicaid  
17 inspector general may impose.

18 (d) In all instances recovery of inappropriate bonus payments shall be  
19 recovered from the employer. The employer shall not have the right to  
20 recover any inappropriately paid bonus from the employee.

21 (e) Where the Medicaid inspector general sanctions an employer for  
22 violations under this section, they may also sanction any affiliates as  
23 defined under the regulations governing the medical assistance program.

24 6. Rules and regulations. The commissioner, in consultation with the  
25 Medicaid inspector general as it relates to subdivision five of this  
26 section, may promulgate rules to implement this section pursuant to  
27 emergency regulation; provided, however, that this provision shall not  
28 be construed as requiring the commissioner to issue regulations to  
29 implement this section.

30 § 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 4 of  
31 section 145-b of the social services law, as amended by section 1 of  
32 part QQ of chapter 56 of the laws of 2020, are amended to read as  
33 follows:

34 (iv) such person arranges or contracts, by employment, agreement, or  
35 otherwise, with an individual or entity that the person knows or should  
36 know is suspended or excluded from the medical assistance program at the  
37 time such arrangement or contract regarding activities related to the  
38 medical assistance program is made[~~+~~]; or

39 (v) such person had an obligation to identify, claim, and pay a bonus  
40 under subdivision three of section three hundred sixty-seven-w of this  
41 article and such person failed to identify, claim and pay such bonus.

42 For purposes of this paragraph, "person" as used in subparagraph (i)  
43 of this paragraph does not include recipients of the medical assistance  
44 program; and "person" as used in subparagraphs (ii) [~~—~~], (iii) and (iv)  
45 of this paragraph, is as defined in paragraph (e) of subdivision [~~4~~]  
46 six of section three hundred sixty-three-d of this [~~chapter~~] article;  
47 and "person" as used in subparagraph (v) of this paragraph includes  
48 employers as defined in section three hundred sixty-seven-w of this  
49 article.

50 § 3. Paragraph (c) of subdivision 4 of section 145-b of the social  
51 services law is amended by adding a new subparagraph (iii) to read as  
52 follows:

53 (iii) For subparagraph (v) of paragraph (a) of this subdivision, a  
54 monetary penalty shall be imposed for conduct described in subparagraphs  
55 (i), (ii) and (iii) of paragraph (a) of subdivision five of section  
56 three hundred sixty-seven-w of this article and shall not exceed one

1 thousand dollars per failure to identify, claim and pay a bonus for each  
2 employee.

3 § 4. Health care and mental hygiene worker bonuses for state employ-  
4 ees. 1. An employee who is employed by a state operated facility, an  
5 institutional or direct-care setting operated by the executive branch of  
6 the State of New York or a public hospital operated by the state univer-  
7 sity of New York and who is deemed substantially equivalent to the defi-  
8 nition of employee pursuant to paragraph (a) of subdivision 2 of section  
9 367-w of the social services law as determined by the commissioner of  
10 health, in consultation with the chancellor of the state university of  
11 New York, the commissioner of the department of civil service, the  
12 director of the office of employee relations, and the commissioners of  
13 other state agencies, as applicable, and approved by the director of the  
14 budget, shall be eligible for the health care and mental hygiene worker  
15 bonus. Notwithstanding the definition of base salary pursuant to para-  
16 graph (d) of subdivision 2 of section 367-w of the social services law,  
17 such bonus shall only be paid to employees who receive an annualized  
18 base salary of one hundred twenty-five thousand dollars or less.

19 2. Employees shall be eligible for health care and mental hygiene  
20 worker bonuses in an amount up to but not exceeding three thousand  
21 dollars per employee. The payment of bonuses shall be paid based on the  
22 total number of hours worked during two vesting periods based on the  
23 employee's start date with the employer. No employee's first vesting  
24 period may begin later than March thirty-first, two thousand twenty-  
25 three, and in total both vesting periods may not exceed one year in  
26 duration. For each vesting period, payments shall be in accordance with  
27 the following:

28 (a) employees who have worked an average of at least twenty but less  
29 than thirty hours per week over the course of a vesting period shall  
30 receive a five hundred dollar bonus for the vesting period;

31 (b) employees who have worked an average of at least thirty but less  
32 than thirty-seven and one half hours per week over the course of a vest-  
33 ing period shall receive a one thousand dollar bonus for such vesting  
34 period; and

35 (c) employees who have worked an average of at least thirty-seven and  
36 one half hours per week over the course of a vesting period shall  
37 receive a one thousand five hundred dollar bonus for such vesting peri-  
38 od.

39 § 5. An employee under this act shall be limited to a bonus of three  
40 thousand dollars per employee without regard to which section or  
41 sections such employee may be eligible or whether the employee is eligi-  
42 ble to receive a bonus from more than one employer.

43 § 6. Notwithstanding any provision of law to the contrary, any bonus  
44 payment paid pursuant to this act, to the extent includible in gross  
45 income for federal income tax purposes, shall not be subject to state or  
46 local income tax.

47 § 7. Bonuses under this act shall not be considered income for  
48 purposes of public benefits or other public assistance.

49 § 8. Paragraph (a) of subdivision 8 of section 131-a of the social  
50 services law is amended by adding a new subparagraph (x) to read as  
51 follows:

52 (x) all of the income of a head of household or any person in the  
53 household, who is receiving such aid or for whom an application for such  
54 aid has been made, which is derived from the health care and mental  
55 hygiene worker bonuses under section three hundred sixty-seven-w of this

1 article or under the chapter of the laws of two thousand twenty-two  
2 which added this subparagraph.

3 § 9. This act shall take effect immediately.

4 PART E

5 Section 1. Subdivision 1 of section 605 of the public health law, as  
6 amended by section 20 of part E of chapter 56 of the laws of 2013, is  
7 amended to read as follows:

8 1. A state aid base grant shall be reimbursed to municipalities for  
9 the core public health services identified in section six hundred two of  
10 this title, in an amount of the greater of [~~sixty-five~~] one dollar and  
11 thirty cents per capita, [~~for each person in the municipality,~~] or [~~six~~  
12 ~~hundred fifty thousand dollars~~] seven hundred fifty thousand dollars,  
13 provided that the municipality expends at least [~~six hundred fifty thou-~~  
14 ~~sand dollars~~] seven hundred fifty thousand dollars, for such core public  
15 health services. A municipality must provide all the core public health  
16 services identified in section six hundred two of this title to qualify  
17 for such base grant unless the municipality has the approval of the  
18 commissioner to expend the base grant on a portion of such core public  
19 health services. If any services in such section are not provided, the  
20 commissioner [~~may~~] shall limit the municipality's per capita or base  
21 grant to reflect the scope of the reduced services, in an amount not to  
22 exceed five hundred seventy-seven thousand five hundred dollars. The  
23 commissioner may use the amount that is not granted to contract with  
24 agencies, associations, or organizations to provide such services; or  
25 the health department may use such proportionate share to provide the  
26 services upon approval of the director of the division of the budget.

27 § 2. Subdivision 2 of section 605 of the public health law, as amended  
28 by section 1 of part O of chapter 57 of the laws of 2019, is amended to  
29 read as follows:

30 2. State aid reimbursement for public health services provided by a  
31 municipality under this title, shall be made if the municipality is  
32 providing some or all of the core public health services identified in  
33 section six hundred two of this title, pursuant to an approved applica-  
34 tion for state aid, at a rate of no less than thirty-six per centum[  
35 ~~except for the city of New York which shall receive no less than twenty~~  
36 ~~per centum,~~] of the difference between the amount of moneys expended by  
37 the municipality for public health services required by section six  
38 hundred two of this title during the fiscal year and the base grant  
39 provided pursuant to subdivision one of this section. Provided, however,  
40 that a municipality's documented fringe benefit costs submitted under an  
41 application for state aid and otherwise eligible for reimbursement under  
42 this article shall not exceed seventy-five per centum of the munici-  
43 palities eligible personnel services. No such reimbursement shall be  
44 provided for services that are not eligible for state aid pursuant to  
45 this article.

46 § 3. Subdivision 2 of section 616 of the public health law, as added  
47 by chapter 901 of the laws of 1986, is amended and a new subdivision 4  
48 is added to read as follows:

49 2. No payments shall be made from moneys appropriated for the purpose  
50 of this article to a municipality for contributions by the municipality  
51 for indirect costs [~~and fringe benefits, including but not limited to,~~  
52 ~~employee retirement funds, health insurance and federal old age and~~  
53 ~~survivors insurance~~].



4. Moneys appropriated for the purposes of this article to a municipality may include reimbursement of a municipality's fringe benefits, including but not limited to employee retirement funds, health insurance and federal old age and survivor's insurance. However, costs submitted under an application for state aid must be consistent with a municipality's documented fringe benefit costs and shall not exceed fifty per centum of the municipality's eligible personnel services.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

PART F

Section 1. Section 3002 of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-a. The state emergency medical services council shall advise the commissioner on such issues as the commissioner may require related to the provision of emergency medical service, specialty care, designated facility care, and disaster medical care, and assist in the coordination of such. This shall include, but is not limited to, the recommendation, periodic revision, and application of rules and regulations, appropriateness review standards, standards for triage, treatment, and transportation protocols, workforce recruitment, development, and retention, and quality improvement standards. The state emergency medical services council shall meet as frequently as determined necessary by the commissioner.

§ 2. Section 3003 of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-a. Each regional emergency medical services council shall advise the state emergency medical services council, the commissioner and the department on such issues as the state emergency medical services council, the commissioner and the department may require, related to the provision of emergency medical service, specialty care, designated facility care, disaster medical care, the workforce, and assist in the regional coordination of such.

§ 3. The public health law is amended by adding a new section 3004 to read as follows:

§ 3004. Emergency medical services system and agency sustainability assurance program. The commissioner, with the advice of the state emergency medical services council, may create an emergency medical services system and agency sustainability assurance program (hereinafter referred to as "the program"). Standards and metrics of the program may include but not be limited to: safety initiatives, emergency vehicle operations, operational competencies, planning, training, onboarding, workforce development, and other standards and metrics as determined by the commissioner in consultation with the state emergency medical services council, to promote positive patient outcomes, safety, and emergency medical services system sustainability throughout the state. The commissioner is hereby authorized to promulgate regulations related to the standards and requirements of the program, and shall require each emergency medical services system and agency to perform regular and periodic review of program metrics and standards, including but not limited to identification of agency deficiencies and strengths, development of programs to improve agency metrics, strengthen system sustainability and operations, and improve the delivery of care. The department may contract for services to assist in the development and maintenance of these metrics and standards statewide with subject matter experts to

1 assist in the oversight of these metrics statewide. The department may  
2 delegate authority to oversee these metrics and standards to counties or  
3 other contractors as determined by the commissioner. Emergency medical  
4 services agencies that do not meet the standards and requirements set  
5 forth in the program set by the commissioner may be subject to enforce-  
6 ment actions, including but not limited to revocation, suspension,  
7 performance improvement plans, or restriction from specific types of  
8 response such as but not limited to suspension of ability to respond to  
9 requests for emergency medical assistance or to perform emergency  
10 medical services.

11 § 4. The public health law is amended by adding a new section 3018 to  
12 read as follows:

13 § 3018. Statewide comprehensive emergency medical system plan. 1. The  
14 department, in consultation with the state emergency medical services  
15 council, shall develop and maintain a statewide comprehensive emergency  
16 medical system plan that shall provide for a coordinated emergency  
17 medical system in New York state, including but not be limited to:

18 (a) Establishing a comprehensive statewide emergency medical system,  
19 incorporating facilities, agency types, transportation, workforce,  
20 communications, and other components of the emergency medical system to  
21 improve the delivery of emergency medical services and thereby decrease  
22 morbidity, hospitalization, disability, and mortality;

23 (b) Improving the accessibility of high-quality emergency medical  
24 service;

25 (c) Coordinating professional medical organizations, hospitals, and  
26 other public and private agencies in developing alternative delivery  
27 models whereby persons who are presently using the existing emergency  
28 department for routine, nonurgent, primary medical care may be served  
29 more appropriately; and

30 (d) Conducting, promoting, and encouraging programs of education and  
31 training designed to upgrade the knowledge and skills of emergency  
32 medical service practitioners training throughout New York state with  
33 emphasis on regions with limited access to emergency medical services  
34 training.

35 2. The statewide comprehensive emergency medical system plan shall be  
36 reviewed, updated if necessary, and published every five years on the  
37 department's website, or at such times as may be necessary to improve  
38 the effectiveness and efficiency of the state's emergency medical  
39 service system.

40 3. Each regional emergency medical services council shall develop and  
41 maintain a comprehensive regional emergency medical system plan, or  
42 adapt the statewide comprehensive emergency medical system plan to  
43 provide for a coordinated emergency medical system within the region.  
44 Such plans shall be subject to review by the state emergency medical  
45 services council and approval by the department.

46 4. Each county shall develop and maintain a comprehensive county emer-  
47 gency medical system plan that shall provide for a coordinated emergency  
48 medical system within the county. Such plans shall be subject to review  
49 by the regional emergency medical services council, the state emergency  
50 medical services council and approval by the department. The department  
51 shall be responsible for oversight of each county's compliance with  
52 their plan.

53 5. The commissioner may promulgate regulations to ensure compliance  
54 with this section.

55 § 5. The public health law is amended by adding a new section 3019 to  
56 read as follows:

1     § 3019. Emergency medical services training program. 1. The depart-  
2 ment shall establish, in consultation with the state emergency medical  
3 services council, a training program for emergency medical services that  
4 includes students, emergency medical service practitioners, agencies,  
5 facilities, and personnel, and the commissioner may provide funding  
6 within the amount appropriated to conduct such training programs in  
7 consultation with the state emergency medical services council. Until  
8 such time as the department announces the training program pursuant to  
9 this section is in effect, all current standards, curriculums, and  
10 requirements for students, emergency medical service practitioners,  
11 agencies, facilities, and personnel shall remain in effect.

12     2. The department, in consultation with the state emergency medical  
13 services council, shall establish minimum education standards, curric-  
14 ulums and requirements for all emergency medical services training  
15 programs. No person shall profess to provide emergency medical services  
16 training without the approval of the department.

17     3. The department is authorized to provide, either directly or through  
18 contract, emergency medical services training for emergency medical  
19 service practitioners and emergency medical system services personnel,  
20 develop and distribute training materials for use by instructors, and to  
21 recruit and offer training to additional instructors to provide train-  
22 ing.

23     4. The department may visit and inspect any emergency medical system  
24 training program or training center operating under this article and the  
25 regulations adopted therefore to ensure compliance. The department may  
26 delegate responsibilities to the state or regional emergency medical  
27 services councils to assist in the compliance, maintenance, and coordi-  
28 nation of training programs.

29     5. The commissioner shall, within amounts appropriated, establish a  
30 public service campaign to recruit additional personnel into the emer-  
31 gency medical system fields.

32     6. The commissioner shall, within amounts appropriated, establish an  
33 emergency medical system mental health and wellness program that  
34 provides resources to emergency medical service practitioners to reduce  
35 burnout, prevent suicides, and increase safety.

36     7. The department, in consultation with the state emergency medical  
37 services council, may create or adopt with the approval of the commis-  
38 sioner additional standards, training and criteria to become a credent-  
39 ialled emergency medical service practitioner to provide specialized,  
40 advanced, or other services that further support or advance the emergen-  
41 cy medical system.

42     § 6. Section 3008 of the public health law is amended by adding a new  
43 subdivision 8 to read as follows:

44     8. (a) Notwithstanding any other provision of law, all determinations  
45 of need shall be consistent with the state emergency medical system plan  
46 established in section three thousand eighteen of this article. The  
47 commissioner may promulgate regulations to provide for the standards on  
48 the determination of need. Until such time as the state emergency  
49 medical system plan is established, the definition of determination of  
50 need will be developed by the department in consultation with the state  
51 emergency medical services council. The department shall issue a new  
52 emergency medical system agency certificate only upon a determination  
53 that a public need for the proposed service has been established pursu-  
54 ant to regulation. If the department determines that a public need  
55 exists for only a portion of a proposed service, a certificate may be  
56 issued for that portion. Prior to reaching a final determination of

1 need, the department shall forward a summary of the proposed service  
2 including any documentation received or subsequent reports created ther-  
3 eto, to the state emergency medical services council for review and  
4 recommendation to the department on the approval of the application. An  
5 applicant or other concerned party may appeal any determination made by  
6 the department pursuant to this section within fourteen days. Appeals  
7 shall be heard pursuant to the provisions of section twelve-a of this  
8 chapter, and a final determination as to need shall be made by the  
9 commissioner upon review of the report and recommendation of the presid-  
10 ing administrative law judge.

11 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
12 sion, the commissioner may promulgate regulations to provide for the  
13 issuance of an emergency medical system agency certificate without a  
14 determination of public need.

15 § 7. Subdivision 1 of section 3001 of the public health law, as  
16 amended by chapter 804 of the laws of 1992, is amended to read as  
17 follows:

18 1. "Emergency medical service" means [~~initial emergency medical~~  
19 ~~assistance including, but not limited to, the treatment of trauma,~~  
20 ~~burns, respiratory, circulatory and obstetrical emergencies~~] care of a  
21 person to, from, at, in, or between the person's home, scene of injury,  
22 hospitals, health care facilities, public events or other locations, by  
23 emergency medical services practitioners as a patient care team member,  
24 for emergency, non-emergency, specialty, low acuity, preventative,  
25 interfacility, or community paramedicine care; emergency and non-emer-  
26 gency medical dispatch; coordination of emergency medical system equip-  
27 ment and personnel; assessment; treatment, transportation, routing,  
28 referrals and communications with treatment facilities and medical  
29 personnel; public education, injury prevention and wellness initiatives;  
30 administration of immunizations as approved by the state emergency  
31 medical services council; and follow-up and restorative care.

32 § 8. This act shall take effect immediately and shall be deemed to  
33 have been in full force and effect on and after April 1, 2022.

34 PART G

35 Intentionally Omitted

36 PART H

37 Section 1. Sections 91 and 92 of part H of chapter 59 of the laws of  
38 2011 relating to the year to year rate of growth of Department of Health  
39 state funds and Medicaid funding are REPEALED.

40 § 2. This act shall take effect immediately.

41 PART I

42 Section 1. 1. Notwithstanding any provision of law to the contrary,  
43 for the state fiscal years beginning April 1, 2022, and thereafter, all  
44 department of health Medicaid payments made for services provided on and  
45 after April 1, 2022, shall be subject to a uniform rate increase of one  
46 percent, subject to the approval of the commissioner of the department  
47 of health and director of the budget. Such rate increase shall be  
48 subject to federal financial participation.

2. The following types of payments shall be exempt from increases pursuant to this section:

(a) payments that would violate federal law including, but not limited to, hospital disproportionate share payments that would be in excess of federal statutory caps;

(b) payments made by other state agencies including, but not limited to, those made pursuant to articles 16, 31 and 32 of the mental hygiene law;

(c) payments the state is obligated to make pursuant to court orders or judgments;

(d) payments for which the non-federal share does not reflect any state funding; and

(e) at the discretion of the commissioner of health and the director of the budget, payments with regard to which it is determined that application of increases pursuant to this section would result, by operation of federal law, in a lower federal medical assistance percentage applicable to such payments.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

#### PART J

Section 1. Paragraph (c) of subdivision 35 of section 2807-c of the public health law, as amended by section 32 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

(c) The base period reported costs and statistics used for rate-setting for operating cost components, including the weights assigned to diagnostic related groups, shall be updated no less frequently than every four years and the new base period shall be no more than four years prior to the first applicable rate period that utilizes such new base period provided, however, that the first updated base period shall begin on or after April first, two thousand fourteen, but no later than July first, two thousand fourteen; and further provided that the updated base period subsequent to July first, two thousand eighteen shall begin on or after January first, two thousand twenty-four.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

#### PART K

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

§ 2825-g. Health care facility transformation program: statewide IV.  
1. A statewide health care facility transformation program is hereby established within the department for the purpose of transforming, redesigning, and strengthening quality health care services in alignment with statewide and regional health care needs, and in the ongoing pandemic response. The program shall also provide funding, subject to lawful appropriation, in support of capital projects that facilitate furthering such transformational goals.

2. The commissioner shall enter into an agreement with the dormitory authority of the state of New York pursuant to section sixteen hundred eighty-r of the public authorities law, which shall apply to this agreement, subject to the approval of the director of the division of the budget, for the purposes of the distribution, and administration of available funds, pursuant to such agreement, and made available pursuant



1 to this section and appropriation. Such funds may be awarded and  
2 distributed by the department for grants to health care facilities  
3 including but not limited to, hospitals, including hospitals regulated  
4 pursuant to article eight of the education law, residential health care  
5 facilities, adult care facilities licensed under title two of article  
6 seven of the social services law, diagnostic and treatment centers, and  
7 clinics licensed pursuant to this chapter or the mental hygiene law,  
8 children's residential treatment facilities licensed pursuant to article  
9 thirty-one of the mental hygiene law, assisted living programs approved  
10 by the department pursuant to section four hundred sixty-one-1 of the  
11 social services law, behavioral health facilities licensed pursuant to  
12 articles thirty-one and thirty-two of the mental hygiene law, and inde-  
13 pendent practice associations or organizations. A copy of such agree-  
14 ment, and any amendments thereto, shall be provided by the department to  
15 the chair of the senate finance committee, the chair of the assembly  
16 ways and means committee, and the director of the division of the budget  
17 no later than thirty days after such agreement is finalized. Projects  
18 awarded, in whole or part, under sections twenty-eight hundred twenty-  
19 five-a and twenty-eight hundred twenty-five-b of this article shall not  
20 be eligible for grants or awards made available under this section.

21 3. Notwithstanding subdivision two of this section or any inconsistent  
22 provision of law to the contrary, and upon approval of the director of  
23 the budget, the commissioner may, subject to the availability of lawful  
24 appropriation, award up to four hundred fifty million dollars of the  
25 funds made available pursuant to this section for unfunded project  
26 applications submitted in response to the request for application number  
27 18406 issued by the department on September thirtieth, two thousand  
28 twenty-one pursuant to section twenty-eight hundred twenty-five-f of  
29 this article. Authorized amounts to be awarded pursuant to applications  
30 submitted in response to the request for application number 18406 shall  
31 be awarded no later than December thirty-first, two thousand twenty-two.  
32 Provided, however, that a minimum of:

33 (a) twenty-five million dollars of total awarded funds shall be made  
34 to community-based health care providers, which for purposes of this  
35 section shall be defined as a diagnostic and treatment center licensed  
36 or granted an operating certificate under this article;

37 (b) twenty-five million dollars of total awarded funds shall be made  
38 to a mental health clinic licensed or granted an operating certificate  
39 under article thirty-one of the mental hygiene law; a substance use  
40 disorder treatment clinic licensed or granted an operating certificate  
41 under article thirty-two of the mental hygiene law; independent practice  
42 associations or organizations; a clinic licensed or granted an operating  
43 certificate under article sixteen of the mental hygiene law; a home care  
44 provider certified or licensed pursuant to article thirty-six of this  
45 chapter; or hospices licensed or granted an operating certificate pursu-  
46 ant to article forty of this chapter; and

47 (c) fifty million dollars of total awarded funds shall be made to  
48 residential health care facilities or adult care facilities.

49 4. Notwithstanding section one hundred sixty-three of the state  
50 finance law, or any inconsistent provision of law to the contrary, up to  
51 two hundred million dollars of the funds appropriated for this program  
52 shall be awarded, without a competitive bid or request for proposal  
53 process, for grants to health care providers for purposes of moderniza-  
54 tion of an emergency department of regional significance. For purposes  
55 of this subdivision, an emergency department shall be considered to have  
56 regional significance if it: (a) serves as Level 1 trauma center with

1 the highest volume in its region; (b) includes the capacity to segregate  
2 patients with communicable diseases, trauma or severe behavioral health  
3 issues from other patients in the emergency department; (c) provides  
4 training in emergency care and trauma care to residents from multiple  
5 hospitals in the region; and (d) serves a high proportion of Medicaid  
6 patients.

7 5. (a) Notwithstanding section one hundred sixty-three of the state  
8 finance law, or any inconsistent provision of law to the contrary, up to  
9 seven hundred fifty million dollars of the funds appropriated for this  
10 program shall be awarded, without a competitive bid or request for  
11 proposal process, for grants to health care providers, including, but  
12 not limited to, public hospitals operated by a public benefit corpo-  
13 ration (hereafter "applicants").

14 (b) Awards made pursuant to this subdivision shall provide funding  
15 only for capital projects, to the extent lawful appropriation and fund-  
16 ing is available, to build innovative, patient-centered models of care,  
17 increase access to care, to improve the quality of care and to ensure  
18 financial sustainability of health care providers.

19 (c) At least twenty-five percent of the funds shall be allocated  
20 exclusively for community-based health care providers, which for the  
21 purposes of this subdivision shall be defined as: a diagnostic and  
22 treatment center licensed or granted an operating certificate under  
23 article twenty-eight of the public health law; a mental health outpa-  
24 tient provider licensed or granted an operating certificate under arti-  
25 cle thirty-one of the mental hygiene law, a substance use disorder  
26 treatment provider licensed or granted an operating certificate under  
27 article thirty-two of the mental hygiene law, a program licensed under  
28 article forty-one of the mental hygiene law, a community-based program  
29 funded under the office of mental health, the office for people with  
30 developmental disabilities, the office of addiction services and  
31 supports or through a local government unit as defined under article  
32 forty-one of the mental hygiene law, a home care provider certified or  
33 licensed pursuant to article thirty-six of the public health law, a  
34 primary care provider, a clinic licensed or granted an operating certifi-  
35 cate under article sixteen of the mental hygiene law, a provider of  
36 health home services as authorized under section twenty-seven hundred  
37 three of the federal protection and affordable care act, a hospice  
38 provider licensed or granted an operating certificate under article  
39 forty of the public health law, or a family and child service provider  
40 licensed under article twenty-nine-I of the public health law, for the  
41 exclusive purpose of supporting the programs and services defined in  
42 this subdivision.

43 6. (a) Notwithstanding section one hundred sixty-three of the state  
44 finance law, or any inconsistent provision of law to the contrary, up to  
45 one hundred fifty million dollars of the funds appropriated for this  
46 program shall be awarded to applicants, without a competitive bid or  
47 request for proposal process, for technological and telehealth transfor-  
48 mation projects.

49 (b) At least twenty-five percent of the funds shall be allocated  
50 exclusively for community-based health care providers, which for the  
51 purposes of this subdivision shall be defined as: a diagnostic and  
52 treatment center licensed or granted an operating certificate under  
53 article twenty-eight of the public health law; a mental health outpa-  
54 tient provider licensed or granted an operating certificate under arti-  
55 cle thirty-one of the mental hygiene law, a substance use disorder  
56 treatment provider licensed or granted an operating certificate under

1 article thirty-two of the mental hygiene law, a program licensed under  
2 article forty-one of the mental hygiene law, a community-based program  
3 funded under the office of mental health, the office for people with  
4 developmental disabilities, the office of addiction services and  
5 supports or through a local government unit as defined under article  
6 forty-one of the mental hygiene law, a home care provider certified or  
7 licensed pursuant to article thirty-six of the public health law, a  
8 primary care provider, a clinic licensed or granted an operating certif-  
9 icate under article sixteen of the mental hygiene law, a provider of  
10 health home services as authorized under section twenty-seven hundred  
11 three of the federal protection and affordable care act, a hospice  
12 provider licensed or granted an operating certificate under article  
13 forty of the public health law, or a family and child service provider  
14 licensed under article twenty-nine-I of the public health law, for the  
15 exclusive purpose of supporting the programs and services defined in  
16 this subdivision.

17 7. Notwithstanding section one hundred sixty-three of the state  
18 finance law, or any inconsistent provision of law to the contrary, up to  
19 fifty million dollars of the funds appropriated for this program shall  
20 be awarded to applicants, without a competitive bid or a request for  
21 proposal process, to residential and community-based alternatives to the  
22 traditional model of nursing home care.

23 7-a. Notwithstanding section one hundred sixty-three of the state  
24 finance law, or any inconsistent provision of law to the contrary, up to  
25 four hundred million dollars of the funds appropriated for this program  
26 shall be awarded, without a competitive bid or request for proposal  
27 process, to support health care delivery, including for capital invest-  
28 ment, debt retirement or restructuring for a

29 (a) general hospital, licensed pursuant to this chapter, where not  
30 less than thirty-six percent of the patients it treats receive medical  
31 assistance or are medically uninsured;

32 (b) diagnostic and treatment center, licensed pursuant to this chap-  
33 ter, where not less than thirty-six percent of the patients it treats  
34 receive medical assistance or are medically uninsured; or

35 (c) residential health care facilities, licensed pursuant to this  
36 chapter, where not less than seventy-five percent of the patients it  
37 treats receive medical assistance.

38 8. Selection of awards made by the department pursuant to subdivisions  
39 three, four, five, six and seven of this section shall be contingent on  
40 an evaluation process acceptable to the commissioner and approved by the  
41 director of the division of the budget. Disbursement of awards may be  
42 contingent on applicants achieving certain process and performance  
43 metrics and milestones that are structured to ensure that the goals of  
44 the project are achieved.

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

55 § 2. This act shall take effect immediately and shall be deemed to  
56 have been in full force and effect on and after April 1, 2022.

1

## PART L

2 Section 1. Subdivision 3 of section 2801-a of the public health law,  
3 as amended by section 57 of part A of chapter 58 of the laws of 2010, is  
4 amended to read as follows:

5 3. The public health and health planning council shall not approve a  
6 certificate of incorporation, articles of organization or application  
7 for establishment unless it is satisfied, insofar as applicable, as to  
8 (a) the public need for the existence of the institution at the time and  
9 place and under the circumstances proposed, provided, however, that in  
10 the case of an institution proposed to be established or operated by an  
11 organization defined in subdivision one of section one hundred seventy-  
12 two-a of the executive law, the needs of the members of the religious  
13 denomination concerned, for care or treatment in accordance with their  
14 religious or ethical convictions, shall be deemed to be public need; (b)  
15 the character, competence, and standing in the community, of the  
16 proposed incorporators, directors, sponsors, stockholders, members,  
17 controlling persons, or operators; with respect to any proposed incorpo-  
18 rator, director, sponsor, stockholder, member, controlling person, or  
19 operator who is already or within the past [~~ten~~ seven] ~~has~~ been  
20 an incorporator, director, sponsor, member, principal stockholder, prin-  
21 cipal member, controlling person, or operator any hospital or other  
22 health-related or long-term care facility, program or agency, including  
23 but not limited to, private proprietary home for adults, residence for  
24 adults, or non-profit home for the aged or blind which has been issued  
25 an operating certificate by the state department of social services, or  
26 a halfway house, hostel or other residential facility or institution for  
27 the care, custody or treatment of the mentally disabled which is subject  
28 to approval by the department of mental hygiene, no approval shall be  
29 granted unless the public health and health planning council, having  
30 afforded an adequate opportunity to members of health systems agencies,  
31 if any, having geographical jurisdiction of the area where the institu-  
32 tion is to be located to be heard, shall affirmatively find by substan-  
33 tial evidence as to each such incorporator, director, sponsor, member,  
34 principal stockholder, principal member, controlling person, or operator  
35 that a substantially consistent high level of care is being or was being  
36 rendered in each such hospital, home, residence, halfway house, hostel,  
37 or other residential facility or institution [~~with~~ in] which such person  
38 is or was affiliated; for the purposes of this paragraph, the public  
39 health and health planning council shall adopt rules and regulations,  
40 subject to the approval of the commissioner, to establish the criteria  
41 to be used to determine whether a substantially consistent high level of  
42 care has been rendered, provided, however, that there shall not be a  
43 finding that a substantially consistent high level of care has been  
44 rendered where there have been violations of the state hospital code, or  
45 other applicable rules and regulations, that (i) threatened to directly  
46 affect the health, safety or welfare of any patient or resident, and  
47 (ii) were recurrent or were not promptly corrected; (c) the financial  
48 resources of the proposed institution and its sources of future reven-  
49 ues; and (d) such other matters as it shall deem pertinent.

50 § 2. Paragraphs (b) and (c) of subdivision 4 of section 2801-a of the  
51 public health law, as amended by section 57 of part A of chapter 58 of  
52 the laws of 2010, are amended to read as follows:

53 (b) [~~(i)~~] Any transfer, assignment or other disposition of [~~ten~~  
54 ~~percent or more of~~] an interest, stock, or voting rights in a sole  
55 proprietorship, partnership [~~or~~], limited liability company, non-for-

1 profit corporation, or corporation which is the operator of a hospital  
2 ~~[to a new partner or member]~~ or any transfer, assignment or other dispo-  
3 sition which results in the ownership or control of an interest, stock,  
4 or voting rights in that operator, shall be approved by the public  
5 health and health planning council, in accordance with the provisions of  
6 subdivisions two ~~[and], three, and three-b~~ of this section, except that:  
7 ~~[(A) any such change shall be subject to the approval by the public]~~

8 (i) Public health and health planning council approval in accordance  
9 with paragraph (b) of ~~[subdivision]~~ subdivisions three and three-b of  
10 this section shall be required only with respect to ~~[the new partner or~~  
11 ~~member, and]~~ any ~~[remaining partners or members]~~ person, partner,  
12 member, or stockholder who ~~[have]~~ has not been previously approved for  
13 that ~~[facility]~~ operator in accordance with ~~[such paragraph, and (B)~~  
14 ~~such change shall not be subject to paragraph (a) of subdivision three~~  
15 ~~of this section]~~ paragraph (b) of subdivision three and subdivision  
16 three-b of this section.

17 (ii) [With] Such change shall not be subject to the public need  
18 assessment described in paragraph (a) of subdivision three of this  
19 section.

20 (iii) No prior approval of the public health and health planning coun-  
21 cil shall be required with respect to a transfer, assignment or disposi-  
22 tion ~~[involving less than ten percent of], directly or indirectly, of:~~  
23 (A) an interest, stock, or voting rights of less than ten percent in  
24 ~~[such partnership or limited liability company]~~ the operator, to [a new]  
25 any person, partner [or], member, [no prior approval of the public  
26 ~~health and health planning council shall be required]~~ or stockholder who  
27 has not been previously approved by the public health and health plan-  
28 ning council, or its predecessor for that operator. However, no such  
29 transaction shall be effective unless at least ninety days prior to the  
30 intended effective date thereof, the ~~[partnership or limited liability~~  
31 ~~company]~~ operator fully completes and files with the public health and  
32 health planning council notice on a form, to be developed by the public  
33 health and health planning council, which shall disclose such informa-  
34 tion as may reasonably be necessary for the department to recommend and  
35 for the public health and health planning council to determine whether  
36 it should bar the transaction for any of the reasons set forth in [item  
37 ~~(A), (B), (C) or (D)]~~ clause one, two, three or four below, and has  
38 fully responded to any request for additional information by the depart-  
39 ment acting on behalf of the public health and health planning council  
40 during the review period. Such transaction will be final upon completion  
41 of the review period, which shall be no longer than ninety days from the  
42 date the department receives a complete response to its final request  
43 for additional information, unless, prior thereto, the public health and  
44 health planning council has notified each party to the proposed trans-  
45 action that it has barred such transactions. [Within ninety days from  
46 ~~the date of receipt of such notice, the]~~ The public health and health  
47 planning council may bar any transaction under this subparagraph: [(A)]  
48 (1) if the equity position of the partnership [or], limited liability  
49 company, or corporation that operates a hospital for profit, determined  
50 in accordance with generally accepted accounting principles, would be  
51 reduced as a result of the transfer, assignment or disposition; [(B)]  
52 (2) if the transaction would result in the ownership of a partnership or  
53 membership interest or stock by any persons who have been convicted of a  
54 felony described in subdivision five of section twenty-eight hundred six  
55 of this article; [(C)] (3) if there are reasonable grounds to believe  
56 that the proposed transaction does not satisfy the character and compe-



tence criteria set forth in subdivision three or three-b of this section; or ~~[(D)]~~ (4) if the transaction, together with all transactions under this subparagraph for the ~~[partnership, or successor,]~~ operator during any five year period would, in the aggregate, involve twenty-five percent or more of the interest in the ~~[partnership]~~ operator. The public health and health planning council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction~~[-]; or~~

~~[(iii) With respect to a transfer, assignment or disposition of]~~ (B) an interest, stock, or voting rights ~~[in such partnership or limited liability company]~~ to any ~~[remaining]~~ person, partner ~~[or]~~, member, ~~[which transaction involves the withdrawal of the transferor from the partnership or limited liability company, no prior approval of the public health and health planning council shall be required]~~ or stockholder, previously approved by the public health and health planning council, or its predecessor, for that operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the ~~[partnership or limited liability company]~~ operator fully completes and files with the public health and health planning council notice on a form, to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction for the reason set forth below, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions. ~~[Within ninety days from the date of receipt of such notice, the]~~ The public health and health planning council may bar any transaction under this subparagraph if the equity position of the partnership ~~[or]~~, limited liability company, or corporation that operates a hospital for profit, determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition. The public health and health planning council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction.

(c) ~~[Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the operator of a hospital to a new stockholder, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person not previously approved by the public health and health planning council, or its predecessor, for that corporation shall be subject to approval by the public health and health planning council, in accordance with the provisions of subdivisions two and three of this section and rules and regulations pursuant thereto, except that, any such transaction shall be subject to the approval by the public health and health planning council in accordance with paragraph (b) of subdivision three of this section only with respect to a~~

~~new stockholder or a new principal stockholder, and shall not be subject to paragraph (a) of subdivision three of this section. In the absence of such approval, the operating certificate of such hospital shall be subject to revocation or suspension. No prior approval of the public health and health planning council shall be required with respect to a transfer, assignment or disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the owner of a hospital to any person previously approved by the public health and health planning council, or its predecessor, for that corporation. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the stockholder completes and files with the public health and health planning council notice on forms to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the public health and health planning council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health and health planning council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.~~ Nothing in this ~~[paragraph]~~ subdivision shall be construed as permitting ~~[a] any person, partner, member, or stockholder~~ not previously approved by the public health and health planning council for that ~~[corporation]~~ operator to ~~[become the owner of]~~ own or control, directly or indirectly, ten percent or more of the interest, stock, or voting rights of ~~[a] any partnership, limited liability company, not-for-profit corporation, or~~ corporation which is the operator of a hospital or a corporation which is a member of a limited liability company which is the owner of a hospital without first obtaining the approval of the public health and health planning council. In the absence of approval by the public health and health planning council as required under this subdivision, the operating certificate of such hospital shall be subject to revocation or suspension. Failure to provide notice as required under this subdivision may subject the operating certificate of such operator to revocation or suspension.

§ 3. Section 3611-a of the public health law, as amended by section 92 of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as amended by section 67 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

§ 3611-a. Change in the operator or owner. 1. Any ~~[change in the person who, or any]~~ transfer, assignment, or other disposition of an interest, stock, or voting rights ~~[of ten percent or more]~~ in a sole proprietorship, partnership, limited liability company, not-for-profit corporation or corporation which is the operator of a licensed home care services agency or a certified home health agency, or any transfer, assignment or other disposition which results in the ownership or control of an interest, stock, or voting rights ~~[of ten percent or more,]~~ in ~~[a limited liability company or a partnership which is the]~~ that operator ~~[of a licensed home care services agency or a certified home health agency],~~ shall be approved by the public health and health planning council, in accordance with the provisions of subdivision four of section thirty-six hundred five of this article relative to licensure or subdivision two of section thirty-six hundred six of this article relative to certificate of approval, except that:

(a) Public health and health planning council approval shall be required only with respect to the person, ~~[or the]~~ partner, member or

1 ~~[partner]~~ stockholder that is acquiring the interest, stock, or voting  
2 rights~~[, and]~~.

3 (b) With respect to certified home health agencies, such change shall  
4 not be subject to the public need assessment described in paragraph (a)  
5 of subdivision two of section thirty-six hundred six of this article.

6 (c) With respect to licensed home care services agencies, the commis-  
7 sioner may promulgate regulations directing whether such change shall be  
8 subject to the public need assessment described in paragraph (a) of  
9 subdivision four of section thirty-six hundred five of this article.

10 ~~[(a)]~~ (d) No prior approval of the public health and health planning  
11 council shall be required with respect to a transfer, assignment or  
12 disposition, directly or indirectly, of:

13 (i) an interest, stock, or voting rights to any person, partner,  
14 member, or stockholder previously approved by the public health and  
15 health planning council, or its predecessor, for that operator. However,  
16 no such transaction shall be effective unless at least ninety days prior  
17 to the intended effective date thereof, the operator completes and files  
18 with the public health and health planning council notice on forms to be  
19 developed by the public health and health planning council, which shall  
20 disclose such information as may reasonably be necessary for the depart-  
21 ment to recommend and for the public health and health planning council  
22 to determine whether it should bar the transaction, and has fully  
23 responded to any request for additional information by the department  
24 acting on behalf of the public health and health planning council during  
25 the review period. Such transaction will be final upon completion of the  
26 review period, which shall be no longer than ninety days from the date  
27 the department receives a complete response to its final request for  
28 additional information, unless, prior thereto, the public health and  
29 health planning council has notified each party to the proposed trans-  
30 action that it has barred such transactions under this paragraph and has  
31 stated specific reasons for barring such transactions; or

32 (ii) an interest, stock, or voting rights of less than ten percent in  
33 the operator to any person, partner, member, or stockholder who has not  
34 been previously approved by the public health and health planning coun-  
35 cil for that operator. However, no such transaction shall be effective  
36 unless at least ninety days prior to the intended effective date there-  
37 of, the ~~[partner or member]~~ operator completes and files with the public  
38 health and health planning council notice on forms to be developed by  
39 the public health and health planning council, which shall disclose such  
40 information as may reasonably be necessary for the department to recom-  
41 mend and for the public health and health planning council to determine  
42 whether it should bar the transaction, and has fully responded to any  
43 request for additional information by the department acting on behalf of  
44 the public health and health planning council during the review period.  
45 Such transaction will be final ~~[as of the intended effective date]~~ upon  
46 completion of the review period, which shall be no longer than ninety  
47 days from the date the department receives a complete response to its  
48 final request for additional information, unless, prior thereto, the  
49 public health and health planning council ~~[shall state]~~ has notified  
50 each party to the proposed transaction that it has barred such trans-  
51 actions under this paragraph and has stated specific reasons for barring  
52 such transactions ~~[under this paragraph and shall notify each party to~~  
53 ~~the proposed transaction]~~.

54 (iii) Nothing in this subdivision shall be construed as permitting any  
55 person, partner, member, or stockholder not previously approved by the  
56 public health and health planning council for that operator to own or

1 control, directly or indirectly, ten percent or more of the interest,  
2 stock, or voting rights of any partnership, limited liability company,  
3 not-for-profit corporation, or corporation which is the operator of a  
4 licensed home care services agency or a certified home health agency  
5 without first obtaining the approval of the public health and health  
6 planning council.

7 (iv) In the absence of approval by the public health and health plan-  
8 ning council as required under this paragraph, the license or certifi-  
9 cate of approval of such operator shall be subject to revocation or  
10 suspension. Failure to provide notice as required under this paragraph  
11 may subject the license or certificate of approval of such operator to  
12 revocation or suspension thereof.

13 2. ~~[Any transfer, assignment or other disposition of ten percent or~~  
14 ~~more of the stock or voting rights thereunder of a corporation which is~~  
15 ~~the operator of a licensed home care services agency or a certified home~~  
16 ~~health agency, or any transfer, assignment or other disposition of the~~  
17 ~~stock or voting rights thereunder of such a corporation which results in~~  
18 ~~the ownership or control of more than ten percent of the stock or voting~~  
19 ~~rights thereunder of such corporation by any person shall be subject to~~  
20 ~~approval by the public health and health planning council in accordance~~  
21 ~~with the provisions of subdivision four of section thirty-six hundred~~  
22 ~~five of this article relative to licensure or subdivision two of section~~  
23 ~~thirty-six hundred six of this article relative to certificate of~~  
24 ~~approval, except that:~~

25 ~~(a) Public health and health planning council approval shall be~~  
26 ~~required only with respect to the person or entity acquiring such stock~~  
27 ~~or voting rights; and~~

28 ~~(b) With respect to certified home health agencies, such change shall~~  
29 ~~not be subject to the public need assessment described in paragraph (a)~~  
30 ~~of subdivision two of section thirty-six hundred six of this article. In~~  
31 ~~the absence of such approval, the license or certificate of approval~~  
32 ~~shall be subject to revocation or suspension.~~

33 ~~(c) No prior approval of the public health and health planning council~~  
34 ~~shall be required with respect to a transfer, assignment or disposition~~  
35 ~~of an interest or voting rights to any person previously approved by the~~  
36 ~~public health and health planning council, or its predecessor, for that~~  
37 ~~operator. However, no such transaction shall be effective unless at~~  
38 ~~least one hundred twenty days prior to the intended effective date ther-~~  
39 ~~eof, the partner or member completes and files with the public health~~  
40 ~~and health planning council notice on forms to be developed by the~~  
41 ~~public health and health planning council, which shall disclose such~~  
42 ~~information as may reasonably be necessary for the public health and~~  
43 ~~health planning council to determine whether it should bar the trans-~~  
44 ~~action. Such transaction will be final as of the intended effective date~~  
45 ~~unless, prior thereto, the public health and health planning council~~  
46 ~~shall state specific reasons for barring such transactions under this~~  
47 ~~paragraph and shall notify each party to the proposed transaction.~~

48 3.] (a) The commissioner shall charge to applicants for a change in  
49 operator or owner of a licensed home care services agency or a certified  
50 home health agency an application fee in the amount of two thousand  
51 dollars.

52 (b) The fees paid by certified home health agencies pursuant to this  
53 subdivision for any application approved in accordance with this section  
54 shall be deemed allowable costs in the determination of reimbursement  
55 rates established pursuant to this article. All fees pursuant to this  
56 section shall be payable to the department of health for deposit into

1 the special revenue funds - other, miscellaneous special revenue fund -  
2 339, certificate of need account.

3 § 4. Paragraph (b) of subdivision 3 of section 4004 of the public  
4 health law, as amended by section 69 of part A of chapter 58 of the laws  
5 of 2010, is amended to read as follows:

6 (b) Any [~~change in the person, principal stockholder or~~] transfer,  
7 assignment or other disposition, of an interest, stock, or voting rights  
8 in a sole proprietorship, partnership, limited liability company, not-  
9 for-profit corporation, or corporation which is the operator of a  
10 hospice, or any transfer, assignment or other disposition which results  
11 in the direct or indirect ownership or control of an interest, stock or  
12 voting rights in that operator, shall be approved by the public health  
13 and health planning council in accordance with the provisions of subdi-  
14 visions one and two of this section[~~+~~]; provided, however:

15 (i) Public health and health planning council approval shall be  
16 required only with respect to the person, partner, member, or stockhold-  
17 er that is acquiring the interest, stock, or voting rights.

18 (ii) Such change shall not be subject to the public need assessment  
19 described in paragraph (a) of subdivision two of this section.

20 (iii) No prior approval of the public health and health planning coun-  
21 cil shall be required with respect to a transfer, assignment or disposi-  
22 tion, directly or indirectly, of:

23 (A) an interest, stock, or voting rights to any person, partner,  
24 member, or stockholder previously approved by the public health and  
25 health planning council, or its predecessor, for that operator. However,  
26 no such transaction shall be effective unless at least ninety days prior  
27 to the intended effective date thereof, the operator completes and files  
28 with the public health and health planning council notice, on forms to  
29 be developed by the public health and health planning council, which  
30 shall disclose such information as may reasonably be necessary for the  
31 department to recommend and for the public health and health planning  
32 council to determine whether it should bar the transaction, and has  
33 fully responded to any request for additional information by the depart-  
34 ment acting on behalf of the public health and health planning council  
35 during the review period. Such transaction will be final upon completion  
36 of the review period, which shall be no longer than ninety days from the  
37 date the department receives a complete response to its final request  
38 for additional information, unless, prior thereto, the public health and  
39 health planning council has notified each party to the proposed trans-  
40 action that it has barred such transactions under this paragraph and has  
41 stated specific reasons for barring such transactions; or

42 (B) an interest, stock, or voting rights of less than ten percent in  
43 the operator to any person, partner, member, or stockholder who has not  
44 been previously approved by the public health and health planning coun-  
45 cil for that operator. However, no such transaction shall be effective  
46 unless at least ninety days prior to the intended effective date there-  
47 of, the operator completes and files with the public health and health  
48 planning council notice on forms to be developed by the public health  
49 and health planning council, which shall disclose such information as  
50 may reasonably be necessary for the department to recommend and for the  
51 public health and health planning council to determine whether it should  
52 bar the transaction, and has fully responded to any request for addi-  
53 tional information by the department acting on behalf of the public  
54 health and health planning council during the review period. Such trans-  
55 action will be final upon completion of the review period, which shall  
56 be no longer than ninety days from the date the department receives a



complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions under this paragraph and has stated specific reasons for barring such transactions.

(iv) Nothing in this subdivision shall be construed as permitting any person, partner, member, or stockholder not previously approved by the public health and health planning council for that operator to own or control, directly or indirectly, ten percent or more of the interest, stock, or voting rights of any partnership, limited liability company, not-for-profit corporation, or corporation which is the operator of a hospice without first obtaining the approval of the public health and health planning council.

(v) In the absence of approval by the public health and health planning council as required under this paragraph, the certificate of approval of such operator shall be subject to revocation or suspension. Failure to provide notice as required under this paragraph may subject the certificate of approval of such operator to revocation or suspension.

§ 4-a. The commissioner of health, in conjunction with the public health and health planning council, shall provide a joint report to the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly health committees by December 31, 2022, detailing the statutes, rules, and regulations, as well as other limitations or processes for the approval of health care facilities to operate in New York through licensure, certification, or other regulatory structure approved or authorized by the state and subdivisions thereof. The goal of the report shall be to identify potential barriers to operation that do not jeopardize the quality of care provided by health care facilities, and issue recommendations to address these barriers, for any individuals or entities that desire or are actively seeking to operate health care facilities in New York. The report shall include but not be limited to financial requirements for these facilities either directly or indirectly through costs associated with the approval process, such as fees, requirements for real property acquisition, and operational costs that may be experienced while an application is pending. The commissioner of health shall publish this report on the department of health website within thirty days of its transmittal to the legislature.

§ 5. This act shall take effect immediately.

#### PART M

Section 1. Paragraph (a) of subdivision 2 of section 2828 of the public health law, as added by section 1 of part GG of chapter 57 of the laws of 2021, is amended to read as follows:

(a) "Revenue" shall mean the total operating revenue from or on behalf of residents of the residential health care facility, government payers, or third-party payers, to pay for a resident's occupancy of the residential health care facility, resident care, and the operation of the residential health care facility as reported in the residential health care facility cost reports submitted to the department; provided, however, that revenue shall exclude:

(i) the average increase in the capital portion of the Medicaid reimbursement rate from the prior three years;

(ii) funding received as reimbursement for the assessment under subparagraph (vi) of paragraph (b) of subdivision two of section twenty-eight hundred seven-d of this article, as reconciled pursuant to paragraph (c) of subdivision ten of section twenty-eight hundred seven-d of this article;

(iii) the capital per diem portion of the reimbursement rate for nursing homes that have a four- or five-star rating assigned pursuant to the inspection rating system of the U.S. Centers for Medicare and Medicaid Services (CMS rating); and

(iv) any grant funds from the federal government, including but not limited to, funds received from the federal emergency management agency.

§ 2. Subdivision 4 of section 2828 of the public health law, as added by section 1 of part GG of chapter 57 of the laws of 2021, is amended to read as follows:

4. The commissioner may waive the requirements of this section on a case-by-case basis with respect to a nursing home that demonstrates to the commissioner's satisfaction that it experienced unexpected or exceptional circumstances that prevented compliance. The commissioner may also exclude from revenues and expenses, on a case-by-case basis, extraordinary revenues and capital expenses, incurred due to a natural disaster or other circumstances set forth by the commissioner in regulation. The commissioner may also exclude from revenues, on a case-by-case basis, the capital per diem portion of the reimbursement rate for nursing homes that have a three-star CMS rating. At least thirty days before any action by the commissioner under this subdivision, the commissioner shall transmit the proposed action to the state office of the long-term care ombudsman and the chairs of the senate and assembly health committees, and post it on the department's website.

§ 3. Paragraph (d) of subdivision 2-c of section 2808 of the public health law, as amended by section 26-a of part C of chapter 60 of the laws of 2014, is amended to read as follows:

(d) The commissioner shall promulgate regulations, and may promulgate emergency regulations, to implement the provisions of this subdivision. Such regulations shall be developed in consultation with the nursing home industry and advocates for residential health care facility residents and, further, the commissioner shall provide notification concerning such regulations to the chairs of the senate and assembly health committees, the chair of the senate finance committee and the chair of the assembly ways and means committee. Such regulations shall include provisions for rate adjustments or payment enhancements to facilitate a minimum four-year transition of facilities to the rate-setting methodology established by this subdivision and may also include, but not be limited to, provisions for facilitating quality improvements in residential health care facilities. For purposes of facilitating quality improvements through the establishment of a nursing home quality pool to be funded at the discretion of the commissioner by (i) adjustments in medical assistance rates, (ii) funds made available through state appropriations, or (iii) a combination thereof, those facilities that contribute to the quality pool, but are deemed ineligible for quality pool payments due exclusively to a specific case of employee misconduct, shall nevertheless be eligible for a quality pool payment if the facility properly reported the incident, did not receive a survey citation from the commissioner or the Centers for Medicare and Medicaid Services establishing the facility's culpability with regard to such misconduct and, but for the specific case of employee misconduct, the facility would have otherwise received a quality pool payment. Regulations

1 pertaining to the facilitation of quality improvement may be made effective for periods on and after January first, two thousand thirteen.

2 § 4. The opening paragraph and paragraph (i) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, are amended to read as follows:

3 Notwithstanding subdivision (a) of this section, and within amounts appropriated for such purposes as described herein, for the period of April first, two thousand ~~[fifteen]~~ twenty-two through March thirty-first, two thousand ~~[sixteen]~~ twenty-three, the commissioner may award a temporary adjustment to the non-capital components of rates, or make temporary lump-sum Medicaid payments to eligible ~~[general hospitals]~~ facilities in severe financial distress to enable such facilities to maintain operations and vital services while such facilities establish long term solutions to achieve sustainable health services. Provided, however, the commissioner is authorized to make such a temporary adjustment or make such temporary lump sum payment only pursuant to criteria, an evaluation process, and transformation plan acceptable to the commissioner in consultation with the director of the division of the budget.

4 (i) Eligible ~~[general hospitals]~~ facilities shall include:

5 (A) a public hospital, which for purposes of this subdivision, shall mean a general hospital operated by a county or municipality, but shall exclude any such hospital operated by a public benefit corporation;

6 (B) a federally designated critical access hospital;

7 (C) a federally designated sole community hospital; ~~[or]~~

8 (D) a residential health care facility;

9 ~~(E)~~ a general hospital that is a safety net hospital, which for purpose of this subdivision shall mean:

10 (1) such hospital has at least thirty percent of its inpatient discharges made up of Medicaid eligible individuals, uninsured individuals or Medicaid dually eligible individuals and with at least thirty-five percent of its outpatient visits made up of Medicaid eligible individuals, uninsured individuals or Medicaid dually-eligible individuals; or

11 (2) such hospital serves at least thirty percent of the residents of a county or a multi-county area who are Medicaid eligible individuals, uninsured individuals or Medicaid dually-eligible individuals; or

12 (F) an independent practice association or accountable care organization authorized under applicable regulations that participate in managed care provider network arrangements with any of the provider types in subparagraphs (A) through (F) of this paragraph.

13 § 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

#### 14 PART N

15 Section 1. Subparagraph 4 of paragraph (b) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

16 (4) An individual who is a pregnant woman or is a member of a family that contains a dependent child living with a parent or other caretaker relative is eligible for standard coverage if ~~[his or her MACI]~~ their household income does not exceed ~~[the MACI equivalent of]~~ one hundred ~~[thirty]~~ thirty-three percent of the ~~[highest amount that ordinarily would have been paid to a person without any income or resources under the family assistance program as it existed on the first day of November, nineteen hundred ninety-seven]~~ federal poverty line for the appli-

1 cable family size, which shall be calculated in accordance with guidance  
2 issued by the Secretary of the United States department of health and  
3 human services; for purposes of this subparagraph, the term dependent  
4 child means a person who is under eighteen years of age, or is eighteen  
5 years of age and a full-time student, who is deprived of parental  
6 support or care by reason of the death, continued absence, or physical  
7 or mental incapacity of a parent, or by reason of the unemployment of  
8 the parent, as defined by the department of health.

9 § 2. Subparagraph 2 of paragraph (c) of subdivision 1 of section 366  
10 of the social services law, as added by section 1 of part D of chapter  
11 56 of the laws of 2013, is amended to read as follows:

12 (2) An individual who, although not receiving public assistance or  
13 care for [~~his or her~~] their maintenance under other provisions of this  
14 chapter, has income [~~and resources~~], including available support from  
15 responsible relatives, that does not exceed the amounts set forth in  
16 paragraph (a) of subdivision two of this section, and is (i) sixty-five  
17 years of age or older, or certified blind or certified disabled or (ii)  
18 for reasons other than income [~~or resources~~], is eligible for federal  
19 supplemental security income benefits and/or additional state payments.

20 § 3. Subparagraph 5 of paragraph (c) of subdivision 1 of section 366  
21 of the social services law, as added by section 1 of part D of chapter  
22 56 of the laws of 2013, is amended to read as follows:

23 (5) A disabled individual at least sixteen years of age, but under the  
24 age of sixty-five, who: would be eligible for benefits under the supple-  
25 mental security income program but for earnings in excess of the allow-  
26 able limit; has net available income that does not exceed two hundred  
27 fifty percent of the applicable federal income official poverty line, as  
28 defined and updated by the United States department of health and human  
29 services, for a one-person or two-person household, as defined by the  
30 commissioner in regulation; [~~has household resources, as defined in~~  
31 ~~paragraph (c) of subdivision two of section three hundred sixty-six e of~~  
32 ~~this title, other than retirement accounts, that do not exceed twenty~~  
33 ~~thousand dollars for a one-person household or thirty thousand dollars~~  
34 ~~for a two-person household, as defined by the commissioner in regu-~~  
35 ~~lation,~~] and contributes to the cost of medical assistance provided  
36 pursuant to this subparagraph in accordance with subdivision twelve of  
37 section three hundred sixty-seven-a of this title; for purposes of this  
38 subparagraph, disabled means having a medically determinable impairment  
39 of sufficient severity and duration to qualify for benefits under  
40 section 1902(a)(10)(A)(ii)(xv) of the social security act.

41 § 4. Subparagraph 10 of paragraph (c) of subdivision 1 of section 366  
42 of the social services law, as added by section 1 of part D of chapter  
43 56 of the laws of 2013, is amended to read as follows:

44 (10) A resident of a home for adults operated by a social services  
45 district, or a residential care center for adults or community residence  
46 operated or certified by the office of mental health, and has not,  
47 according to criteria promulgated by the department consistent with this  
48 title, sufficient income, or in the case of a person sixty-five years of  
49 age or older, certified blind, or certified disabled, sufficient income  
50 [~~and resources~~], including available support from responsible relatives,  
51 to meet all the costs of required medical care and services available  
52 under this title.

53 § 5. Paragraph (a) of subdivision 2 of section 366 of the social  
54 services law, as separately amended by chapter 32 and 588 of the laws of  
55 1968, the opening paragraph as amended by chapter 41 of the laws of  
56 1992, subparagraph 1 as amended by section 27 of part C of chapter 109

1 of the laws of 2006, subparagraphs 3 and 6 as amended by chapter 938 of  
2 the laws of 1990, subparagraph 4 as amended by section 43 and subpara-  
3 graph 7 as amended by section 47 of part C of chapter 58 of the laws of  
4 2008, subparagraph 5 as amended by chapter 576 of the laws of 2007,  
5 subparagraph 9 as amended by chapter 110 of the laws of 1971, subpara-  
6 graph 10 as added by chapter 705 of the laws of 1988, clauses (i) and  
7 (ii) of subparagraph 10 as amended by chapter 672 of the laws of 2019,  
8 clause (iii) of subparagraph 10 as amended by chapter 170 of the laws of  
9 1994, and subparagraph 11 as added by chapter 576 of the laws of 2015,  
10 is amended to read as follows:

11 (a) The following ~~[income and resources]~~ shall be exempt and shall not  
12 be taken into consideration in determining a person's eligibility for  
13 medical care, services and supplies available under this title:

14 (1) (i) for applications for medical assistance filed on or before  
15 December thirty-first, two thousand five, a homestead which is essential  
16 and appropriate to the needs of the household;

17 (ii) for applications for medical assistance filed on or after January  
18 first, two thousand six, a homestead which is essential and appropriate  
19 to the needs of the household; provided, however, that in determining  
20 eligibility of an individual for medical assistance for nursing facility  
21 services and other long term care services, the individual shall not be  
22 eligible for such assistance if the individual's equity interest in the  
23 homestead exceeds seven hundred fifty thousand dollars; provided  
24 further, that the dollar amount specified in this clause shall be  
25 increased, beginning with the year two thousand eleven, from year to  
26 year, in an amount to be determined by the secretary of the federal  
27 department of health and human services, based on the percentage  
28 increase in the consumer price index for all urban consumers, rounded to  
29 the nearest one thousand dollars. If such secretary does not determine  
30 such an amount, the department of health shall increase such dollar  
31 amount based on such increase in the consumer price index. Nothing in  
32 this clause shall be construed as preventing an individual from using a  
33 reverse mortgage or home equity loan to reduce the individual's total  
34 equity interest in the homestead. The home equity limitation established  
35 by this clause shall be waived in the case of a demonstrated hardship,  
36 as determined pursuant to criteria established by such secretary. The  
37 home equity limitation shall not apply if one or more of the following  
38 persons is lawfully residing in the individual's homestead: (A) the  
39 spouse of the individual; or (B) the individual's child who is under the  
40 age of twenty-one, or is blind or permanently and totally disabled, as  
41 defined in section 1614 of the federal social security act.

42 (2) ~~[essential personal property;~~

43 ~~(3) a burial fund, to the extent allowed as an exempt resource under~~  
44 ~~the cash assistance program to which the applicant is most closely~~  
45 ~~related;~~

46 ~~(4) savings in amounts equal to one hundred fifty percent of the~~  
47 ~~income amount permitted under subparagraph seven of this paragraph,~~  
48 ~~provided, however, that the amounts for one and two person households~~  
49 ~~shall not be less than the amounts permitted to be retained by house-~~  
50 ~~holds of the same size in order to qualify for benefits under the feder-~~  
51 ~~al supplemental security income program;~~

52 ~~(5)]~~ (i) such income as is disregarded or exempt under the cash  
53 assistance program to which the applicant is most closely related for  
54 purposes of this subparagraph, cash assistance program means either the  
55 aid to dependent children program as it existed on the sixteenth day of



1 July, nineteen hundred ninety-six, or the supplemental security income  
2 program; and

3 (ii) such income of a disabled person (as such term is defined in  
4 section 1614(a)(3) of the federal social security act (42 U.S.C. section  
5 1382c(a)(3)) or in accordance with any other rules or regulations estab-  
6 lished by the social security administration), that is deposited in  
7 trusts as defined in clause (iii) of subparagraph two of paragraph (b)  
8 of this subdivision in the same calendar month within which said income  
9 is received;

10 [~~(6)~~] (3) health insurance premiums;

11 [~~(7)~~] (4) income based on the number of family members in the medical  
12 assistance household, as defined in regulations by the commissioner  
13 consistent with federal regulations under title XIX of the federal  
14 social security act [~~and calculated as follows:~~

15 ~~(i) The amounts for one and two person households and families shall~~  
16 ~~be equal to twelve times the standard of monthly need for determining~~  
17 ~~eligibility for and the amount of additional state payments for aged,~~  
18 ~~blind and disabled persons pursuant to section two hundred nine of this~~  
19 ~~article rounded up to the next highest one hundred dollars for eligible~~  
20 ~~individuals and couples living alone, respectively.~~

21 ~~(ii) The amounts for households of three or more shall be calculated~~  
22 ~~by increasing the income standard for a household of two, established~~  
23 ~~pursuant to clause (i) of this subparagraph, by fifteen percent for each~~  
24 ~~additional household member above two, such that the income standard for~~  
25 ~~a three-person household shall be one hundred fifteen percent of the~~  
26 ~~income standard for a two-person household, the income standard for a~~  
27 ~~four-person household shall be one hundred thirty percent of the income~~  
28 ~~standard for a two-person household, and so on.~~

29 ~~(iii)]~~ that does not exceed one hundred thirty-eight percent of the  
30 federal poverty line for the applicable family size, which shall be  
31 calculated in accordance with guidance issued by the United States  
32 secretary for health and human services;

33 (5) No other income [~~or resources~~], including federal old-age, survi-  
34 vors and disability insurance, state disability insurance or other  
35 payroll deductions, whether mandatory or optional, shall be exempt and  
36 all other income [~~and resources~~] shall be taken into consideration and  
37 required to be applied toward the payment or partial payment of the cost  
38 of medical care and services available under this title, to the extent  
39 permitted by federal law.

40 [~~(9) Subject to subparagraph eight, the~~] (6) The department, upon the  
41 application of a local social services district, after passage of a  
42 resolution by the local legislative body authorizing such application,  
43 may adjust the income exemption based upon the variations between cost  
44 of shelter in urban areas and rural areas in accordance with standards  
45 prescribed by the United States secretary of health, education and  
46 welfare.

47 [~~(10)~~] (7) (i) A person who is receiving or is eligible to receive  
48 federal supplemental security income payments and/or additional state  
49 payments is entitled to a personal needs allowance as follows:

50 (A) for the personal expenses of a resident of a residential health  
51 care facility, as defined by section twenty-eight hundred one of the  
52 public health law, the amount of fifty-five dollars per month;

53 (B) for the personal expenses of a resident of an intermediate care  
54 facility operated or licensed by the office for people with develop-  
55 mental disabilities or a patient of a hospital operated by the office of

1 mental health, as defined by subdivision ten of section 1.03 of the  
2 mental hygiene law, the amount of thirty-five dollars per month.

3 (ii) A person who neither receives nor is eligible to receive federal  
4 supplemental security income payments and/or additional state payments  
5 is entitled to a personal needs allowance as follows:

6 (A) for the personal expenses of a resident of a residential health  
7 care facility, as defined by section twenty-eight hundred one of the  
8 public health law, the amount of fifty dollars per month;

9 (B) for the personal expenses of a resident of an intermediate care  
10 facility operated or licensed by the office for people with develop-  
11 mental disabilities or a patient of a hospital operated by the office of  
12 mental health, as defined by subdivision ten of section 1.03 of the  
13 mental hygiene law, the amount of thirty-five dollars per month.

14 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
15 subparagraph, the personal needs allowance for a person who is a veteran  
16 having neither a spouse nor a child, or a surviving spouse of a veteran  
17 having no child, who receives a reduced pension from the federal veter-  
18 ans administration, and who is a resident of a nursing facility, as  
19 defined in section 1919 of the federal social security act, shall be  
20 equal to such reduced monthly pension but shall not exceed ninety  
21 dollars per month.

22 [~~(11)~~] (8) subject to the availability of federal financial partic-  
23 ipation, any amount, including earnings thereon, in a qualified NY ABLE  
24 account as established pursuant to article eighty-four of the mental  
25 hygiene law, any contributions to such NY ABLE account, and any distrib-  
26 ution for qualified disability expenses from such account; provided  
27 however, that such exemption shall be consistent with section 529A of  
28 the Internal Revenue Code of 1986, as amended.

29 § 6. Subparagraphs 1 and 2 of paragraph (b) of subdivision 2 of  
30 section 366 of the social services law, subparagraph 1 as amended by  
31 chapter 638 of the laws of 1993 and as designated by chapter 170 of the  
32 laws of 1994, subparagraph 2 as added by chapter 170 of the laws of  
33 1994, clause (iii) of subparagraph 2 as amended by chapter 187 of the  
34 laws of 2017, clause (iv) of subparagraph 2 as amended by chapter 656 of  
35 the laws of 1997 and as further amended by section 104 of part A of  
36 chapter 62 of the laws of 2011, and clause (vi) of subparagraph 2 as  
37 added by chapter 435 of the laws of 2018, are amended to read as  
38 follows:

39 (1) In establishing standards for determining eligibility for and  
40 amount of such assistance, the department shall take into account only  
41 such income [~~and resources~~], in accordance with federal requirements, as  
42 [~~are~~] is available to the applicant or recipient and as would not be  
43 required to be disregarded or set aside for future needs, and there  
44 shall be a reasonable evaluation of any such income [~~or resources~~]. The  
45 department shall not consider the availability of an option for an  
46 accelerated payment of death benefits or special surrender value pursu-  
47 ant to paragraph one of subsection (a) of section one thousand one  
48 hundred thirteen of the insurance law, or an option to enter into a  
49 viatical settlement pursuant to the provisions of article seventy-eight  
50 of the insurance law, as an available resource in determining eligibil-  
51 ity for an amount of such assistance, provided, however, that the  
52 payment of such benefits shall be considered in determining eligibility  
53 for and amount of such assistance. There shall not be taken into consid-  
54 eration the financial responsibility of any individual for any applicant  
55 or recipient of assistance under this title unless such applicant or  
56 recipient is such individual's spouse or such individual's child who is

1 under twenty-one years of age. In determining the eligibility of a child  
2 who is categorically eligible as blind or disabled, as determined under  
3 regulations prescribed by the social security act for medical assist-  
4 ance, the income [~~and resources~~] of parents or spouses of parents are  
5 not considered available to that child if she/he does not regularly  
6 share the common household even if the child returns to the common  
7 household for periodic visits. In the application of standards of eligi-  
8 bility with respect to income, costs incurred for medical care, whether  
9 in the form of insurance premiums or otherwise, shall be taken into  
10 account. Any person who is eligible for, or reasonably appears to meet  
11 the criteria of eligibility for, benefits under title XVIII of the  
12 federal social security act shall be required to apply for and fully  
13 utilize such benefits in accordance with this chapter.

14 (2) In evaluating the income [~~and resources~~] available to an applicant  
15 for or recipient of medical assistance, for purposes of determining  
16 eligibility for and the amount of such assistance, the department must  
17 consider assets [~~held in or~~] paid from trusts created by such applicant  
18 or recipient, as determined pursuant to the regulations of the depart-  
19 ment, in accordance with the provisions of this subparagraph.

20 (i) In the case of a revocable trust created by an applicant or recip-  
21 ient, as determined pursuant to regulations of the department[~~+ the~~  
22 ~~trust corpus must be considered to be an available resource,~~], payments  
23 made from the trust to or for the benefit of such applicant or recipient  
24 must be considered to be available income; and any other payments from  
25 the trust must be considered to be assets disposed of by such applicant  
26 or recipient for purposes of paragraph (d) of subdivision five of this  
27 section.

28 (ii) In the case of an irrevocable trust created by an applicant or  
29 recipient, as determined pursuant to regulations of the department: any  
30 portion of the trust corpus, and of the income generated by the trust  
31 corpus, from which no payment can under any circumstances be made to  
32 such applicant or recipient must be considered, as of the date of estab-  
33 lishment of the trust, or, if later, the date on which payment to the  
34 applicant or recipient is foreclosed, to be assets disposed of by such  
35 applicant or recipient for purposes of paragraph (d) of subdivision five  
36 of this section; [~~any portion of the trust corpus, and of the income~~  
37 ~~generated by the trust corpus, from which payment could be made to or~~  
38 ~~for the benefit of such applicant or recipient must be considered to be~~  
39 ~~an available resource,~~] payments made from the trust to or for the bene-  
40 fit of such applicant or recipient must be considered to be available  
41 income; and any other payments from the trust must be considered to be  
42 assets disposed of by such applicant or recipient for purposes of para-  
43 graph (d) of subdivision five of this section.

44 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
45 subparagraph, in the case of an applicant or recipient who is disabled,  
46 as such term is defined in section 1614(a)(3) of the federal social  
47 security act, the department must not consider as available income [~~or~~  
48 ~~resources~~] the [~~corpus or~~] income of the following trusts which comply  
49 with the provisions of the regulations authorized by clause (iv) of this  
50 subparagraph: (A) a trust containing the assets of such a disabled indi-  
51 vidual which was established for the benefit of the disabled individual  
52 while such individual was under sixty-five years of age by the individ-  
53 ual, a parent, grandparent, legal guardian, or court of competent juris-  
54 diction, if upon the death of such individual the state will receive all  
55 amounts remaining in the trust up to the total value of all medical  
56 assistance paid on behalf of such individual; (B) and a trust containing

1 the assets of such a disabled individual established and managed by a  
2 non-profit association which maintains separate accounts for the benefit  
3 of disabled individuals, but, for purposes of investment and management  
4 of trust funds, pools the accounts, provided that accounts in the trust  
5 fund are established solely for the benefit of individuals who are disa-  
6 bled as such term is defined in section 1614(a)(3) of the federal social  
7 security act by such disabled individual, a parent, grandparent, legal  
8 guardian, or court of competent jurisdiction, and to the extent that  
9 amounts remaining in the individual's account are not retained by the  
10 trust upon the death of the individual, the state will receive all such  
11 remaining amounts up to the total value of all medical assistance paid  
12 on behalf of such individual. Notwithstanding any law to the contrary,  
13 a not-for-profit corporation may, in furtherance of and as an adjunct to  
14 its corporate purposes, act as trustee of a trust for persons with disa-  
15 bilities established pursuant to this subclause, provided that a trust  
16 company, as defined in subdivision seven of section one hundred-c of the  
17 banking law, acts as co-trustee.

18 (iv) The department shall promulgate such regulations as may be neces-  
19 sary to carry out the provisions of this subparagraph. Such regulations  
20 shall include provisions for: assuring the fulfillment of fiduciary  
21 obligations of the trustee with respect to the remainder interest of the  
22 department or state; monitoring pooled trusts; applying this subdivision  
23 to legal instruments and other devices similar to trusts, in accordance  
24 with applicable federal rules and regulations; and establishing proce-  
25 dures under which the application of this subdivision will be waived  
26 with respect to an applicant or recipient who demonstrates that such  
27 application would work an undue hardship on him or her, in accordance  
28 with standards specified by the secretary of the federal department of  
29 health and human services. Such regulations may require: notification of  
30 the department of the creation or funding of such a trust for the bene-  
31 fit of an applicant for or recipient of medical assistance; notification  
32 of the department of the death of a beneficiary of such a trust who is a  
33 current or former recipient of medical assistance; in the case of a  
34 trust, the corpus of which exceeds one hundred thousand dollars, notifi-  
35 cation of the department of transactions tending to substantially  
36 deplete the trust corpus; notification of the department of any trans-  
37 actions involving transfers from the trust corpus for less than fair  
38 market value; the bonding of the trustee when the assets of such a trust  
39 equal or exceed one million dollars, unless a court of competent juris-  
40 diction waives such requirement; and the bonding of the trustee when the  
41 assets of such a trust are less than one million dollars, upon order of  
42 a court of competent jurisdiction. The department, together with the  
43 department of financial services, shall promulgate regulations governing  
44 the establishment, management and monitoring of trusts established  
45 pursuant to subclause (B) of clause (iii) of this subparagraph in which  
46 a not-for-profit corporation and a trust company serve as co-trustees.

47 (v) Notwithstanding any acts, omissions or failures to act of a trus-  
48 tee of a trust which the department or a local social services official  
49 has determined complies with the provisions of clause (iii) and the  
50 regulations authorized by clause (iv) of this subparagraph, the depart-  
51 ment must not consider the [~~corpus~~ ~~or~~] income of any such trust as  
52 available income [~~or resources~~] of the applicant or recipient who is  
53 disabled, as such term is defined in section 1614(a)(3) of the federal  
54 social security act. The department's remedy for redress of any acts,  
55 omissions or failures to act by such a trustee which acts, omissions or  
56 failures are considered by the department to be inconsistent with the

1 terms of the trust, contrary to applicable laws and regulations of the  
2 department, or contrary to the fiduciary obligations of the trustee  
3 shall be the commencement of an action or proceeding under subdivision  
4 one of section sixty-three of the executive law to safeguard or enforce  
5 the state's remainder interest in the trust, or such other action or  
6 proceeding as may be lawful and appropriate as to assure compliance by  
7 the trustee or to safeguard and enforce the state's remainder interest  
8 in the trust.

9 (vi) The department shall provide written notice to an applicant for  
10 or recipient of medical assistance who is or reasonably appears to be  
11 eligible for medical assistance except for having income exceeding  
12 applicable income levels. The notice shall inform the applicant or  
13 recipient, in plain language, that in certain circumstances the medical  
14 assistance program does not count the income of disabled applicants and  
15 recipients if it is placed in a trust described in clause (iii) of this  
16 subparagraph. The notice shall be included with the eligibility notice  
17 provided to such applicants and recipients and shall reference where  
18 additional information may be found on the department's website. This  
19 clause shall not be construed to change any criterion for eligibility  
20 for medical assistance.

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

24 (a) Medical assistance shall be furnished to applicants in cases  
25 where, although such applicant has a responsible relative with suffi-  
26 cient income [~~and resources~~] to provide medical assistance as determined  
27 by the regulations of the department, the income [~~and resources~~] of the  
28 responsible relative are not available to such applicant because of the  
29 absence of such relative or the refusal or failure of such relative to  
30 provide the necessary care and assistance. In such cases, however, the  
31 furnishing of such assistance shall create an implied contract with such  
32 relative, and the cost thereof may be recovered from such relative in  
33 accordance with title six of article three of this chapter and other  
34 applicable provisions of law.

35 § 8. Paragraph h of subdivision 6 of section 366 of the social  
36 services law, as amended by section 69-b of part C of chapter 58 of the  
37 laws of 2008, is amended to read as follows:

38 h. Notwithstanding any other provision of this chapter or any other  
39 law to the contrary, for purposes of determining medical assistance  
40 eligibility for persons specified in paragraph b of this subdivision,  
41 the income [~~and resources~~] of responsible relatives shall not be deemed  
42 available for as long as the person meets the criteria specified in this  
43 subdivision.

44 § 9. Subparagraph (vii) of paragraph (b) of subdivision 7 of section  
45 366 of the social services law, as amended by chapter 324 of the laws of  
46 2004, is amended to read as follows:

47 (vii) be ineligible for medical assistance because the income [~~and~~  
48 ~~resources~~] of responsible relatives are deemed available to him or her,  
49 causing him or her to exceed the income or resource eligibility level  
50 for such assistance;

51 § 10. Paragraph j of subdivision 7 of section 366 of the social  
52 services law, as amended by chapter 324 of the laws of 2004, is amended  
53 to read as follows:

54 j. Notwithstanding any other provision of this chapter other than  
55 subdivision six of this section or any other law to the contrary, for  
56 purposes of determining medical assistance eligibility for persons spec-



ified in paragraph b of this subdivision, the income [~~and resources~~] of a responsible relative shall not be deemed available for as long as the person meets the criteria specified in this subdivision.

§ 11. Subdivision 8 of section 366 of the social services law, as added by chapter 41 of the laws of 1992, is amended to read as follows:

8. Notwithstanding any inconsistent provision of this chapter or any other law to the contrary, income [~~and resources~~] which are otherwise exempt from consideration in determining a person's eligibility for medical care, services and supplies available under this title, shall be considered available for the payment or part payment of the costs of such medical care, services and supplies as required by federal law and regulations.

§ 12. Subparagraph (vi) of paragraph (b) of subdivision 9 of section 366 of the social services law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(vi) be eligible or, if discharged, would be eligible for medical assistance, or are ineligible for medical assistance because the income [~~and resources~~] of responsible relatives are or, if discharged, would be deemed available to such persons causing them to exceed the income [~~or resource~~] eligibility level for such assistance;

§ 13. Paragraph k of subdivision 9 of section 366 of the social services law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

k. Notwithstanding any provision of this chapter other than subdivision six or seven of this section, or any other law to the contrary, for purposes of determining medical assistance eligibility for persons specified in paragraphs b and c of this subdivision, the income [~~and resources~~] of a responsible relative shall not be deemed available for as long as the person meets the criteria specified in this subdivision.

§ 14. Paragraph (d) of subdivision 12 of section 366 of the social services law, as added by section 1 of part E of chapter 58 of the laws of 2006, is amended to read as follows:

(d) Notwithstanding any provision of this chapter or any other law to the contrary, for purposes of determining medical assistance eligibility for persons specified in paragraph (b) of this subdivision, the income [~~and resources~~] of a legally responsible relative shall not be deemed available for as long as the person meets the criteria specified in this subdivision; provided, however, that such income shall continue to be deemed unavailable should responsibility for the care and placement of the person be returned to [~~his or her~~] their parent or other legally responsible person.

§ 15. Paragraph (b) of subdivision 2 of section 366-a of the social services law is REPEALED and paragraphs (c) and (d), paragraph (d) as added by section 29 of part B of chapter 58 of the laws of 2010, are relettered paragraphs (b) and (c).

§ 16. Paragraph (c) of subdivision 2 of section 366-a of the social services law, as added by section 29 of part B of section 58 of the laws of 2010 and as relettered by section fifteen of this act, is amended to read as follows:

(c) Notwithstanding the provisions of paragraph (a) of this subdivision, an applicant or recipient [~~whose eligibility under this title is determined without regard to the amount of his or her accumulated resources~~] may attest to the amount of interest income generated by [~~such~~] resources if the amount of such interest income is expected to be immaterial to medical assistance eligibility, as determined by the commissioner of health. In the event there is an inconsistency between

1 the information reported by the applicant or recipient and any informa-  
2 tion obtained by the commissioner of health from other sources and such  
3 inconsistency is material to medical assistance eligibility, the commis-  
4 sioner of health shall request that the applicant or recipient provide  
5 adequate documentation to verify ~~[his or her]~~ **their** interest income.

6 § 17. Paragraph (d) of subdivision 2 of section 366-a of the social  
7 services law is REPEALED.

8 § 18. Paragraph (a) of subdivision 8 of section 366-a of the social  
9 services law, as amended by section 7 of part B of chapter 58 of the  
10 laws of 2010, is amended to read as follows:

11 (a) Notwithstanding subdivisions two and five of this section, infor-  
12 mation concerning income ~~[and resources]~~ of applicants for and recipi-  
13 ents of medical assistance may be verified by matching client informa-  
14 tion with information contained in the wage reporting system established  
15 by section one hundred seventy-one-a of the tax law and in similar  
16 systems operating in other geographically contiguous states, by means of  
17 an income verification performed pursuant to a memorandum of understand-  
18 ing with the department of taxation and finance pursuant to subdivision  
19 four of section one hundred seventy-one-b of the tax law, and, to the  
20 extent required by federal law, with information contained in the non-  
21 wage income file maintained by the United States internal revenue  
22 service, in the beneficiary data exchange maintained by the United  
23 States department of health and human services, and in the unemployment  
24 insurance benefits file. Such matching shall provide for procedures  
25 which document significant inconsistent results of matching activities.  
26 Nothing in this section shall be construed to prohibit activities the  
27 department reasonably believes necessary to conform with federal  
28 requirements under section one thousand one hundred thirty-seven of the  
29 social security act.

30 § 19. Subdivision 1 of section 366-c of the social services law, as  
31 added by chapter 558 of the laws of 1989, is amended to read as follows:

32 1. Notwithstanding any other provision of law to the contrary, in  
33 determining the eligibility for medical assistance of a person defined  
34 as an institutionalized spouse, the income ~~[and resources]~~ of such  
35 person and the person's community spouse shall be treated as provided in  
36 this section.

37 § 20. Paragraphs (c), (d) and (e) of subdivision 2 of section 366-c of  
38 the social services law are REPEALED and paragraphs (f), (g), (h), (i),  
39 (j) and (k) of subdivision 2 are relettered paragraphs (c), (d), (e),  
40 (f), (g) and (h).

41 § 21. Subdivisions 5 and 6 of section 366-c of the social services law  
42 are REPEALED and subdivisions 7 and 8 are renumbered subdivisions 5 and  
43 6.

44 § 22. Subdivisions 5 and 6 of section 366-c of the social services  
45 law, as added by chapter 558 of the laws of 1989 and as relettered by  
46 section twenty-one of this act, are amended to read as follows:

47 5. (a) At the beginning or after the commencement of a continuous  
48 period of institutionalization, either spouse may request ~~[an assessment~~  
49 ~~of the total value of their resources or]~~ a determination of the commu-  
50 nity spouse monthly income allowance, the amount of the family allow-  
51 ance, or the method of computing the amount of the family allowance, or  
52 the method of computing the amount of the community spouse income allow-  
53 ance.

54 (b) ~~[(i) Upon receipt of a request pursuant to paragraph (a) of this~~  
55 ~~subdivision together with all relevant documentation of the resources of~~  
56 ~~both spouses, the social services district shall assess and document the~~

~~total value of the spouses' resources and provide each spouse with a copy of the assessment and the documentation upon which it was based. If the request is not part of an application for medical assistance benefits, the social services district may charge a fee for the assessment which is related to the cost of preparing and copying the assessment and documentation which fee may not exceed twenty five dollars.~~

~~(ii) The social services district shall also notify each requesting spouse of the community spouse monthly income allowance, of the amount, if any, of the family allowances, and of the method of computing the amount of the community spouse monthly income allowance.~~

~~(e)]~~ The social services district shall also provide to the spouse a notice of the right to a fair hearing at the time of provision of the information requested under paragraph (a) of this subdivision or after a determination of eligibility for medical assistance. Such notice shall be in the form prescribed or approved by the commissioner and include a statement advising the spouse of the right to a fair hearing under this section.

6. (a) If, after a determination on an application for medical assistance has been made, either spouse is dissatisfied with the determination of the community spouse monthly allowance~~[7]~~ or the amount of monthly income otherwise available to the community spouse, ~~[the computation of the spousal share of resources, the attribution of resources or the determination of the community spouse's resource allocation,~~] the spouse may request a fair hearing to dispute such determination. Such hearing shall be held within thirty days of the request therefor.

(b) If either spouse establishes that the community spouse needs income above the level established by the social services district as the minimum monthly maintenance needs allowance, based upon exceptional circumstances which result in significant financial distress (as defined by the commissioner in regulations), the department shall substitute an amount adequate to provide additional necessary income from the income otherwise available to the institutionalized spouse.

~~[(c) If either spouse establishes that income generated by the community spouse resource allowance, established by the social services district, is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, the department shall establish a resource allowance for the spousal share of the institutionalized spouse adequate to provide such minimum monthly maintenance needs allowance.]~~

§ 23. The commissioner of health shall, consistent with the social services law, make any necessary amendments to the state plan for medical assistance submitted pursuant to section three hundred sixty-three of the social services law, in order to ensure federal financial participation in expenditures under the provisions of this act. The provisions of this act shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation for the costs of services provide hereunder.

§ 24. This act shall take effect January 1, 2023, subject to federal financial participation; provided, however that the amendments to paragraph h of subdivision 6 of section 366 of the social services law made by section eight of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith; provided further that the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of federal financial participation in order that the commission may maintain an accurate and timely effective

1 data base of the official text of the laws of the state of New York in  
2 furtherance of effectuating the provisions of section 44 of the legisla-  
3 tive law and section 70-b of the public officers law.

4 PART O

5 Section 1. This act enacts into law major components of legislation  
6 relating to medical and mental health care. Each component is wholly  
7 contained within a Subpart identified as Subparts A through C. The  
8 effective date for each particular provision contained within such  
9 Subpart is set forth in the last section of such Subpart. Any provision  
10 in any section contained within a Subpart, including the effective date  
11 of the Subpart, which makes a reference to a section "of this act", when  
12 used in connection with that particular component, shall be deemed to  
13 mean and refer to the corresponding section of the Subpart in which it  
14 is found. Section three of this act sets forth the general effective  
15 date of this act.

16 SUBPART A

17 Section 1. Subdivisions 2 and 3 of section 367-r of the social  
18 services law, subdivision 2 as amended and subdivision 3 as added by  
19 section 2 of part PP of chapter 56 of the laws of 2020, are amended to  
20 read as follows:

21 2. Medically fragile children and adults. (a) In addition, the  
22 commissioner shall further increase rates for private duty nursing  
23 services that are provided to medically fragile children to ensure the  
24 availability of such services to such children. Furthermore, no later  
25 than sixty days after the chapter of the laws of two thousand twenty-two  
26 that amended this subdivision takes effect, increased rates shall be  
27 extended for private duty nursing services provided to medically fragile  
28 adults. In establishing rates of payment under this subdivision, the  
29 commissioner shall consider the cost neutrality of such rates as related  
30 to the cost effectiveness of caring for medically fragile children and  
31 adults in a non-institutional setting as compared to an institutional  
32 setting. Medically fragile children shall, for the purposes of this  
33 subdivision, have the same meaning as in subdivision three-a of section  
34 thirty-six hundred fourteen of the public health law. For purposes of  
35 this subdivision, "medically fragile adult" shall be defined as any  
36 individual who previously qualified as a medically fragile child but no  
37 longer meets the age requirement. Such increased rates for services  
38 rendered to such children and adults may take into consideration the  
39 elements of cost, geographical differentials in the elements of cost  
40 considered, economic factors in the area in which the private duty nurs-  
41 ing service is provided, costs associated with the provision of private  
42 duty nursing services to medically fragile children and adults, and the  
43 need for incentives to improve services and institute economies and such  
44 increased rates shall be payable only to those private duty nurses who  
45 can demonstrate, to the satisfaction of the department of health, satis-  
46 factory training and experience to provide services to such children and  
47 adults. Such increased rates shall be determined based on application  
48 of the case mix adjustment factor for AIDS home care program services  
49 rates as determined pursuant to applicable regulations of the department  
50 of health. The commissioner may promulgate regulations to implement the  
51 provisions of this subdivision.

(b) Private duty nursing services providers which have their rates adjusted pursuant to paragraph (b) of subdivision one of this section and paragraph (a) of this subdivision shall use such funds solely for the purposes of recruitment and retention of private duty nurses or to ensure the delivery of private duty nursing services to medically fragile children and adults and are prohibited from using such funds for any other purpose. Funds provided under paragraph (b) of subdivision one of this section and paragraph (a) of this subdivision are not intended to supplant support provided by a local government. Each such provider, with the exception of self-employed private duty nurses, shall submit, at a time and in a manner to be determined by the commissioner of health, a written certification attesting that such funds will be used solely for the purpose of recruitment and retention of private duty nurses or to ensure the delivery of private duty nursing services to medically fragile children and adults. The commissioner of health is authorized to audit each such provider to ensure compliance with the written certification required by this subdivision and shall recoup all funds determined to have been used for purposes other than recruitment and retention of private duty nurses or the delivery of private duty nursing services to medically fragile children and adults. Such recoupment shall be in addition to any other penalties provided by law.

(c) The commissioner of health shall, subject to the provisions of paragraph (b) of this subdivision, and the provisions of subdivision three of this section, and subject to the availability of federal financial participation, annually increase fees for the fee-for-service reimbursement of private duty nursing services provided to medically fragile children by fee-for-service private duty nursing services providers who enroll and participate in the provider directory pursuant to subdivision three of this section, over a period of three years, commencing October first, two thousand twenty, by one-third annual increments, until such fees for reimbursement equal the final benchmark payment designed to ensure adequate access to the service. In developing such benchmark the commissioner of health may utilize the average two thousand eighteen Medicaid managed care payments for reimbursement of such private duty nursing services. The commissioner may promulgate regulations to implement the provisions of this paragraph.

(d) The commissioner of health shall, subject to the provisions of paragraph (b) of this subdivision, and the provisions of subdivision three of this section, and subject to the availability of federal financial participation, increase fees for the fee-for-service reimbursement of private duty nursing services provided to medically fragile adults by fee-for-service private duty nursing services providers who enroll and participate in the provider directory pursuant to subdivision three of this section, no later than sixty days after the chapter of the laws of two thousand twenty-two that amended this subdivision takes effect, so such fees for reimbursement equal the benchmark payment designed to ensure adequate access to the service. In developing such benchmark the commissioner of health may utilize the average two thousand twenty Medicaid managed care payments for reimbursement of such private duty nursing services. The commissioner may promulgate regulations to implement the provisions of this paragraph.

3. Provider directory for fee-for-service private duty nursing services provided to medically fragile children and adults. The commissioner of health is authorized to establish a directory of qualified providers for the purpose of promoting the availability and ensuring delivery of fee-for-service private duty nursing services to medically



1 fragile children [~~and individuals transitioning out of such category of~~  
2 ~~care~~] and adults. Qualified providers enrolling in the directory shall  
3 ensure the availability and delivery of and shall provide such services  
4 to those individuals as are in need of such services, and shall receive  
5 increased reimbursement for such services pursuant to [~~paragraph (e)~~]  
6 paragraphs (c) and (d) of subdivision two of this section. The directory  
7 shall offer enrollment to all private duty nursing services providers to  
8 promote and ensure the participation in the directory of all nursing  
9 services providers available to serve medically fragile children and  
10 adults.

11 § 2. Subdivision 3-a of section 3614 of the public health law, as  
12 amended by section 9 of part C of chapter 109 of the laws of 2006, is  
13 amended to read as follows:

14 3-a. Medically fragile children and adults. Rates of payment for  
15 continuous nursing services for medically fragile children and adults  
16 provided by a certified home health agency, a licensed home care  
17 services agency or a long term home health care program shall be estab-  
18 lished to ensure the availability of such services, whether provided by  
19 registered nurses or licensed practical nurses who are employed by or  
20 under contract with such agencies or programs, and shall be established  
21 at a rate that is at least equal to rates of payment for such services  
22 rendered to patients eligible for AIDS home care programs; provided,  
23 however, that a certified home health agency, a licensed home care  
24 services agency or a long term home health care program that receives  
25 such enhanced rates for continuous nursing services for medically frag-  
26 ile children and adults shall use such enhanced rates to increase  
27 payments to registered nurses and licensed practical nurses who provide  
28 such services. In the case of services provided by certified home health  
29 agencies and long term home health care programs through contracts with  
30 licensed home care services agencies, rate increases received by such  
31 certified home health agencies and long term home health care programs  
32 pursuant to this subdivision shall be reflected in payments made to the  
33 registered nurses or licensed practical nurses employed by such licensed  
34 home care services agencies to render services to these children and  
35 adults. In establishing rates of payment under this subdivision, the  
36 commissioner shall consider the cost neutrality of such rates as related  
37 to the cost effectiveness of caring for medically fragile children and  
38 adults in a non-institutional setting as compared to an institutional  
39 setting. For the purposes of this subdivision, a medically fragile child  
40 shall mean a child who is at risk of hospitalization or institutional-  
41 ization, including but not limited to children who are technologically-  
42 dependent for life or health-sustaining functions, require complex medi-  
43 cation regimen or medical interventions to maintain or to improve their  
44 health status or are in need of ongoing assessment or intervention to  
45 prevent serious deterioration of their health status or medical compli-  
46 cations that place their life, health or development at risk, but who  
47 are capable of being cared for at home if provided with appropriate home  
48 care services, including but not limited to case management services and  
49 continuous nursing services. For the purposes of this subdivision, a  
50 medically fragile adult shall mean any individual who previously quali-  
51 fied as a medically fragile child but no longer meets the age require-  
52 ment. The commissioner shall promulgate regulations to implement  
53 provisions of this subdivision and may also direct the providers speci-  
54 fied in this subdivision to provide such additional information and in  
55 such form as the commissioner shall determine is reasonably necessary to  
56 implement the provisions of this subdivision.

§ 3. This act shall take effect immediately.

## SUBPART B

Section 1. Legislative findings and intent. The legislature finds that the Program of All-Inclusive Care for the Elderly ("PACE") is a federally recognized model of comprehensive care for persons 55 years of age or older, qualifying for nursing home levels of care who wish to remain in their community (see, Sections 1894 and 1934 to Title XVIII of the Social Security Act; 42 CFR 460). The PACE program includes both Medicaid and Medicare covered benefits. Federal preemption of state laws with respect to PACE has inhibited the ability of state agencies - particularly the New York State Department of Health ("DOH") - to regulate PACE plans similarly to other public and commercial health plans.

The legislature further finds that: Research has demonstrated that PACE has delivered marked improvements for enrollees in the programs nationwide including, but not limited to reduced hospitalizations and readmissions; reduced reliance on emergency medical services; improved quality of life; and higher satisfaction with the totality of their care. In conjunction with these improvements, the implementation of PACE in New York has realized significant savings to the state's Medicaid program compared to costs that would have been incurred under fee-for-service. As neither a fee-for-service model nor a managed long-term care plan, PACE represents a unique approach to care and coverage for those with long-term care needs. PACE organizations are currently required to be licensed and are regulated under multiple provisions of state and federal law. Uniformity of regulation of PACE organizations promotes both efficiency for organizations and for the state.

For all the foregoing reasons, it is the intent of the legislature through this act to provide a more efficient and uniform structure to promote the prudent development of PACE organizations in the state, to promote better health outcomes for New Yorkers enrolled in such programs, and to realize administrative efficiencies through these programs. It is the intent of the legislature to recognize PACE organizations as integrated providers of care and to that end, nothing in this article is intended to construe PACE organizations as a managed care organization as defined by article 44 of the public health law.

§ 2. The public health law is amended by adding a new article 29-EE to read as follows:

### ARTICLE 29-EE PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY

#### Section 2999-s. Definitions.

2999-t. PACE program establishment.

2999-u. Criteria for program eligibility and licensure.

2999-v. Eligibility and enrollment.

2999-w. Included program benefits.

2999-x. Reimbursement.

2999-y. Severability.

§ 2999-s. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "PACE organization" means a PACE provider, as defined in 42 U.S.C. §1395eee and established in accordance with federal public law 105-33, subtitle I of title IV of the Balanced Budget Act of 1997.

2. "Program of all-inclusive care for the elderly" or "PACE program" means the federally recognized model of comprehensive care that provides

1 Medicaid and Medicare covered services to eligible individuals, and  
2 shall include those programs defined as "operating demonstrations" by  
3 section forty-four hundred three-f of this chapter.

4 3. "PACE center" means a diagnostic and treatment center established  
5 under article twenty-eight of this chapter and operated by a PACE organ-  
6 ization where primary care and other services are furnished to enrollees  
7 of such program.

8 4. "PACE program agreement" shall have the same meaning as defined by  
9 42 U.S.C. § 1395eee.

10 § 2999-t. PACE program establishment. 1. Notwithstanding any incon-  
11 sistent provision of law to the contrary, the commissioner shall estab-  
12 lish a state program of all-inclusive care for the elderly, to provide  
13 community-based, risk-based, and capitated long-term care services as  
14 optional services under the state's Medicaid state plan and any applica-  
15 ble waivers, as well as under contracts entered into between the federal  
16 centers for Medicare and Medicaid services, the department, and PACE  
17 organizations.

18 2. The establishment of such a program shall not preclude the contin-  
19 ued operation of existing approved PACE organizations at the time of  
20 enactment of this article. The department may establish a process, if  
21 deemed necessary, to assist the transition of such existing programs  
22 through processes and requirements set forth pursuant to this article.

23 § 2999-u. Criteria for program eligibility and licensure. 1. Program  
24 criteria. The requirements of the PACE program, as provided for pursuant  
25 to 42 U.S.C. § 1395eee and 42 U.S.C. § 1396u-4 shall not be waived or  
26 modified. New York state PACE organization requirements shall include:

27 (a) The provision of a PACE center; and

28 (b) The adoption and implementation of an interdisciplinary team  
29 approach to care management, care delivery, and care planning.

30 2. Contracting. The department may enter into contracts with public or  
31 private organizations for implementation of the state's PACE program,  
32 and may enter into additional contracts as necessary to implement such  
33 program, or any other requirement deemed necessary to provide comprehen-  
34 sive community-based, risk-based and capitated long-term care to eligi-  
35 ble populations. Additionally:

36 (a) PACE organizations shall contract with the federal center for  
37 Medicare and Medicaid services to enter into a PACE organization agree-  
38 ment.

39 (b) PACE organizations licensed under this article shall be authorized  
40 to act as fiscal intermediaries for their enrollees without entering  
41 into additional contracts with the state to conduct such duties on  
42 behalf of enrollees.

43 3. Licensure. In setting forth requirements to establish the state's  
44 PACE program, the department shall provide for a unified licensure proc-  
45 ess for PACE organizations that is inclusive of program requirements set  
46 forth under articles forty-four, thirty-six, and twenty-eight of this  
47 chapter, as well as pertinent regulatory requirements for PACE organiza-  
48 tions in accordance with a regulatory approach which shall be estab-  
49 lished by the department. For the purposes of subdivision one of section  
50 sixty-five hundred twenty-seven of the education law, a PACE organiza-  
51 tion shall be deemed to be a health maintenance organization as defined  
52 by section forty-four hundred one of this chapter.

53 4. Operations and oversight. The department shall:

54 (a) Establish requirements for financial solvency for PACE organiza-  
55 tions in compliance with those set forth in paragraph (c) of subdivision  
56 one of section forty-four hundred three of this chapter, and shall

1 establish a contingent reserve requirement for PACE organizations which,  
2 pursuant to regulations, may be different than other programs;

3 (b) Provide oversight of PACE organization operations in coordination  
4 with the centers for Medicare and Medicaid services, including any rules  
5 appropriate for the safe, efficient and orderly administration of the  
6 program; and

7 (c) Develop a single process for PACE organizations to complete all  
8 reports, audits, surveys, and other data or information collection  
9 required by federal, state or local authorities.

10 § 2999-v. Eligibility and enrollment. 1. To be eligible for enrollment  
11 in the PACE program, an individual must:

12 (a) (i) Be at least fifty-five years old;

13 (ii) Meet the state's eligibility criteria for nursing home level of  
14 care;

15 (iii) Reside within the PACE program-approved service area; and

16 (iv) Be able to be maintained safely in the community-based setting at  
17 the time of enrollment with the assistance of a PACE organization; or

18 (b) Be otherwise eligible for participation in a PACE demonstration or  
19 specialty program authorized by the federal PACE Innovation Act and  
20 approved by the centers for Medicare and Medicaid services.

21 2. Notwithstanding any law or regulation to the contrary, if federal  
22 law or regulation sets forth broader eligibility or enrollment require-  
23 ments than those set forth under subdivision one of this section, eligi-  
24 bility for the PACE program shall conform to such federal requirements.

25 3. Enrollment and participation by individuals in the PACE program  
26 shall be voluntary.

27 § 2999-w. Included program benefits. Enrollees in the PACE program  
28 shall be provided a benefit package by their PACE organization, regard-  
29 less of source of payment, that includes:

30 (a) All Medicare-covered items and services;

31 (b) All Medicaid-covered items and services, as specified in the  
32 state's Medicaid plan and in section three hundred sixty-four-j of the  
33 social services law; and

34 (c) Other such services as determined necessary by the interdisdiscipli-  
35 nary team to improve and maintain the participant's overall health  
36 status.

37 § 2999-x. Reimbursement. The department shall develop and implement,  
38 in conformance with applicable federal requirements, a methodology for  
39 establishing rates of payment for costs of benefits provided by PACE  
40 organizations to its Medicaid eligible PACE program enrollees.

41 1. Methodology. To the extent required by federal law, such rate meth-  
42 odologies for PACE organizations shall result in a payment amount no  
43 greater than the amount that would otherwise have been paid for compara-  
44 ble services provided pursuant to the state plan if the participants  
45 were not enrolled in the PACE program. PACE program rates shall be set  
46 in compliance with relevant centers for Medicare and Medicaid services  
47 rate setting rules and guidance.

48 2. Transparency. The department shall provide, or shall require any  
49 independent actuary used to review PACE program reimbursement rates to  
50 provide, to PACE organizations the documents and information regarding  
51 PACE program reimbursement rates submitted to the centers for Medicare  
52 and Medicaid services in a form and time frame consistent with the  
53 requirements for the department to provide or cause to be provided docu-  
54 ments and information to Medicaid managed care providers under paragraph  
55 (c) of subdivision eighteen of section three hundred sixty-four-j of the  
56 social services law.

§ 2999-y. Severability. If any provision of this article, or any application of any provision of this article, is held to be invalid, or to violate or be inconsistent with any federal law or regulation, such violation or inconsistency shall not affect the validity or effectiveness of any other provision of this article, or of any other application of any provision of this article, which can be given effect without such provision or application; and to such end, the provisions and applications of this article shall be severable.

§ 3. Paragraph (c) of subdivision 18 of section 364-j of the social services law, as added by section 55 of part B of chapter 57 of the laws of 2015, is REPEALED.

§ 4. Paragraph (c) of subdivision 18 of section 364-j of the social services law, as added by section 40-c of part B of chapter 57 of the laws of 2015, is amended to read as follows:

(c) In setting such reimbursement methodologies, the department shall consider costs borne by the managed care program to ensure actuarially sound and adequate rates of payment to ensure quality of care. The department shall require the independent actuary selected pursuant to paragraph (b) of this subdivision to provide a complete actuarial memorandum, along with all actuarial assumptions made and all other data, materials and methodologies used in the development of rates, to managed care providers thirty days prior to submission of such rates to the centers for Medicare and Medicaid services for approval. Managed care providers may request additional review of the actuarial soundness of the rate setting process and/or methodology.

§ 5. This act shall take effect January 1, 2023, provided, however, that the amendments made to section 364-j of the social services law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

### SUBPART C

Section 1. Section 26 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws, relating to targeted Medicaid reimbursement rate reductions, is amended to read as follows:

§ 26. Notwithstanding any provision of law to the contrary and subject to the availability of federal financial participation, for periods on and after April 1, 2011, clinics certified pursuant to ~~[articles 16,~~ article 31 or 32 of the mental hygiene law shall be subject to targeted Medicaid reimbursement rate reductions in accordance with the provisions of this section. Such reductions shall be based on utilization thresholds which may be established either as provider-specific or patient-specific thresholds. Provider-specific thresholds shall be based on average patient utilization for a given provider in comparison to a peer based standard to be determined for each service. The commissioners of the office of mental health~~[, the office for persons with developmental disabilities,~~ and the office of alcoholism and substance abuse services, in consultation with the commissioner of health, are authorized to waive utilization thresholds for patients of clinics certified pursuant to article ~~[16]~~ 31~~[,]~~ or 32 of the mental hygiene law who are enrolled in specific treatment programs or otherwise meet criteria as may be specified by such commissioners. When applying a provider-specific threshold, rates will be reduced on a prospective basis based on



1 the amount any provider is over the determined threshold level.  
2 Patient-specific thresholds will be based on annual thresholds deter-  
3 mined for each service over which the per visit payment for each visit  
4 in excess of the standard during a twelve month period shall be reduced  
5 by a pre-determined amount. The thresholds, peer based standards and the  
6 payment reductions shall be determined by the department of health, with  
7 the approval of the division of the budget, and in consultation with the  
8 office of mental health[~~, the office for people with developmental disa-~~  
9 ~~bilities~~] and the office of alcoholism and substance abuse services, and  
10 any such resulting rates shall be subject to certification by the appro-  
11 priate commissioners pursuant to subdivision (a) of section 43.02 of the  
12 mental hygiene law. The base period used to establish the thresholds  
13 shall be the 2009 calendar year. The total annualized reduction in  
14 payments shall be not more than \$10,900,000 for Article 31 clinics[~~, not~~  
15 ~~more than \$2,400,000 for Article 16 clinics,~~] and not more than  
16 \$13,250,000 for Article 32 clinics. The commissioner of health may  
17 promulgate regulations to implement the provisions of this section.

18 § 2. This act shall take effect immediately.

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

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

## 31 PART P

32 Section 1. Intentionally omitted.

33 § 2. Intentionally omitted.

34 § 3. Intentionally omitted.

35 § 4. Intentionally omitted.

36 § 5. Intentionally omitted.

37 § 6. Intentionally omitted.

38 § 7. Subparagraphs (v) and (vi) of paragraph (b) of subdivision 1 of  
39 section 268-d of the public health law, as added by section 2 of part T  
40 of chapter 57 of the laws of 2019, are amended to read as follows:

41 (v) meets standards specified and determined by the Marketplace,  
42 provided that the standards do not conflict with or prevent the applica-  
43 tion of federal requirements; ~~[and]~~

44 (vi) contracts with any national cancer institute-designated cancer  
45 center licensed by the department within the health plan's service area  
46 that is willing to agree to provide cancer-related inpatient, outpatient  
47 and medical services to enrollees in all health plans offering coverage  
48 through the Marketplace in such cancer center's service area under the  
49 prevailing terms and conditions that the plan requires of other similar  
50 providers to be included in the plan's provider network, provided that  
51 such terms shall include reimbursement of such center at no less than  
52 the fee-for-service medicaid payment rate and methodology applicable to  
53 the center's inpatient and outpatient services; and

1 (vii) complies with the insurance law and this chapter requirements  
2 applicable to health insurance issued in this state and any regulations  
3 promulgated pursuant thereto that do not conflict with or prevent the  
4 application of federal requirements; and

5 § 8. Subdivision 4 of section 364-j of the social services law is  
6 amended by adding a new paragraph (w) to read as follows:

7 (w) A managed care provider shall provide or arrange, directly or  
8 indirectly, including by referral, for access to and coverage of  
9 services provided by any national cancer institute-designated cancer  
10 center licensed by the department of health within the managed care  
11 provider's service area that is willing to agree to provide cancer-re-  
12 lated inpatient, outpatient and medical services to participants in all  
13 managed care providers offering coverage to medical assistance recipi-  
14 ents in such cancer center's service area under the prevailing terms and  
15 conditions that the managed care provider requires of other similar  
16 providers to be included in the managed care provider's network,  
17 provided that such terms shall include reimbursement of such center at  
18 no less than the fee-for-service medicaid payment rate and methodology  
19 applicable to the center's inpatient and outpatient services.

20 § 9. Paragraph (c) of subdivision 1 of section 369-gg of the social  
21 services law, as amended by section 2 of part H of chapter 57 of the  
22 laws of 2021, is amended to read as follows:

23 (c) "Health care services" means (i) the services and supplies as  
24 defined by the commissioner in consultation with the superintendent of  
25 financial services, and shall be consistent with and subject to the  
26 essential health benefits as defined by the commissioner in accordance  
27 with the provisions of the patient protection and affordable care act  
28 (P.L. 111-148) and consistent with the benefits provided by the refer-  
29 ence plan selected by the commissioner for the purposes of defining such  
30 benefits, and shall include coverage of and access to the services of  
31 any national cancer institute-designated cancer center licensed by the  
32 department of health within the service area of the approved organiza-  
33 tion that is willing to agree to provide cancer-related inpatient,  
34 outpatient and medical services to all enrollees in approved organiza-  
35 tions' plans in such cancer center's service area under the prevailing  
36 terms and conditions that the approved organization requires of other  
37 similar providers to be included in the approved organization's network,  
38 provided that such terms shall include reimbursement of such center at  
39 no less than the fee-for-service medicaid payment rate and methodology  
40 applicable to basic health program plan payments for inpatient and  
41 outpatient services; and (ii) dental and vision services as defined by  
42 the commissioner;

43 § 10. Severability. If any clause, sentence, paragraph, section or  
44 part of this act shall be adjudged by any court of competent jurisdic-  
45 tion to be invalid and after exhaustion of all further judicial review,  
46 the judgment shall not affect, impair or invalidate the remainder there-  
47 of, but shall be confined in its operation to the clause, sentence,  
48 paragraph, section or part of this act directly involved in the contro-  
49 versy in which the judgment shall have been rendered.

50 § 11. This act shall take effect immediately; provided however that  
51 sections seven, eight and nine shall take effect on the first of January  
52 next succeeding the date on which it shall have become a law and shall  
53 apply to all coverage or policies issued or renewed on or after such  
54 effective date and shall expire and be deemed repealed five years after  
55 such date; provided, however, that the amendments to section 364-j of  
56 the social services law made by section eight of this act, and the

1 amendments to paragraph (c) of subdivision 1 of section 369-gg of the  
2 social services law made by section nine of this act shall not affect  
3 the repeal of such sections or such paragraph and shall be deemed  
4 repealed therewith.

## PART Q

6 Section 1. Section 268-c of the public health law is amended by adding  
7 a new subdivision 25 to read as follows:

8 25. The commissioner is authorized to submit the appropriate waiver  
9 applications to the United States secretary of health and human services  
10 and/or the department of the treasury to waive any applicable provisions  
11 of the Patient Protection and Affordable Care Act, Pub. L. 111-148 as  
12 amended, or successor provisions, as provided for by 42 U.S.C. 18052,  
13 and any other waivers necessary to achieve the purposes of high quality,  
14 affordable coverage through NY State of Health, the official health plan  
15 marketplace. The commissioner shall implement the state plans of any  
16 such waiver in a manner consistent with applicable state and federal  
17 laws, as authorized by the secretary of health and human services and/or  
18 the secretary of the treasury pursuant to 42 U.S.C. 18052. Copies of  
19 such original waiver applications and amendments thereto shall be  
20 provided to the chair of the senate finance committee, the chair of the  
21 assembly ways and means committee and the chairs of the senate and  
22 assembly health committees simultaneously with their submission to the  
23 federal government.

24 § 1-a. Section 369-gg of the social services law is amended by adding  
25 a new subdivision 3-a to read as follows:

26 3-a. Alternate eligibility. A person shall also be eligible to receive  
27 coverage for health care services under this title, without regard to  
28 federal financial participation, if they are a resident of New York  
29 state, have a household income below two hundred fifty percent of the  
30 federal poverty line as defined and annually revised by the United  
31 States department of health and human services for a household of the  
32 same size, and are ineligible for federal financial participation in the  
33 basic health program under 42 U.S.C. section 18051 on the basis of immi-  
34 gration status, but otherwise meet the eligibility requirements in para-  
35 graphs (b), (c), and (d) of subdivision three of this section. An appli-  
36 cant who fails to make an applicable premium payment shall lose  
37 eligibility to receive coverage for health care services in accordance  
38 with time frames and procedures determined by the commissioner.

39 § 2. Paragraph (d) of subdivision 3 of section 369-gg of the social  
40 services law, as amended by section 2 of part H of chapter 57 of the  
41 laws of 2021, is amended to read as follows:

42 (d) (i) except as provided by subparagraph (ii) of this paragraph, has  
43 household income at or below two hundred percent of the federal poverty  
44 line defined and annually revised by the United States department of  
45 health and human services for a household of the same size; and [~~(ii)~~]  
46 has household income that exceeds one hundred thirty-three percent of  
47 the federal poverty line defined and annually revised by the United  
48 States department of health and human services for a household of the  
49 same size; however, MAGI eligible aliens [~~lawfully present~~] in the  
50 United States with household incomes at or below one hundred thirty-  
51 three percent of the federal poverty line shall be eligible to receive  
52 coverage for health care services pursuant to the provisions of this  
53 title if such alien would be ineligible for medical assistance under

1 title eleven of this article due to [~~his or her~~] their immigration  
2 status[~~-~~];

3 (ii) subject to federal approval and the use of state funds, unless  
4 the commissioner may use funds under subdivision seven of this section,  
5 has household income at or below two hundred fifty percent of the feder-  
6 al poverty line defined and annually revised by the United States  
7 department of health and human services for a household of the same  
8 size; and has household income that exceeds one hundred thirty-three  
9 percent of the federal poverty line defined and annually revised by the  
10 United States department of health and human services for a household of  
11 the same size; however, MAGI eligible aliens in the United States with  
12 household incomes at or below one hundred thirty-three percent of the  
13 federal poverty line shall be eligible to receive coverage for health  
14 care services pursuant to the provisions of this title if such alien  
15 would be ineligible for medical assistance under title eleven of this  
16 article due to their immigration status;

17 (iii) subject to federal approval if required and the use of state  
18 funds, unless the commissioner may use funds under subdivision seven of  
19 this section, a pregnant individual who is eligible for and receiving  
20 coverage for health care services pursuant to this title is eligible to  
21 continue to receive health care services pursuant to this title during  
22 the pregnancy and for a period of one year following the end of the  
23 pregnancy without regard to any change in the income of the household  
24 that includes the pregnant individual, even if such change would render  
25 the pregnant individual ineligible to receive health care services  
26 pursuant to this title;

27 (iv) subject to federal approval, a child born to an individual eligi-  
28 ble for and receiving coverage for health care services pursuant to this  
29 title who would be eligible for coverage pursuant to subparagraphs (2)  
30 or (4) of paragraph (b) of subdivision 1 of section three hundred  
31 sixty-six of the social services law shall be deemed to have applied for  
32 medical assistance and to have been found eligible for such assistance  
33 on the date of such birth and to remain eligible for such assistance for  
34 a period of one year.

35 An applicant who fails to make an applicable premium payment, if any,  
36 shall lose eligibility to receive coverage for health care services in  
37 accordance with time frames and procedures determined by the commission-  
38 er.

39 § 3. Paragraph (d) of subdivision 3 of section 369-gg of the social  
40 services law, as added by section 51 of part C of chapter 60 of the laws  
41 of 2014, is amended to read as follows:

42 (d) (i) except as provided by subparagraph (ii) of this paragraph, has  
43 household income at or below two hundred percent of the federal poverty  
44 line defined and annually revised by the United States department of  
45 health and human services for a household of the same size; and [~~(ii)~~]  
46 has household income that exceeds one hundred thirty-three percent of  
47 the federal poverty line defined and annually revised by the United  
48 States department of health and human services for a household of the  
49 same size; however, MAGI eligible aliens [~~lawfully present~~] in the  
50 United States with household incomes at or below one hundred thirty-  
51 three percent of the federal poverty line shall be eligible to receive  
52 coverage for health care services pursuant to the provisions of this  
53 title if such alien would be ineligible for medical assistance under  
54 title eleven of this article due to [~~his or her~~] their immigration  
55 status[~~-~~];

(ii) subject to federal approval and the use of state funds, unless the commissioner may use funds under subdivision seven of this section, has household income at or below two hundred fifty percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size; and has household income that exceeds one hundred thirty-three percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size; however, MAGI eligible aliens in the United States with household incomes at or below one hundred thirty-three percent of the federal poverty line shall be eligible to receive coverage for health care services pursuant to the provisions of this title if such alien would be ineligible for medical assistance under title eleven of this article due to their immigration status;

(iii) subject to federal approval if required and the use of state funds, unless the commissioner may use funds under subdivision seven of this section, a pregnant individual who is eligible for and receiving coverage for health care services pursuant to this title is eligible to continue to receive health care services pursuant to this title during the pregnancy and for a period of one year following the end of the pregnancy without regard to any change in the income of the household that includes the pregnant individual, even if such change would render the pregnant individual ineligible to receive health care services pursuant to this title;

(iv) subject to federal approval, a child born to an individual eligible for and receiving coverage for health care services pursuant to this title who would be eligible for coverage pursuant to subparagraphs (2) or (4) of paragraph (b) of subdivision 1 of section three hundred sixty-six of the social services law shall be deemed to have applied for medical assistance and to have been found eligible for such assistance on the date of such birth and to remain eligible for such assistance for a period of one year.

An applicant who fails to make an applicable premium payment shall lose eligibility to receive coverage for health care services in accordance with time frames and procedures determined by the commissioner.

§ 4. Paragraph (c) of subdivision 1 of section 369-gg of the social services law, as amended by section 2 of part H of chapter 57 of the laws of 2021, is amended to read as follows:

(c) "Health care services" means (i) the services and supplies as defined by the commissioner in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner for the purposes of defining such benefits, ~~and~~ (ii) dental and vision services as defined by the commissioner, and (iii) as defined by the commissioner and subject to federal approval, certain services and supports provided to enrollees eligible pursuant to subparagraph one of paragraph (g) of subdivision one of section three hundred sixty-six of this article who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting;



§ 5. Paragraph (c) of subdivision 1 of section 369-gg of the social services law, as added by section 51 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

(c) "Health care services" means (i) the services and supplies as defined by the commissioner in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner for the purposes of defining such benefits, and (ii) as defined by the commissioner and subject to federal approval, certain services and supports provided to enrollees eligible pursuant to subparagraph one of paragraph (g) of subdivision one of section three hundred sixty-six of this article who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting;

§ 6. Paragraph (c) of subdivision 1 of section 369-gg of the social services law, as amended by section 2 of part H of chapter 57 of the laws of 2021, is amended to read as follows:

(c) "Health care services" means (i) the services and supplies as defined by the commissioner in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner for the purposes of defining such benefits, ~~and~~ (ii) dental and vision services as defined by the commissioner, and (iii) as defined by the commissioner and subject to federal approval, certain services and supports provided to enrollees who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting;

§ 7. Paragraph (c) of subdivision 1 of section 369-gg of the social services law, as added by section 51 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

(c) "Health care services" means (i) the services and supplies as defined by the commissioner in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner for the purposes of defining such benefits, and (ii) as defined by the commissioner and subject to federal approval, certain services and supports provided to enrollees who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting;

§ 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022, provided however:

(a) section one-a of this act shall take effect on January 1, 2023;

(b) the amendments to paragraph (d) of subdivision 3 of section 369-gg of the social services law made by section two of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 3 of part H of chapter 57 of the laws of 2021 as amended, when upon such date the provisions of section three of this act shall take effect;

(c) section four of this act shall expire and be deemed repealed December 31, 2024; provided, however, the amendments to paragraph (c) of subdivision 1 of section 369-gg of the social services law made by such section of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 2 of part H of chapter 57 of the laws of 2021 when upon such date, the provisions of section five of this act shall take effect; provided, however, the amendments to such paragraph made by section five of this act shall expire and be deemed repealed December 31, 2024; and

(d) section six of this act shall take effect January 1, 2025; provided, however, the amendments to paragraph (c) of subdivision 1 of section 369-gg of the social services law made by such section of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 2 of part H of chapter 57 of the laws of 2021 when upon such date, the provisions of section seven of this act shall take effect.

## PART R

Section 1. Legislative findings. The legislature finds that New York has a long history of advancing gender equity and, as part of that effort, reproductive health.

The legislature additionally finds that access to the full range of health benefits, as guaranteed under the laws of this state, provides all New Yorkers with the opportunity to lead healthier and more fulfilling lives.

The legislature also finds that neither a person's income level nor the type of health insurance they utilize should prevent them from having access to a full range of reproductive health care, including abortion care.

The legislature additionally finds that restrictions and barriers to health coverage for reproductive health care have a disproportionate impact on low-income people, people of color, immigrants, and young people and that these individuals are often already disadvantaged in their access to resources, information, and services.

The legislature also finds that the exclusion of coverage for reproductive health care services for women and those with the capacity to become pregnant is discrimination on the basis of sex and pregnancy.

The legislature finds that abortion care is part of pregnancy-related care, and failure to provide coverage for the full range of pregnancy-related care interferes with an individual's personal health care decision making, their overall health and well-being and with their constitutionally protected right to safe and legal abortion care.

§ 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 36 to read as follows:

(36)(A) Every policy which provides hospital, surgical, or medical coverage and which offers maternity care coverage pursuant to paragraph ten of this subsection shall also provide coverage for abortion services for an enrollee.

1 (B) Coverage for abortion shall not be subject to annual deductibles  
2 or coinsurance, including co-payments, unless the policy is a high  
3 deductible health plan as defined in section 223(c)(2) of the internal  
4 revenue code of 1986, in which case coverage for abortion may be subject  
5 to the plan's annual deductible.

6 (C) If the superintendent concludes that enforcement of this paragraph  
7 may adversely affect the allocation of federal funds to the state, the  
8 superintendent may grant an exemption to the requirements of this para-  
9 graph, but only to the minimum extent necessary to ensure the continued  
10 receipt of federal funds.

11 § 3. Subsection (k) of section 3221 of the insurance law is amended by  
12 adding a new paragraph 22 to read as follows:

13 (22)(A) Every policy which provides hospital, surgical, or medical  
14 coverage and which offers maternity care coverage pursuant to paragraph  
15 five of this subsection shall also provide coverage for abortion  
16 services for an enrollee.

17 (B) Coverage for abortion shall not be subject to annual deductibles  
18 or coinsurance, including co-payments, unless the policy is a high  
19 deductible health plan as defined in section 223(c)(2) of the internal  
20 revenue code of 1986, in which case coverage for abortion may be subject  
21 to the plan's annual deductible.

22 (C) Notwithstanding any other provision, a group policy that provides  
23 hospital, surgical, or medical expense coverage delivered or issued for  
24 delivery in this state to a religious employer, as defined in item one  
25 of subparagraph (E) of paragraph sixteen of subsection (l) of this  
26 section, may exclude coverage for abortion only if the insurer:

27 (i) Obtains an annual certification from the group policyholder that  
28 the policyholder is a religious employer and that the religious employer  
29 requests a policy without coverage for abortion;

30 (ii) Issues a rider to each certificateholder at no premium to be  
31 charged to the certificateholder or religious employer for the rider,  
32 that provides coverage for abortion subject to the same rules as would  
33 have been applied to the same category of treatment in the policy issued  
34 to the religious employer. The rider shall clearly and conspicuously  
35 specify that the religious employer does not administer abortion bene-  
36 fits, but that the insurer is issuing a rider for coverage of abortion,  
37 and shall provide the insurer's contact information for questions; and

38 (iii) Provides notice of the issuance of the policy and rider to the  
39 superintendent in a form and manner acceptable to the superintendent.

40 (D) If the superintendent concludes that enforcement of this paragraph  
41 may adversely affect the allocation of federal funds to the state, the  
42 superintendent may grant an exemption to the requirements, but only to  
43 the minimum extent necessary to ensure the continued receipt of federal  
44 funds.

45 § 4. Section 4303 of the insurance law is amended by adding a new  
46 subsection (ss) to read as follows:

47 (ss)(1) Every policy which provides hospital, surgical, or medical  
48 coverage and which offers maternity care coverage pursuant to subsection  
49 (c) of this section shall also provide coverage for abortion services  
50 for an enrollee.

51 (2) Coverage for abortion shall not be subject to annual deductibles  
52 or coinsurance, including co-payments, unless the policy is a high  
53 deductible health plan as defined in section 223(c)(2) of the internal  
54 revenue code of 1986, in which case coverage for abortion may be subject  
55 to the plan's annual deductible.

(3) Notwithstanding any other provision, a group policy that provides hospital, surgical, or medical expense coverage delivered or issued for delivery in this state to a religious employer, as defined in paragraph five of subsection (cc) of this section, may exclude coverage for abortion only if the insurer:

(A) Obtains an annual certification from the group policyholder that the policyholder is a religious employer and that the religious employer requests a policy without coverage for abortion;

(B) Issues a rider to each certificateholder at no premium to be charged to the certificateholder or religious employer for the rider, that provides coverage for abortion subject to the same rules as would have been applied to the same category of treatment in the policy issued to the religious employer. The rider shall clearly and conspicuously specify that the religious employer does not administer abortion benefits, but that the insurer is issuing a rider for coverage of abortion, and shall provide the insurer's contact information for questions; and

(C) Provides notice of the issuance of the policy and rider to the superintendent in a form and manner acceptable to the superintendent.

(4) If the superintendent concludes that enforcement of this subsection may adversely affect the allocation of federal funds to the state, the superintendent may grant an exemption to the requirements, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

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

§ 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered, or amended on or after such date.

## PART S

Section 1. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (jj) to read as follows:

(jj) pre-natal and post-partum care and services for the purpose of improving maternal health outcomes and reduction of maternal mortality, as determined by the commissioner of health, when such services are recommended by a physician or other licensed practitioner of the healing arts, and provided by qualified practitioners, as determined by the commissioner of health; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

§ 2. Subparagraph 3 of paragraph (d) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(3) cooperates with the appropriate social services official or the department in establishing paternity or in establishing, modifying, or

1 enforcing a support order with respect to his or her child; provided,  
2 however, that nothing herein contained shall be construed to require a  
3 payment under this title for care or services, the cost of which may be  
4 met in whole or in part by a third party; notwithstanding the foregoing,  
5 a social services official shall not require such cooperation if the  
6 social services official or the department determines that such actions  
7 would be detrimental to the best interest of the child, applicant, or  
8 recipient, or with respect to pregnant women during pregnancy and during  
9 the [~~sixty-day~~] one year period beginning on the last day of pregnancy,  
10 in accordance with procedures and criteria established by regulations of  
11 the department consistent with federal law; and

12 § 3. Subparagraph 1 of paragraph (b) of subdivision 4 of section 366  
13 of the social services law, as added by section 2 of part D of chapter  
14 56 of the laws of 2013, is amended to read as follows:

15 (1) A pregnant woman eligible for medical assistance under subpara-  
16 graph two or four of paragraph (b) of subdivision one of this section on  
17 any day of her pregnancy will continue to be eligible for such care and  
18 services [~~through the end of the month in which the sixtieth day follow-~~  
19 ~~ing the end of the pregnancy occurs,~~] for a period of one year beginning  
20 on the last day of pregnancy, without regard to any change in the income  
21 of the family that includes the pregnant woman, even if such change  
22 otherwise would have rendered her ineligible for medical assistance.  
23 Notwithstanding the provisions of this subparagraph, individuals who  
24 meet the eligibility requirements for medical assistance under subpara-  
25 graph eight of paragraph (b) of subdivision one of this section, shall  
26 continue to be eligible for medical assistance under this subparagraph  
27 through the end of the month in which the sixtieth day following the  
28 last day of the pregnancy occurs.

29 § 4. Paragraph (b) of subdivision 1 of section 366 of the social  
30 services law is amended by adding a new subparagraph 8 to read as  
31 follows:

32 (8) Notwithstanding the provisions of subparagraph two of this para-  
33 graph, a pregnant individual that is ineligible for federally funded  
34 medical assistance solely due to their immigration status is eligible  
35 for standard coverage if their MAGI household income does not exceed the  
36 MAGI-equivalent of two hundred percent of the federal poverty line for  
37 the applicable family size, which shall be calculated in accordance with  
38 guidance issued by the secretary of the United States department of  
39 health and human services.

40 § 5. Section 369-hh of the social services law is REPEALED.

41 § 6. This act shall take effect immediately and shall be deemed to  
42 have been in full force and effect on and after April 1, 2022; provided,  
43 however, that sections two, three, four and five of this act shall take  
44 effect March 1, 2023. The commissioner of health shall immediately take  
45 all steps necessary and shall use best efforts to secure federal finan-  
46 cial participation for eligible beneficiaries under title XIX of the  
47 social security act, for the purposes of this act, including the prompt  
48 submission of appropriate amendments to the title XIX state plan.

49 PART T

50 Intentionally Omitted

51 PART U



Section 1. Subdivision 7 of section 2510 of the public health law, as amended by chapter 436 of the laws of 2021, is amended to read as follows:

7. "Covered health care services" means: the services of physicians, optometrists, nurses, nurse practitioners, midwives and other related professional personnel which are provided on an outpatient basis, including routine well-child visits; diagnosis and treatment of illness and injury; inpatient health care services; laboratory tests; diagnostic x-rays; prescription and non-prescription drugs, ostomy and other medical supplies and durable medical equipment; radiation therapy; chemotherapy; hemodialysis; outpatient blood clotting factor products and other treatments and services furnished in connection with the care of hemophilia and other blood clotting protein deficiencies; emergency room services; ambulance services; hospice services; emergency, preventive and routine dental care, including ~~medically necessary~~ orthodontia but excluding cosmetic surgery; emergency, preventive and routine vision care, including eyeglasses; speech and hearing services; ~~and,~~ inpatient and outpatient mental health, alcohol and substance abuse services, including children and family treatment and support services, children's home and community based services, assertive community treatment services and residential rehabilitation for youth services; and health-related services provided by voluntary foster care agency health facilities licensed pursuant to article twenty-nine-I of this chapter; as defined by the commissioner ~~[in consultation with the superintendent]~~. "Covered health care services" shall not include drugs, procedures and supplies for the treatment of erectile dysfunction when provided to, or prescribed for use by, a person who is required to register as a sex offender pursuant to article six-C of the correction law, provided that any denial of coverage of such drugs, procedures or supplies shall provide the patient with the means of obtaining additional information concerning both the denial and the means of challenging such denial.

§ 2. Subdivision 9 of section 2510 of the public health law is amended by adding a new paragraph (e) to read as follows:

(e) for periods on or after October first, two thousand twenty-two, amounts as follows:

(i) no payments are required for eligible children whose family household income is less than two hundred twenty-three percent of the non-farm federal poverty level and for eligible children who are American Indians or Alaskan Natives, as defined by the United States department of health and human services, whose family household income is less than two hundred fifty-one percent of the non-farm federal poverty level; and

(ii) fifteen dollars per month for each eligible child whose family household income is between two hundred twenty-three percent and two hundred fifty percent of the non-farm federal poverty level, but no more than forty-five dollars per month per family; and

(iii) thirty dollars per month for each eligible child whose family household income is between two hundred fifty-one percent and three hundred percent of the non-farm federal poverty level, but no more than ninety dollars per month per family; and

(iv) forty-five dollars per month for each eligible child whose family household income is between three hundred one percent and three hundred fifty percent of the non-farm federal poverty level, but no more than one hundred thirty-five dollars per month per family; and

(v) sixty dollars per month for each eligible child whose family household income is between three hundred fifty-one percent and four

1 hundred percent of the non-farm federal poverty level, but no more than  
2 one hundred eighty dollars per month per family.

3 § 3. Subdivision 8 of section 2511 of the public health law is amended  
4 by adding a new paragraph (i) to read as follows:

5 (i) Notwithstanding any inconsistent provision of this title, arti-  
6 cles thirty-two and forty-three of the insurance law and subsection (e)  
7 of section eleven hundred twenty of the insurance law:

8 (i) The commissioner shall, subject to approval of the director of the  
9 division of the budget, develop reimbursement methodologies for deter-  
10 mining the amount of subsidy payments made to approved organizations for  
11 the cost of covered health care services coverage provided pursuant to  
12 this title for payments made on and after January first, two thousand  
13 twenty-four.

14 (ii) Effective January first, two thousand twenty-three, the commis-  
15 sioner shall coordinate with the superintendent of financial services  
16 for the transition of the subsidy payment rate setting function to the  
17 department and, in conjunction with its independent actuary, review  
18 reimbursement methodologies developed in accordance with subparagraph  
19 (i) of this paragraph. Notwithstanding section one hundred sixty-three  
20 of the state finance law, the commissioner may select and contract with  
21 the independent actuary selected pursuant to subdivision eighteen of  
22 section three hundred sixty-four-j of the social services law, without a  
23 competitive bid or request for proposal process. Such independent actu-  
24 ary shall review and make recommendations concerning appropriate actu-  
25 arial assumptions relevant to the establishment of reimbursement methodol-  
26 ogies, including but not limited to the adequacy of subsidy payment  
27 amounts in relation to the population to be served adjusted for case  
28 mix, the scope of services approved organizations must provide, the  
29 utilization of such services and the network of providers required to  
30 meet state standards.

31 § 4. Paragraph b of subdivision 7 of section 2511 of the public health  
32 law, as amended by chapter 923 of the laws of 1990, is amended to read  
33 as follows:

34 (b) The commissioner, in consultation with the superintendent, shall  
35 make a determination whether to approve, disapprove or recommend modifi-  
36 cation of the proposal. In order for a proposal to be approved by the  
37 commissioner, the proposal must also be approved by the superintendent  
38 with respect to the provisions of subparagraphs [~~(viii)~~ through] (ix)  
39 and (xii) of paragraph (a) of this subdivision.

40 § 5. Section 2511 of the public health law is amended by adding subdi-  
41 vision 22 to read as follows:

42 22. Notwithstanding the provisions of this title and effective on and  
43 after January first, two thousand twenty-three, the consultative,  
44 review, and approval functions of the superintendent of financial  
45 services related to administration of the child health insurance plan  
46 are no longer applicable and references to those functions in this title  
47 shall be null and void. The child health insurance plan set forth in  
48 this title shall be administered solely by the commissioner. All child  
49 health insurance plan policies reviewed and approved by the superinten-  
50 dent of financial services in accordance with section eleven hundred  
51 twenty of the insurance law shall remain in effect until the commis-  
52 sioner establishes a process to review and approve member handbooks in  
53 accordance with the requirements of Title XXI of the federal social  
54 security act and implementing regulations, and such member handbooks are  
55 issued by approved organizations to enrollees in place of child health

insurance plan policies which were subject to review under section eleven hundred twenty of the insurance law.

§ 6. This act shall take effect immediately; provided, however, that sections one, three and four of this act shall take effect January 1, 2023 and sections two and five of this act shall take effect April 1, 2022.

## PART V

Section 1. Paragraph (y) of subdivision 2 of section 2999-cc of the public health law, as amended by section 3 of part F of chapter 57 of the laws of 2021, is amended and a new subdivision 8 is added to read as follows:

(y) 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 addiction services and supports, or the commissioner of the office for people with developmental disabilities pursuant to regulation]~~ health care provider who:

(i) possesses the requisite license, certification, registration, authorization or credentialing to provide a health care service in New York state; and

(ii) reasonably determines that it is clinically appropriate to deliver such health care service via telehealth.

8. "Health care plan" means an entity (other than a health care provider) that approves, provides, arranges for, or pays for health care services, including but not limited to:

(a) a health maintenance organization licensed under article forty-three of the insurance law;

(b) a health maintenance organization or other organization certified under article forty-four of this chapter;

(c) an insurer or corporation subject to the insurance law; and

(d) the medical assistance program under title eleven of article five of the social services law ("medicaid"); the child health plus program under title one-A of article twenty-five of this chapter, and the basic health program under section three hundred sixty-nine-gg of the social services law.

§ 2. Section 2999-dd of the public health law, as amended by section 4 of subpart C of part S of chapter 57 of the laws of 2018, subdivision 1 as amended by chapter 124 of the laws of 2020, subdivisions 3 and 4 as added by chapter 328 of the laws of 2020, 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, provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-cc of this article, and audio-only telephone communication defined in regulations promulgated pursuant to subdivision four of section twenty-nine hundred ninety-nine-cc of this article, shall be contingent upon federal financial participation.]~~ (a) A health care service may be delivered by means of telehealth by a telehealth provider otherwise authorized to perform that service. A health care service delivered by telehealth shall be with the consent of the patient or a person authorized to consent for the patient. The consent shall be documented in the patient's medical record.

1 (b) In-person contact between a telehealth provider and a patient  
2 prior to the delivery of health care services via telehealth shall not  
3 be required, unless the provider determines it to be clinically neces-  
4 sary.

5 2. (a) A health care plan shall cover a service, regardless of whether  
6 it is provided by telehealth, if the service would otherwise be covered  
7 by the health care plan and the provider is otherwise covered by the  
8 health care plan.

9 (b) A health care plan shall reimburse a treating or consulting health  
10 care provider for health care services appropriately delivered by tele-  
11 health on the same basis, at the same rate, and to the same extent that  
12 the health care plan reimburses for the service when provided through  
13 in-person diagnosis, consultation, or treatment.

14 (c) A health care plan may subject the coverage of a telehealth  
15 service to copayments, coinsurance or deductibles if they are at least  
16 as favorable to the enrollee as would apply if the service is not  
17 provided by telehealth.

18 (d) This article does not alter any obligation a health care plan may  
19 have to ensure that enrollees have access to all covered services  
20 through an adequate network of contracted providers.

21 (e) With respect to health care plans under paragraph (d) of subdivi-  
22 sion eight of section 2999-cc of this article (medicaid, child health  
23 plus, and the basic health plan), this article shall only apply where  
24 there is federal financial participation. The commissioner shall make  
25 state plan amendments and seek federal waivers as necessary to obtain  
26 that federal financial participation.

27 3. The department of health, the office of mental health, the office  
28 of [~~alcoholism and substance abuse services~~] addiction services and  
29 supports, and the office for people with developmental disabilities  
30 shall coordinate on the issuance of a single guidance document, to be  
31 updated as appropriate, that shall: (a) identify any differences in  
32 regulations or policies issued by the agencies, including with respect  
33 to reimbursement [~~pursuant to section three hundred sixty-seven u of the~~  
34 ~~social services law~~]; and (b) be designed to assist consumers, provid-  
35 ers, and health care plans in understanding and facilitating the appro-  
36 priate use of telehealth in addressing barriers to care.

37 [~~3-~~] 4. The authority of the department of financial services to  
38 establish and enforce minimum standards for accident and health insur-  
39 ance under articles thirty-two and forty-three of the insurance law  
40 shall include enforcement of telehealth standards set forth in this  
41 article.

42 5. (a) Dental telehealth services shall adhere to the standards of  
43 appropriate patient care required in other dental health care settings,  
44 including but not limited to appropriate patient examination, taking of  
45 x-rays, and review of a patient's medical and dental history. All dental  
46 telehealth providers shall identify themselves to patients, including  
47 providing the professional's New York state license number. No dental  
48 telehealth provider shall attempt to waive liability for its telehealth  
49 services in advance of delivering such telehealth services and no dental  
50 telehealth provider shall attempt to prevent a patient from filing any  
51 complaint with any governmental agency or authority.

52 (b) This subdivision shall not be construed to diminish requirements  
53 for other telehealth services.

54 [~~4-~~] 6. Nothing in this article shall be deemed to allow any person to  
55 provide any service for which a license, registration, certification or

1 other authorization under title eight of the education law is required  
2 and which the person does not possess.

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

10 § 4. This act shall take effect on the first of January next succeed-  
11 ing the date on which it shall have become a law and shall apply to all  
12 policies and contracts issued, renewed, modified, altered or amended on  
13 or after such date. Effective immediately, the commissioner of health,  
14 the superintendent of the department of financial services, the commis-  
15 sioner of the office of mental health, the commissioner of the office of  
16 addiction services and supports, and the commissioner of the office for  
17 people with developmental disabilities shall make regulations and take  
18 other actions reasonably necessary to implement this act on that date.

19 PART W

20 Intentionally Omitted

21 PART X

22 Intentionally Omitted

23 PART Y

24 Section 1. The domestic relations law is amended by adding a new  
25 section 20-c to read as follows:

26 § 20-c. Certification of marriage; new certificate in case of subse-  
27 quent change of name or gender. 1. A new marriage certificate shall be  
28 issued by the town or city clerk where the marriage license and certif-  
29 icate was issued, upon receipt of proper proof of a change of name or  
30 gender designation. Proper proof shall consist of: (a) a judgment, order  
31 or decree affirming a change of name or gender designation of either  
32 party to a marriage; (b) an amended birth certificate demonstrating a  
33 change of name or gender designation; or (c) such other proof as may be  
34 established by the commissioner of health.

35 2. On every new marriage certificate made pursuant to this section, a  
36 notation that it is filed pursuant to this section shall be entered  
37 thereon.

38 3. When a new marriage certificate is made pursuant to this section,  
39 the town or city clerk shall substitute such new certificate for the  
40 marriage certificate then on file, if any, and shall send the state  
41 commissioner of health a digital copy of the new marriage certificate in  
42 a format prescribed by the commissioner, with the exception of the city  
43 clerk of New York who shall retain their copy. The town or city clerk  
44 shall make a copy of the new marriage certificate for the local record  
45 and hold the contents of the original marriage certificate confidential  
46 along with all supporting documentation, papers and copies pertaining  
47 thereto. It shall not be released or otherwise divulged except by order  
48 of a court of competent jurisdiction.



1 4. The town or city clerk shall be entitled to a fee of ten dollars  
2 for the amendment and certified copy of any marriage certificate in  
3 accordance with the provisions of this section.

4 5. The state commissioner of health may, in their discretion, report  
5 to the attorney general any town or city clerk that, without cause,  
6 fails to issue a new marriage certificate upon receipt of proper proof  
7 of a change of name or gender designation in accordance with this  
8 section. The attorney general shall thereupon, in the name of the state  
9 commissioner of health or the people of the state, institute such action  
10 or proceeding as may be necessary to compel the issuance of such new  
11 marriage certificate.

12 § 2. This act shall take effect one year after it shall have become a  
13 law.

14 PART Z

15 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266  
16 of the laws of 1986, amending the civil practice law and rules and other  
17 laws relating to malpractice and professional medical conduct, as  
18 amended by section 1 of part K of chapter 57 of the laws of 2021, is  
19 amended to read as follows:

20 (a) The superintendent of financial services and the commissioner of  
21 health or their designee shall, from funds available in the hospital  
22 excess liability pool created pursuant to subdivision 5 of this section,  
23 purchase a policy or policies for excess insurance coverage, as author-  
24 ized by paragraph 1 of subsection (e) of section 5502 of the insurance  
25 law; or from an insurer, other than an insurer described in section 5502  
26 of the insurance law, duly authorized to write such coverage and actual-  
27 ly writing medical malpractice insurance in this state; or shall  
28 purchase equivalent excess coverage in a form previously approved by the  
29 superintendent of financial services for purposes of providing equiv-  
30 alent excess coverage in accordance with section 19 of chapter 294 of  
31 the laws of 1985, for medical or dental malpractice occurrences between  
32 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,  
33 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June  
34 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991  
35 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July  
36 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,  
37 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June  
38 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998  
39 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July  
40 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,  
41 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June  
42 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005  
43 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July  
44 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,  
45 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June  
46 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012  
47 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July  
48 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,  
49 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June  
50 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019  
51 and June 30, 2020, between July 1, 2020 and June 30, 2021, [~~and~~] between  
52 July 1, 2021 and June 30, 2022, and between July 1, 2022 and June 30,  
53 2023 or reimburse the hospital where the hospital purchases equivalent  
54 excess coverage as defined in subparagraph (i) of paragraph (a) of

1 subdivision 1-a of this section for medical or dental malpractice occur-  
2 rences between July 1, 1987 and June 30, 1988, between July 1, 1988 and  
3 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,  
4 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between  
5 July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994,  
6 between July 1, 1994 and June 30, 1995, between July 1, 1995 and June  
7 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997  
8 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July  
9 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001,  
10 between July 1, 2001 and June 30, 2002, between July 1, 2002 and June  
11 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004  
12 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July  
13 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008,  
14 between July 1, 2008 and June 30, 2009, between July 1, 2009 and June  
15 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011  
16 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July  
17 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015,  
18 between July 1, 2015 and June 30, 2016, between July 1, 2016 and June  
19 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018  
20 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July  
21 1, 2020 and June 30, 2021, ~~and~~ between July 1, 2021 and June 30, 2022,  
22 and between July 1, 2022 and June 30, 2023 for physicians or dentists  
23 certified as eligible for each such period or periods pursuant to subdi-  
24 vision 2 of this section by a general hospital licensed pursuant to  
25 article 28 of the public health law; provided that no single insurer  
26 shall write more than fifty percent of the total excess premium for a  
27 given policy year; and provided, however, that such eligible physicians  
28 or dentists must have in force an individual policy, from an insurer  
29 licensed in this state of primary malpractice insurance coverage in  
30 amounts of no less than one million three hundred thousand dollars for  
31 each claimant and three million nine hundred thousand dollars for all  
32 claimants under that policy during the period of such excess coverage  
33 for such occurrences or be endorsed as additional insureds under a  
34 hospital professional liability policy which is offered through a volun-  
35 tary attending physician ("channeling") program previously permitted by  
36 the superintendent of financial services during the period of such  
37 excess coverage for such occurrences. During such period, such policy  
38 for excess coverage or such equivalent excess coverage shall, when  
39 combined with the physician's or dentist's primary malpractice insurance  
40 coverage or coverage provided through a voluntary attending physician  
41 ("channeling") program, total an aggregate level of two million three  
42 hundred thousand dollars for each claimant and six million nine hundred  
43 thousand dollars for all claimants from all such policies with respect  
44 to occurrences in each of such years provided, however, if the cost of  
45 primary malpractice insurance coverage in excess of one million dollars,  
46 but below the excess medical malpractice insurance coverage provided  
47 pursuant to this act, exceeds the rate of nine percent per annum, then  
48 the required level of primary malpractice insurance coverage in excess  
49 of one million dollars for each claimant shall be in an amount of not  
50 less than the dollar amount of such coverage available at nine percent  
51 per annum; the required level of such coverage for all claimants under  
52 that policy shall be in an amount not less than three times the dollar  
53 amount of coverage for each claimant; and excess coverage, when combined  
54 with such primary malpractice insurance coverage, shall increase the  
55 aggregate level for each claimant by one million dollars and three  
56 million dollars for all claimants; and provided further, that, with

1 respect to policies of primary medical malpractice coverage that include  
2 occurrences between April 1, 2002 and June 30, 2002, such requirement  
3 that coverage be in amounts no less than one million three hundred thou-  
4 sand dollars for each claimant and three million nine hundred thousand  
5 dollars for all claimants for such occurrences shall be effective April  
6 1, 2002.

7 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,  
8 amending the civil practice law and rules and other laws relating to  
9 malpractice and professional medical conduct, as amended by section 2 of  
10 part K of chapter 57 of the laws of 2021, is amended to read as follows:

11 (3)(a) The superintendent of financial services shall determine and  
12 certify to each general hospital and to the commissioner of health the  
13 cost of excess malpractice insurance for medical or dental malpractice  
14 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988  
15 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July  
16 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,  
17 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June  
18 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995  
19 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July  
20 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,  
21 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June  
22 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002  
23 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July  
24 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,  
25 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June  
26 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009  
27 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July  
28 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,  
29 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June  
30 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016  
31 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July  
32 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,  
33 between July 1, 2020 and June 30, 2021, ~~and~~ between July 1, 2021 and  
34 June 30, 2022, and between July 1, 2022 and June 30, 2023 allocable to  
35 each general hospital for physicians or dentists certified as eligible  
36 for purchase of a policy for excess insurance coverage by such general  
37 hospital in accordance with subdivision 2 of this section, and may amend  
38 such determination and certification as necessary.

39 (b) The superintendent of financial services shall determine and  
40 certify to each general hospital and to the commissioner of health the  
41 cost of excess malpractice insurance or equivalent excess coverage for  
42 medical or dental malpractice occurrences between July 1, 1987 and June  
43 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
44 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July  
45 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
46 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
47 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
48 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
49 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
50 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
51 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
52 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
53 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
54 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June  
55 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
56 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July

1 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,  
2 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June  
3 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017  
4 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July  
5 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, [and]  
6 between July 1, 2021 and June 30, 2022, and between July 1, 2022 and  
7 June 30, 2023 allocable to each general hospital for physicians or  
8 dentists certified as eligible for purchase of a policy for excess  
9 insurance coverage or equivalent excess coverage by such general hospi-  
10 tal in accordance with subdivision 2 of this section, and may amend such  
11 determination and certification as necessary. The superintendent of  
12 financial services shall determine and certify to each general hospital  
13 and to the commissioner of health the ratable share of such cost alloca-  
14 ble to the period July 1, 1987 to December 31, 1987, to the period Janu-  
15 ary 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31,  
16 1988, to the period January 1, 1989 to June 30, 1989, to the period July  
17 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30,  
18 1990, to the period July 1, 1990 to December 31, 1990, to the period  
19 January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December  
20 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period  
21 July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June  
22 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period  
23 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December  
24 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period  
25 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June  
26 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period  
27 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December  
28 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period  
29 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June  
30 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period  
31 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December  
32 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period  
33 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,  
34 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,  
35 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to  
36 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007  
37 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the  
38 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and  
39 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the  
40 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and  
41 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the  
42 period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and  
43 June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the peri-  
44 od July 1, 2018 to June 30, 2019, to the period July 1, 2019 to June 30,  
45 2020, to the period July 1, 2020 to June 30, 2021, [and] to the period  
46 July 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June  
47 30, 2023.

48 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section  
49 18 of chapter 266 of the laws of 1986, amending the civil practice law  
50 and rules and other laws relating to malpractice and professional  
51 medical conduct, as amended by section 3 of part K of chapter 57 of the  
52 laws of 2021, are amended to read as follows:

53 (a) To the extent funds available to the hospital excess liability  
54 pool pursuant to subdivision 5 of this section as amended, and pursuant  
55 to section 6 of part J of chapter 63 of the laws of 2001, as may from  
56 time to time be amended, which amended this subdivision, are insuffi-

cient 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 to June 30, 2016, during the period July 1, 2016 to June 30, 2017, during the period July 1, 2017 to June 30, 2018, during the period July 1, 2018 to June 30, 2019, during the period July 1, 2019 to June 30, 2020, during the period July 1, 2020 to June 30, 2021, ~~and~~ during the period July 1, 2021 to June 30, 2022, and during the period July 1, 2022 to June 30, 2023 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, or covering the period July 1, 2019 to June 30, 2020, or



1 covering the period July 1, 2020 to June 30, 2021, or covering the peri-  
2 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to  
3 June 30, 2023 shall notify a covered physician or dentist by mail,  
4 mailed to the address shown on the last application for excess insurance  
5 coverage or equivalent excess coverage, of the amount due to such  
6 provider from such physician or dentist for such coverage period deter-  
7 mined in accordance with paragraph (a) of this subdivision. Such amount  
8 shall be due from such physician or dentist to such provider of excess  
9 insurance coverage or equivalent excess coverage in a time and manner  
10 determined by the superintendent of financial services.

11 (c) If a physician or dentist liable for payment of a portion of the  
12 costs of excess insurance coverage or equivalent excess coverage cover-  
13 ing the period July 1, 1992 to June 30, 1993, or covering the period  
14 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to  
15 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or  
16 covering the period July 1, 1996 to June 30, 1997, or covering the peri-  
17 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to  
18 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or  
19 covering the period July 1, 2000 to June 30, 2001, or covering the peri-  
20 od July 1, 2001 to October 29, 2001, or covering the period April 1,  
21 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,  
22 2003, or covering the period July 1, 2003 to June 30, 2004, or covering  
23 the period July 1, 2004 to June 30, 2005, or covering the period July 1,  
24 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,  
25 2007, or covering the period July 1, 2007 to June 30, 2008, or covering  
26 the period July 1, 2008 to June 30, 2009, or covering the period July 1,  
27 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,  
28 2011, or covering the period July 1, 2011 to June 30, 2012, or covering  
29 the period July 1, 2012 to June 30, 2013, or covering the period July 1,  
30 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,  
31 2015, or covering the period July 1, 2015 to June 30, 2016, or covering  
32 the period July 1, 2016 to June 30, 2017, or covering the period July 1,  
33 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,  
34 2019, or covering the period July 1, 2019 to June 30, 2020, or covering  
35 the period July 1, 2020 to June 30, 2021, or covering the period July 1,  
36 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,  
37 2023 determined in accordance with paragraph (a) of this subdivision  
38 fails, refuses or neglects to make payment to the provider of excess  
39 insurance coverage or equivalent excess coverage in such time and manner  
40 as determined by the superintendent of financial services pursuant to  
41 paragraph (b) of this subdivision, excess insurance coverage or equiv-  
42 alent excess coverage purchased for such physician or dentist in accord-  
43 ance with this section for such coverage period shall be cancelled and  
44 shall be null and void as of the first day on or after the commencement  
45 of a policy period where the liability for payment pursuant to this  
46 subdivision has not been met.

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

1 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,  
2 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-  
3 ing the period April 1, 2002 to June 30, 2002, or covering the period  
4 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to  
5 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or  
6 covering the period July 1, 2005 to June 30, 2006, or covering the peri-  
7 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to  
8 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or  
9 covering the period July 1, 2009 to June 30, 2010, or covering the peri-  
10 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to  
11 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or  
12 covering the period July 1, 2013 to June 30, 2014, or covering the peri-  
13 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to  
14 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or  
15 covering the period July 1, 2017 to June 30, 2018, or covering the peri-  
16 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to  
17 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or  
18 covering the period July 1, 2021 to June 30, 2022, or covering the peri-  
19 od July 1, 2022 to June 1, 2023 that has made payment to such provider  
20 of excess insurance coverage or equivalent excess coverage in accordance  
21 with paragraph (b) of this subdivision and of each physician and dentist  
22 who has failed, refused or neglected to make such payment.

23 (e) A provider of excess insurance coverage or equivalent excess  
24 coverage shall refund to the hospital excess liability pool any amount  
25 allocable to the period July 1, 1992 to June 30, 1993, and to the period  
26 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June  
27 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the  
28 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to  
29 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to  
30 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000  
31 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,  
32 and to the period April 1, 2002 to June 30, 2002, and to the period July  
33 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,  
34 2004, and to the period July 1, 2004 to June 30, 2005, and to the period  
35 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June  
36 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the  
37 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to  
38 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to  
39 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012  
40 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and  
41 to the period July 1, 2014 to June 30, 2015, and to the period July 1,  
42 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and  
43 to the period July 1, 2017 to June 30, 2018, and to the period July 1,  
44 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,  
45 and to the period July 1, 2020 to June 30, 2021, and to the period July  
46 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,  
47 2023 received from the hospital excess liability pool for purchase of  
48 excess insurance coverage or equivalent excess coverage covering the  
49 period July 1, 1992 to June 30, 1993, and covering the period July 1,  
50 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30,  
51 1995, and covering the period July 1, 1995 to June 30, 1996, and cover-  
52 ing the period July 1, 1996 to June 30, 1997, and covering the period  
53 July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to  
54 June 30, 1999, and covering the period July 1, 1999 to June 30, 2000,  
55 and covering the period July 1, 2000 to June 30, 2001, and covering the  
56 period July 1, 2001 to October 29, 2001, and covering the period April

1 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June  
2 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and  
3 covering the period July 1, 2004 to June 30, 2005, and covering the  
4 period July 1, 2005 to June 30, 2006, and covering the period July 1,  
5 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30,  
6 2008, and covering the period July 1, 2008 to June 30, 2009, and cover-  
7 ing the period July 1, 2009 to June 30, 2010, and covering the period  
8 July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to  
9 June 30, 2012, and covering the period July 1, 2012 to June 30, 2013,  
10 and covering the period July 1, 2013 to June 30, 2014, and covering the  
11 period July 1, 2014 to June 30, 2015, and covering the period July 1,  
12 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30,  
13 2017, and covering the period July 1, 2017 to June 30, 2018, and cover-  
14 ing the period July 1, 2018 to June 30, 2019, and covering the period  
15 July 1, 2019 to June 30, 2020, and covering the period July 1, 2020 to  
16 June 30, 2021, and covering the period July 1, 2021 to June 30, 2022,  
17 and covering the period July 1, 2022 to June 30, 2023 for a physician or  
18 dentist where such excess insurance coverage or equivalent excess cover-  
19 age is cancelled in accordance with paragraph (c) of this subdivision.

20 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil  
21 practice law and rules and other laws relating to malpractice and  
22 professional medical conduct, as amended by section 4 of part K of chap-  
23 ter 57 of the laws of 2021, is amended to read as follows:

24 § 40. The superintendent of financial services shall establish rates  
25 for policies providing coverage for physicians and surgeons medical  
26 malpractice for the periods commencing July 1, 1985 and ending June 30,  
27 ~~2022~~ 2023; provided, however, that notwithstanding any other provision  
28 of law, the superintendent shall not establish or approve any increase  
29 in rates for the period commencing July 1, 2009 and ending June 30,  
30 2010. The superintendent shall direct insurers to establish segregated  
31 accounts for premiums, payments, reserves and investment income attrib-  
32 utable to such premium periods and shall require periodic reports by the  
33 insurers regarding claims and expenses attributable to such periods to  
34 monitor whether such accounts will be sufficient to meet incurred claims  
35 and expenses. On or after July 1, 1989, the superintendent shall impose  
36 a surcharge on premiums to satisfy a projected deficiency that is  
37 attributable to the premium levels established pursuant to this section  
38 for such periods; provided, however, that such annual surcharge shall  
39 not exceed eight percent of the established rate until July 1, ~~2022~~  
40 2023, at which time and thereafter such surcharge shall not exceed twen-  
41 ty-five percent of the approved adequate rate, and that such annual  
42 surcharges shall continue for such period of time as shall be sufficient  
43 to satisfy such deficiency. The superintendent shall not impose such  
44 surcharge during the period commencing July 1, 2009 and ending June 30,  
45 2010. On and after July 1, 1989, the surcharge prescribed by this  
46 section shall be retained by insurers to the extent that they insured  
47 physicians and surgeons during the July 1, 1985 through June 30, ~~2022~~  
48 2023 policy periods; in the event and to the extent physicians and  
49 surgeons were insured by another insurer during such periods, all or a  
50 pro rata share of the surcharge, as the case may be, shall be remitted  
51 to such other insurer in accordance with rules and regulations to be  
52 promulgated by the superintendent. Surcharges collected from physicians  
53 and surgeons who were not insured during such policy periods shall be  
54 apportioned among all insurers in proportion to the premium written by  
55 each insurer during such policy periods; if a physician or surgeon was  
56 insured by an insurer subject to rates established by the superintendent

1 during such policy periods, and at any time thereafter a hospital,  
2 health maintenance organization, employer or institution is responsible  
3 for responding in damages for liability arising out of such physician's  
4 or surgeon's practice of medicine, such responsible entity shall also  
5 remit to such prior insurer the equivalent amount that would then be  
6 collected as a surcharge if the physician or surgeon had continued to  
7 remain insured by such prior insurer. In the event any insurer that  
8 provided coverage during such policy periods is in liquidation, the  
9 property/casualty insurance security fund shall receive the portion of  
10 surcharges to which the insurer in liquidation would have been entitled.  
11 The surcharges authorized herein shall be deemed to be income earned for  
12 the purposes of section 2303 of the insurance law. The superintendent,  
13 in establishing adequate rates and in determining any projected defi-  
14 ciency pursuant to the requirements of this section and the insurance  
15 law, shall give substantial weight, determined in his discretion and  
16 judgment, to the prospective anticipated effect of any regulations  
17 promulgated and laws enacted and the public benefit of stabilizing  
18 malpractice rates and minimizing rate level fluctuation during the peri-  
19 od of time necessary for the development of more reliable statistical  
20 experience as to the efficacy of such laws and regulations affecting  
21 medical, dental or podiatric malpractice enacted or promulgated in 1985,  
22 1986, by this act and at any other time. Notwithstanding any provision  
23 of the insurance law, rates already established and to be established by  
24 the superintendent pursuant to this section are deemed adequate if such  
25 rates would be adequate when taken together with the maximum authorized  
26 annual surcharges to be imposed for a reasonable period of time whether  
27 or not any such annual surcharge has been actually imposed as of the  
28 establishment of such rates.

29 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of  
30 chapter 63 of the laws of 2001, amending chapter 266 of the laws of  
31 1986, amending the civil practice law and rules and other laws relating  
32 to malpractice and professional medical conduct, as amended by section 5  
33 of part K of chapter 57 of the laws of 2021, are amended to read as  
34 follows:

35 § 5. The superintendent of financial services and the commissioner of  
36 health shall determine, no later than June 15, 2002, June 15, 2003, June  
37 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,  
38 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,  
39 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June  
40 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, ~~[and]~~ June 15,  
41 2022, and June 15, 2023 the amount of funds available in the hospital  
42 excess liability pool, created pursuant to section 18 of chapter 266 of  
43 the laws of 1986, and whether such funds are sufficient for purposes of  
44 purchasing excess insurance coverage for eligible participating physi-  
45 cians and dentists during the period July 1, 2001 to June 30, 2002, or  
46 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July  
47 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,  
48 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008  
49 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to  
50 June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June  
51 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,  
52 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,  
53 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30,  
54 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30,  
55 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023  
56 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, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023 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, June 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, ~~and~~ June 15, 2022, and June 15, 2023 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, as amended by section 6 of part K of chapter 57 of the laws of 2021, 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 ~~[twenty-one]~~ twenty-two, shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand ~~[twenty-one]~~ twenty-two; 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 ~~[twenty-one]~~ twenty-two exceeds the total number of physicians or dentists certified as eligible for the coverage period beginning the first of July, two thousand ~~[twenty-one]~~ twenty-two, 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 ~~[twenty-one]~~ twenty-two, 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 ~~[twenty-one]~~ twenty-two 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 ~~[twenty-one]~~ twenty-two.

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

PART AA

Intentionally Omitted

PART BB

Intentionally Omitted

PART CC

Section 1. Intentionally omitted.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, as amended by section 22 of part E of chapter 57 of the laws of 2019, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of law or regulation to the contrary, effective beginning August 1, 1996, for the period April 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1, 1998 through March 31, 1999, August 1, 1999, for the period April 1, 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000 through March 31, 2001, April 1, 2001, for the period April 1, 2001 through March 31, 2002, April 1, 2002, for the period April 1, 2002 through March 31, 2003, and for the state fiscal year beginning April 1, 2005 through March 31, 2006, and for the state fiscal year beginning April 1, 2006 through March 31, 2007, and for the state fiscal year beginning April 1, 2007 through March 31, 2008, and for the state fiscal year beginning April 1, 2008 through March 31, 2009, and for the state fiscal year beginning April 1, 2009 through March 31, 2010, and for the state fiscal year beginning April 1, 2010 through March 31, 2016, and for the state fiscal year beginning April 1, 2016 through March 31, 2019, and for the state fiscal year beginning April 1, 2019 through March 31, 2022, and for the state fiscal year beginning April 1, 2022 through March 31, 2025, the department of health is authorized to pay public general hospitals, as defined in subdivision 10 of section 2801 of the public health law, operated by the state of New York or by the state university of New York or by a county, which shall not include a city with a population of over one million, of the state of New York, and those public general hospitals located in the county of Westchester,

1 the county of Erie or the county of Nassau, additional payments for  
2 inpatient hospital services as medical assistance payments pursuant to  
3 title 11 of article 5 of the social services law for patients eligible  
4 for federal financial participation under title XIX of the federal  
5 social security act in medical assistance pursuant to the federal laws  
6 and regulations governing disproportionate share payments to hospitals  
7 up to one hundred percent of each such public general hospital's medical  
8 assistance and uninsured patient losses after all other medical assist-  
9 ance, including disproportionate share payments to such public general  
10 hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on  
11 reported 1994 reconciled data as further reconciled to actual reported  
12 1996 reconciled data, and for 1997 based initially on reported 1995  
13 reconciled data as further reconciled to actual reported 1997 reconciled  
14 data, for 1998 based initially on reported 1995 reconciled data as  
15 further reconciled to actual reported 1998 reconciled data, for 1999  
16 based initially on reported 1995 reconciled data as further reconciled  
17 to actual reported 1999 reconciled data, for 2000 based initially on  
18 reported 1995 reconciled data as further reconciled to actual reported  
19 2000 data, for 2001 based initially on reported 1995 reconciled data as  
20 further reconciled to actual reported 2001 data, for 2002 based initial-  
21 ly on reported 2000 reconciled data as further reconciled to actual  
22 reported 2002 data, and for state fiscal years beginning on April 1,  
23 2005, based initially on reported 2000 reconciled data as further recon-  
24 ciled to actual reported data for 2005, and for state fiscal years  
25 beginning on April 1, 2006, based initially on reported 2000 reconciled  
26 data as further reconciled to actual reported data for 2006, for state  
27 fiscal years beginning on and after April 1, 2007 through March 31,  
28 2009, based initially on reported 2000 reconciled data as further recon-  
29 ciled to actual reported data for 2007 and 2008, respectively, for state  
30 fiscal years beginning on and after April 1, 2009, based initially on  
31 reported 2007 reconciled data, adjusted for authorized Medicaid rate  
32 changes applicable to the state fiscal year, and as further reconciled  
33 to actual reported data for 2009, for state fiscal years beginning on  
34 and after April 1, 2010, based initially on reported reconciled data  
35 from the base year two years prior to the payment year, adjusted for  
36 authorized Medicaid rate changes applicable to the state fiscal year,  
37 and further reconciled to actual reported data from such payment year,  
38 and to actual reported data for each respective succeeding year. The  
39 payments may be added to rates of payment or made as aggregate payments  
40 to an eligible public general hospital.

41 § 5. Intentionally omitted.

42 § 6. Intentionally omitted.

43 § 7. Intentionally omitted.

44 § 8. Intentionally omitted.

45 § 9. Intentionally omitted.

46 § 10. Intentionally omitted.

47 § 11. Intentionally omitted.

48 § 12. This act shall take effect immediately and shall be deemed to  
49 have been in full force and effect on and after April 1, 2022.

50

PART DD

51 Section 1. 1. Subject to available appropriations and approval of the  
52 director of the budget, the commissioners of the office of mental  
53 health, office for people with developmental disabilities, office of  
54 addiction services and supports, office of temporary and disability

1 assistance, office of children and family services, and the state office  
2 for the aging shall establish a state fiscal year 2022-23 cost of living  
3 adjustment (COLA), effective April 1, 2022, for projecting for the  
4 effects of inflation upon rates of payments, contracts, or any other  
5 form of reimbursement for the programs and services listed in paragraphs  
6 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this  
7 section, and a state fiscal year 2023-2024 cost of living adjustment  
8 (COLA), effective April 1, 2023, for projecting for the effects of  
9 inflation upon rates of payments, contracts, or any other form of  
10 reimbursement for the programs and services listed in paragraphs (i),  
11 (ii), (iii), (iv), (v), and (vi) of subdivision four of this section.  
12 The COLA established herein shall be applied to the appropriate portion  
13 of reimbursable costs or contract amounts. Where appropriate, transfers  
14 to the department of health (DOH) shall be made as reimbursement for the  
15 state share of medical assistance.

16 2. Notwithstanding any inconsistent provision of law, subject to the  
17 approval of the director of the budget and available appropriations  
18 therefore, for the period of April 1, 2022 through March 31, 2023, and  
19 for the period of April 1, 2023 through March 31, 2024, the commission-  
20 ers shall provide funding to support a five and four-tenths percent  
21 (5.4%) cost of living adjustment under this section for all eligible  
22 programs and services as determined pursuant to subdivision four of this  
23 section.

24 3. Notwithstanding any inconsistent provision of law, and as approved  
25 by the director of the budget, the 5.4 percent cost of living adjustment  
26 (COLA) established herein shall be inclusive of all other cost of living  
27 type increases, inflation factors, or trend factors that are newly  
28 applied effective April 1, 2022, and April 1, 2023. Except for the 5.4  
29 percent cost of living adjustment (COLA) established herein, for the  
30 period commencing on April 1, 2022 and ending March 31, 2023, and the  
31 period commencing on April 1, 2023 and ending March 31, 2024, the  
32 commissioners shall not apply any other new cost of living adjustments  
33 for the purpose of establishing rates of payments, contracts or any  
34 other form of reimbursement. The phrase "all other cost of living type  
35 increases, inflation factors, or trend factors" as defined in this  
36 subdivision shall not include payments made pursuant to the American  
37 Rescue Plan Act or other federal relief programs related to the Corona-  
38 virus Disease 2019 (COVID-19) pandemic Public Health Emergency.

39 4. Eligible programs and services. (i) Programs and services funded,  
40 licensed, or certified by the office of mental health (OMH) eligible for  
41 the cost of living adjustment established herein, pending federal  
42 approval where applicable, include: office of mental health licensed  
43 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of  
44 the office of mental health regulations including clinic, continuing day  
45 treatment, day treatment, intensive outpatient programs and partial  
46 hospitalization; outreach; crisis residence; crisis stabilization,  
47 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric  
48 emergency program services; crisis intervention; home based crisis  
49 intervention; family care; supported single room occupancy; supported  
50 housing; supported housing community services; treatment congregate;  
51 supported congregate; community residence - children and youth;  
52 treatment/apartment; supported apartment; community residence single  
53 room occupancy; on-site rehabilitation; employment programs; recreation;  
54 respite care; transportation; psychosocial club; assertive community  
55 treatment; case management; care coordination, including health home  
56 plus services; local government unit administration; monitoring and

1 evaluation; children and youth vocational services; single point of  
2 access; school-based mental health program; family support children and  
3 youth; advocacy/support services; drop in centers; recovery centers;  
4 transition management services; bridger; home and community based waiver  
5 services; behavioral health waiver services authorized pursuant to the  
6 section 1115 MRT waiver; self-help programs; consumer service dollars;  
7 conference of local mental hygiene directors; multicultural initiative;  
8 ongoing integrated supported employment services; supported education;  
9 mentally ill/chemical abuse (MICA) network; personalized recovery  
10 oriented services; children and family treatment and support services;  
11 residential treatment facilities operating pursuant to part 584 of title  
12 14-NYCRR; geriatric demonstration programs; community-based mental  
13 health family treatment and support; coordinated children's service  
14 initiative; homeless services; and promises zone.

15 (ii) Programs and services funded, licensed, or certified by the  
16 office for people with developmental disabilities (OPWDD) eligible for  
17 the cost of living adjustment established herein, pending federal  
18 approval where applicable, include: local/unified services; chapter 620  
19 services; voluntary operated community residential services; article 16  
20 clinics; day treatment services; family support services; 100% day  
21 training; epilepsy services; traumatic brain injury services; hepatitis  
22 B services; independent practitioner services for individuals with  
23 intellectual and/or developmental disabilities; crisis services for  
24 individuals with intellectual and/or developmental disabilities; family  
25 care residential habilitation; supervised residential habilitation;  
26 supportive residential habilitation; respite; day habilitation; prevoca-  
27 tional services; supported employment; community habilitation; interme-  
28 diate care facility day and residential services; specialty hospital;  
29 pathways to employment; intensive behavioral services; basic home and  
30 community based services (HCBS) plan support; health home services  
31 provided by care coordination organizations; community transition  
32 services; family education and training; fiscal intermediary; support  
33 broker; and personal resource accounts.

34 (iii) Programs and services funded, licensed, or certified by the  
35 office of addiction services and supports (OASAS) eligible for the cost  
36 of living adjustment established herein, pending federal approval where  
37 applicable, include: medically supervised withdrawal services - residen-  
38 tial; medically supervised withdrawal services - outpatient; medically  
39 managed detoxification; medically monitored withdrawal; inpatient reha-  
40 bilitation services; outpatient opioid treatment; residential opioid  
41 treatment; KEEP units outpatient; residential opioid treatment to absti-  
42 nence; problem gambling treatment; medically supervised outpatient;  
43 outpatient rehabilitation; specialized services substance abuse  
44 programs; home and community based waiver services pursuant to subdivi-  
45 sion 9 of section 366 of the social services law; children and family  
46 treatment and support services; continuum of care rental assistance case  
47 management; NY/NY III post-treatment housing; NY/NY III housing for  
48 persons at risk for homelessness; permanent supported housing; youth  
49 clubhouse; recovery community centers; recovery community organizing  
50 initiative; residential rehabilitation services for youth (RRSY); inten-  
51 sive residential; community residential; supportive living; residential  
52 services; job placement initiative; case management; family support  
53 navigator; local government unit administration; peer engagement; voca-  
54 tional rehabilitation; support services; HIV early intervention  
55 services; dual diagnosis coordinator; problem gambling resource centers;

1 problem gambling prevention; prevention resource centers; primary  
2 prevention services; other prevention services; and community services.

3 (iv) Programs and services funded, licensed, or certified by the  
4 office of temporary and disability assistance (OTDA) eligible for the  
5 cost of living adjustment established herein, pending federal approval  
6 where applicable, include: nutrition outreach and education program  
7 (NOEP).

8 (v) Programs and services funded, licensed, or certified by the office  
9 of children and family services (OCFS) eligible for the cost of living  
10 adjustment established herein, pending federal approval where applica-  
11 ble, include: programs for which the office of children and family  
12 services establishes maximum state aid rates pursuant to section 398-a  
13 of the social services law and section 4003 of the education law; emer-  
14 gency foster homes; foster family boarding homes and therapeutic foster  
15 homes as defined by the regulations of the office of children and family  
16 services; supervised settings as defined by subdivision twenty-two of  
17 section 371 of the social services law; adoptive parents receiving  
18 adoption subsidy pursuant to section 453 of the social services law; and  
19 congregate and scattered supportive housing programs and supportive  
20 services provided under the NY/NY III supportive housing agreement to  
21 young adults leaving or having recently left foster care.

22 (vi) Programs and services funded, licensed, or certified by the state  
23 office for the aging (SOFA) eligible for the cost of living adjustment  
24 established herein, pending federal approval where applicable, include:  
25 community services for the elderly; expanded in-home services for the  
26 elderly; and supplemental nutrition assistance program.

27 5. Each local government unit or direct contract provider receiving  
28 funding for the cost of living adjustment established herein shall  
29 submit a written certification, in such form and at such time as each  
30 commissioner shall prescribe, attesting how such funding will be or was  
31 used to first promote the recruitment and retention of non-executive  
32 direct care staff, non-executive direct support professionals, non-exe-  
33 cutive clinical staff, or respond to other critical non-personal service  
34 costs prior to supporting any salary increases or other compensation for  
35 executive level job titles.

36 6. Notwithstanding any inconsistent provision of law to the contrary,  
37 agency commissioners shall be authorized to recoup funding from a local  
38 governmental unit or direct contract provider for the cost of living  
39 adjustment established herein determined to have been used in a manner  
40 inconsistent with the appropriation, or any other provision of this  
41 section. Such agency commissioners shall be authorized to employ any  
42 legal mechanism to recoup such funds, including an offset of other funds  
43 that are owed to such local governmental unit or direct contract provid-  
44 er.

45 § 2. This act shall take effect immediately and shall be deemed to  
46 have been in full force and effect on and after April 1, 2022.

47 PART EE

48 Section 1. Short title. This act shall be known and may be cited as  
49 the "9-8-8 suicide prevention and behavioral health crisis hotline act".

50 § 2. The mental hygiene law is amended by adding a new section 36.03  
51 to read as follows:

52 § 36.03 9-8-8 suicide prevention and behavioral health crisis hotline  
53 system.



1 (a) Definitions. When used in this article, the following words and  
2 phrases shall have the following meanings unless the specific context  
3 clearly indicates otherwise:

4 (1) "9-8-8" means the three digit phone number designated by the  
5 federal communications commission for the purpose of connecting individ-  
6 uals experiencing a behavioral health crisis with suicide prevention and  
7 behavioral health crisis counselors, mobile crisis teams, and crisis  
8 stabilization services and other behavioral health crises services  
9 through the national suicide prevention lifeline.

10 (2) "9-8-8 crisis hotline center" means a state-identified and funded  
11 center participating in the National Suicide Prevention Lifeline Network  
12 to respond to statewide or regional 9-8-8 calls, operated by employees  
13 under the jurisdiction of the office of mental health.

14 (3) "Crisis stabilization centers" means facilities providing short-  
15 term observation and crisis stabilization services jointly licensed by  
16 the office of mental health and the office of addiction services and  
17 supports under section 36.01 of this article.

18 (4) "Crisis residential services" means a short-term residential  
19 program designed to provide residential and support services to persons  
20 with symptoms of mental illness who are at risk of or experiencing a  
21 psychiatric crisis.

22 (5) "Crisis intervention services" means the continuum to address  
23 crisis intervention, crisis stabilization, and crisis residential treat-  
24 ment needs that are wellness, resiliency, and recovery oriented. Crisis  
25 intervention services include but not limited to: crisis stabilization  
26 centers, mobile crisis teams, and crisis residential services.

27 (6) "Mobile crisis teams" means a team licensed, certified, or author-  
28 ized by the office of mental health and the office of addiction services  
29 and supports to provide community-based mental health or substance use  
30 disorder interventions for individuals who are experiencing a mental  
31 health or substance use disorder crisis.

32 (7) "National suicide prevention lifeline" or "NSPL" means the  
33 national network of local crisis centers that provide free and confiden-  
34 tial emotional support to people in suicidal crisis or emotional  
35 distress twenty-four hours a day, seven days a week via a toll-free  
36 hotline number, which receives calls made through the 9-8-8 system. The  
37 toll-free number is maintained by the Assistant Secretary for Mental  
38 Health and Substance Use under Section 50-E-3 of the Public Health  
39 Service Act, Section 290bb-36c of Title 42 of the United States Code.

40 (b) The commissioner of the office of mental health, in conjunction  
41 with the commissioner of the office of addiction services and supports,  
42 shall have joint oversight of the 9-8-8 suicide prevention and behav-  
43 ioral health crisis hotline and shall work in concert with NSPL for the  
44 purposes of ensuring consistency of public messaging.

45 (c) The commissioner of the office of mental health, in conjunction  
46 with the commissioner of the office of addiction services and supports,  
47 shall, on or before July sixteenth, two thousand twenty-two, designate a  
48 crisis hotline center or centers to provide or arrange for crisis inter-  
49 vention services to individuals accessing the 9-8-8 suicide prevention  
50 and behavioral health crisis hotline from anywhere within the state  
51 twenty-four hours a day, seven days a week. Each 9-8-8 crisis hotline  
52 center shall do all of the following:

53 (1) A designated hotline center shall have an active agreement with  
54 the administrator of the National Suicide Prevention Lifeline for  
55 participation within the network.

1 (2) A designated hotline center shall meet NSPL requirements and best  
2 practices guidelines for operation and clinical standards.

3 (3) A designated hotline center may utilize technology, including but  
4 not limited to, chat and text that is interoperable between and across  
5 the 9-8-8 suicide prevention and behavioral health crisis hotline system  
6 and the administrator of the National Suicide Prevention Lifeline.

7 (4) A designated hotline center shall accept transfers of any call  
8 from 9-1-1 pertaining to a behavioral health crisis.

9 (5) A designated hotline center shall ensure coordination between the  
10 9-8-8 crisis hotline centers, 9-1-1, behavioral health crisis services,  
11 and, when appropriate, other specialty behavioral health warm lines and  
12 hotlines and other emergency services. If a law enforcement, medical,  
13 or fire response is also needed, 9-8-8 and 9-1-1 operators shall coordi-  
14 nate the simultaneous deployment of those services with mobile crisis  
15 services.

16 (6) A designated hotline center shall have the authority to deploy  
17 crisis intervention services, including but not limited to mobile crisis  
18 teams, and coordinate access to crisis stabilization centers, and other  
19 mental health crisis services, as appropriate, and according to guide-  
20 lines and best practices established by New York State and the NSPL.

21 (7) A designated hotline center shall meet the requirements set forth  
22 by New York State and the NSPL for serving high risk and specialized  
23 populations including but not limited to: Black, African American,  
24 Hispanic, Latino, Asian, Pacific Islander, Native American, Alaskan  
25 Native; lesbian, gay, bisexual, transgender, nonbinary, queer, and ques-  
26 tioning individuals; individuals with intellectual and developmental  
27 disabilities; individuals experiencing homelessness or housing instabil-  
28 ity; immigrants and refugees; children and youth; older adults; and  
29 religious communities as identified by the federal Substance Abuse and  
30 Mental Health Services Administration, including training requirements  
31 and policies for providing linguistically and culturally competent care.

32 (8) A designated hotline center shall provide follow-up services as  
33 needed to individuals accessing the 9-8-8 suicide prevention and behav-  
34 ioral health crisis hotline consistent with guidance and policies estab-  
35 lished by New York State and the NSPL.

36 (9) A designated hotline center shall provide data, and reports, and  
37 participate in evaluations and quality improvement activities as  
38 required by the office of mental health and the office of addiction  
39 services and supports.

40 (d) The commissioner of the office of mental health, in conjunction  
41 with the commissioner of the office of addiction services and supports,  
42 shall establish a comprehensive list of reporting metrics regarding the  
43 9-8-8 suicide prevention and behavioral health crisis hotline's usage,  
44 services and impact which shall include, at a minimum:

45 (1) The volume of requests for assistance that the 9-8-8 suicide  
46 prevention and behavioral health crisis hotline received;

47 (2) The average length of time taken to respond to each request for  
48 assistance, and the aggregate rates of call abandonment;

49 (3) The types of requests for assistance that the 9-8-8 suicide  
50 prevention and behavioral health crisis hotline received;

51 (4) The number of mobile crisis teams dispatched;

52 (5) The number of individuals engaged by mobile crisis teams including  
53 any support provided beyond the resolution of an initial crisis;

54 (6) The number of individuals transported by mobile crisis teams to a  
55 crisis receiving and stabilization service center or other mental health  
56 crisis service;

(7) The number of such individuals transferred by mobile crisis team responders to the custody of law enforcement or transported to an emergency room or inpatient mental health service;

(8) The number of times a mobile crisis team was the first responder to a mental health crisis and had to request deployment of law enforcement, including the reason for the request, and the outcome of the law enforcement response; and

(9) The age, gender, race, ethnicity, national origin, and high risk category of the individual, if reasonably ascertainable, of individuals contacted, transported, or transferred by each mobile crisis team.

(e) The commissioner of the office of mental health, in conjunction with the commissioner of the office of addiction services and supports, shall submit an annual report on or by December thirty-first, two thousand twenty-three and annually thereafter, regarding the comprehensive list of reporting metrics to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly.

(f) Moneys allocated for the payment of costs determined in consultation with the commissioners of mental health and the office of addiction services and supports associated with the administration, design, installation, construction, operation, or maintenance of a 9-8-8 suicide prevention and behavioral health crisis hotline system serving the state, including, but not limited to: staffing, hardware, software, consultants, financing and other administrative costs to operate crisis call-centers throughout the state and the provision of acute and crisis services for mental health and substance use disorder by directly responding to the 9-8-8 hotline established pursuant to the National Suicide Hotline Designation Act of 2020 (47 U.S.C. § 251a) and rules adopted by the Federal Communications Commission, including such costs incurred by the state, shall not supplant any separate existing, future appropriations, or future funding sources dedicated to the 9-8-8 crisis response system.

§ 3. This act shall take effect immediately.

#### PART FF

Section 1. Subdivision 5 of section 365-m of the social services law, as added by section 11 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

5. Pursuant to appropriations within the offices of mental health or addiction services and supports, the department of health shall reinvest [~~funds allocated for behavioral health services, which are general fund savings directly related to~~] savings realized through the transition of populations covered by this section from the applicable Medicaid fee-for-service system to a managed care model, including savings [~~resulting from the reduction of inpatient and outpatient behavioral health services provided under the Medicaid programs licensed or certified pursuant to article thirty-one or thirty-two of the mental hygiene law, or programs that are licensed pursuant to both article thirty-one of the mental hygiene law and article twenty-eight of the public health law, or certified under both article thirty-two of the mental hygiene law and article twenty-eight of the public health law~~] realized through the recovery of premiums from managed care providers which represent a reduction of spending on qualifying behavioral health services against established premium targets for behavioral health services and the medical loss ratio applicable to special needs managed care plans, for

1 the purpose of increasing investment in community based behavioral  
2 health services, including residential services certified by the office  
3 of ~~[alcoholism and substance abuse]~~ addiction services and supports.  
4 The methodologies used to calculate the savings shall be developed by  
5 the commissioner of health and the director of the budget in consulta-  
6 tion with the commissioners of the office of mental health and the  
7 office of ~~[alcoholism and substance abuse]~~ addiction services and  
8 supports. In no event shall the full annual value of the ~~[community~~  
9 ~~based behavioral health service]~~ reinvestment ~~[savings attributable to~~  
10 ~~the transition to managed care]~~ pursuant to this subdivision exceed the  
11 ~~[twelve month value of the department of health general fund reductions~~  
12 ~~resulting from such transition]~~ value of the premiums recovered from  
13 managed care providers which represent a reduction of spending on quali-  
14 fying behavioral health services. Within any fiscal year where appropri-  
15 ation increases are recommended for reinvestment, insofar as managed  
16 care transition savings do not occur as estimated, ~~[and general fund~~  
17 ~~savings do not result,]~~ then spending for such reinvestment may be  
18 reduced in the next year's annual budget itemization. ~~[The commissioner~~  
19 ~~of health shall promulgate regulations, and prior to October first, two~~  
20 ~~thousand fifteen, may promulgate emergency regulations as required to~~  
21 ~~distribute funds pursuant to this subdivision, provided, however, that~~  
22 ~~any emergency regulations promulgated pursuant to this section shall~~  
23 ~~expire no later than December thirty first, two thousand fifteen.]~~ The  
24 commissioner shall include ~~[detailed descriptions of the methodology~~  
25 ~~used to calculate savings]~~ information regarding the funds available for  
26 reinvestment~~[, the results of applying such methodologies, the details~~  
27 ~~regarding implementation of such reinvestment]~~ pursuant to this  
28 section~~[, and any regulations promulgated under this subdivision,]~~ in  
29 the annual report required under section forty-five-c of part A of chap-  
30 ter fifty-six of the laws of two thousand thirteen. Beginning April  
31 first, two thousand twenty-two, the department shall also post on its  
32 website the list of managed care providers that provided a recovery of  
33 premiums under this section, a detailed accounting of the amount that  
34 was recovered from each provider, and the dates that the recovery was  
35 applied to, beginning with recoveries from two thousand thirteen. After  
36 the initial posting of this information on its website, the department  
37 shall update it on an annual basis by December thirty-first of each  
38 year.

39 § 1-a. Subdivision 2 of section 364-j of social services law is  
40 amended by adding a new paragraph (d) to read as follows:

41 (d) Effective on and after April first, two thousand twenty-two, when-  
42 ever the commissioner of health makes changes to the terms, conditions  
43 or time frames contained in the model contract with managed care provid-  
44 ers in the managed care program under this section, public notice  
45 detailing the changes shall be provided on the department's website and  
46 through publication as a public notice in the state register prior to  
47 finalizing such changes or submitting the amended contract to the feder-  
48 al centers for medicare and Medicaid services for approval, if required.  
49 This public notice shall also apply to any request for proposals issued  
50 by the department for managed care providers to participate in the  
51 managed care program.

52 § 2. This act shall take effect immediately; provided that the amend-  
53 ments to section 364-j of the social services law made by section one-a  
54 of this act shall not affect the repeal of such section and shall be  
55 deemed repealed therewith.

## 1 PART GG

2 Section 1. Section 7 of part H of chapter 57 of the laws of 2019,  
3 amending the public health law relating to waiver of certain regu-  
4 lations, as amended by section 7 of part S of chapter 57 of the laws of  
5 2021, is amended to read as follows:

6 § 7. This act shall take effect immediately and shall be deemed to  
7 have been in full force and effect on and after April 1, 2019, provided,  
8 however, that section two of this act shall expire on April 1, [2022]  
9 2023.

10 § 2. This act shall take effect immediately and shall be deemed to  
11 have been in full force and effect on and after April 1, 2022.

## 12 PART HH

13 Section 1. Section 3309 of the public health law is amended by adding  
14 a new subdivision 8 to read as follows:

15 8. Any pharmacy registered by the New York state department of educa-  
16 tion and the federal Drug Enforcement Administration (DEA) or its  
17 successor agency that maintains a stock of and directly dispenses  
18 controlled substance medications pursuant to prescriptions for humans in  
19 the state of New York, shall maintain a minimum stock of a thirty day  
20 supply of both an opioid antagonist medication and separately an opioid  
21 partial agonist medication for the treatment of an opioid use disorder,  
22 to the extent permitted pursuant to federal wholesaler threshold limits.  
23 For purposes of this subdivision, a thirty day supply of opioid partial  
24 agonist medication shall mean any combination of dosages sufficient to  
25 fill a prescription of thirty days. Where the food and drug adminis-  
26 tration has defined and approved one or more therapeutic and pharmaceu-  
27 tical equivalents of these medications a pharmacy is required to main-  
28 tain a stock of at least one version of an opioid antagonist and any  
29 drug on the single statewide formulary for opioid partial agonist medi-  
30 cation for the treatment of an opioid use disorder is available to  
31 dispense. Where federal and state laws and regulations permit dispens-  
32 ing of opioid full agonist medication for the treatment of an opioid use  
33 disorder, such pharmacy may also maintain a stock of opioid full agonist  
34 medication consistent with this subdivision.

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

## 37 PART II

38 Section 1. Paragraph 38 of section 1.03 of the mental hygiene law, as  
39 amended by chapter 281 of the laws of 2019, is amended to read as  
40 follows:

41 38. "Residential services facility" or "[~~Alcoholism community~~] Commu-  
42 nity residence for addiction" means any facility licensed or operated  
43 pursuant to article thirty-two of this chapter which provides residen-  
44 tial services for the treatment of an addiction disorder and a homelike  
45 environment, including room, board and responsible supervision as part  
46 of an overall service delivery system.

47 § 2. Paragraph 1 of subdivision (a) of section 32.05 of the mental  
48 hygiene law, as added by chapter 558 of the laws of 1999, is amended to  
49 read as follows:

50 1. operation of a residential program, including a community residence  
51 for the care, custody, or treatment of persons suffering from [~~chemical~~



~~abuse or dependence~~] an addictive disorder; provided, however, that giving domestic care and comfort to a person in the home shall not constitute such an operation; provided further that the certification of a recovery residence, developed and administered by the commissioner directly or pursuant to a contract with a designated entity, shall have the following structure and meaning for purposes of this section:

(i)(A) "Recovery residence" means a shared living environment free from alcohol and illicit drug use which utilizes peer supports and connection to services to promote sustained recovery from substance use disorder.

(B) "Certified recovery residence" means a recovery residence which complies with standards for the operation of a certified recovery residence which are issued by the office.

(ii) The commissioner shall regulate and assure the consistent high quality of certified recovery residences for individuals in recovery from a substance use disorder. The commissioner, directly or pursuant to contract with a designated entity, shall implement standards for the operation of a certified recovery residence, a voluntary certification process, and conduct ongoing monitoring of recovery residences.

(iii) The commissioner shall maintain on the office website a list of certified recovery residences.

§ 3. Section 41.52 of the mental hygiene law, as amended by chapter 223 of the laws of 1992, is amended to read as follows:

§ 41.52 Community residential services for [~~alcoholism~~] addiction.

(a) The commissioner of [~~alcoholism and substance abuse services~~] addiction services and supports is authorized, within appropriations made therefor, to establish a continuum of community residential services for [~~alcoholism~~] addictive disorder services.

(b) The commissioner shall establish standards for the operation and funding of community residential services, including but not limited to:

(1) criteria for admission to and continued residence in each type of community residence;

(2) periodic evaluation of services provided by community residences;

(3) staffing patterns for each type of community residence; and

(4) guidelines for determining state aid to community residences, as described in [~~subdivision (c) of this section~~] article twenty-five of this chapter.

(c) Within amounts available therefor and subject to regulations established by the commissioner and notwithstanding any other provisions of this article, the commissioner may provide state aid to local governments and to voluntary agencies in an amount up to one hundred percent of net operating costs of community residences for alcoholism services. The commissioner shall establish guidelines for determining the amount of state aid provided pursuant to this section. The guidelines shall be designed to enable the effective and efficient operation of such residences and shall include, but need not be limited to, standards for determining anticipated revenue, for retention and use of income exceeding the anticipated amount and for determining reasonable levels of uncollectible income. Such state aid to voluntary agencies shall not be granted unless the proposed community residence is consistent with the relevant local services plan adopted pursuant to section 41.18 of this article.

§ 4. This act shall take effect immediately.

Intentionally Omitted

PART KK

Intentionally Omitted

PART LL

Section 1. Section 48-a of part A of chapter 56 of the laws of 2013 amending the public health law and other laws relating to general hospital reimbursement for annual rates, as amended by section 18 of part E of chapter 57 of the laws of 2019, is amended to read as follows:

§ 48-a. 1. Notwithstanding any contrary provision of law, the commissioners of the office of [~~alcoholism and substance abuse~~] addiction services and supports and the office of mental health are authorized, subject to the approval of the director of the budget, to transfer to the commissioner of health state funds to be utilized as the state share for the purpose of increasing payments under the medicaid program to managed care organizations licensed under article 44 of the public health law or under article 43 of the insurance law. Such managed care organizations shall utilize such funds for the purpose of reimbursing providers licensed pursuant to article 28 of the public health law or article 36, 31 or 32 of the mental hygiene law for ambulatory behavioral health services, as determined by the commissioner of health, in consultation with the commissioner of [~~alcoholism and substance abuse~~] addiction services and supports and the commissioner of the office of mental health, provided to medicaid enrolled outpatients and for all other behavioral health services except inpatient included in New York state's Medicaid redesign waiver approved by the centers for medicare and Medicaid services (CMS). Such reimbursement shall be in the form of fees for such services which are equivalent to the payments established for such services under the ambulatory patient group (APG) rate-setting methodology as utilized by the department of health, the office of [~~alcoholism and substance abuse~~] addiction services and supports, or the office of mental health for rate-setting purposes or any such other fees pursuant to the Medicaid state plan or otherwise approved by CMS in the Medicaid redesign waiver; provided, however, that the increase to such fees that shall result from the provisions of this section shall not, in the aggregate and as determined by the commissioner of health, in consultation with the commissioner of [~~alcoholism and substance abuse~~] addiction services and supports and the commissioner of the office of mental health, be greater than the increased funds made available pursuant to this section. The increase of such ambulatory behavioral health fees to providers available under this section shall be for all rate periods on and after the effective date of section [~~1~~] 18 of part [~~P~~] E of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients in the city of New York, for all rate periods on and after the effective date of section [~~1~~] 18 of part [~~P~~] E of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside the city of New York, and for all rate periods on and after the effective date of such chapter through March 31, [~~2023~~] 2027 for all services provided to persons under the age of twenty-one; provided, however, the commissioner of health, in consultation with the commissioner of [~~alcoholism and substance abuse~~] addiction services and supports and the

1 commissioner of mental health, may require, as a condition of approval  
2 of such ambulatory behavioral health fees, that aggregate managed care  
3 expenditures to eligible providers meet the alternative payment method-  
4 ology requirements as set forth in attachment I of the New York state  
5 medicaid section one thousand one hundred fifteen medicaid redesign team  
6 waiver as approved by the centers for medicare and medicaid services.  
7 The commissioner of health shall, in consultation with the commissioner  
8 of ~~[alcoholism and substance abuse]~~ addiction services and supports and  
9 the commissioner of mental health, waive such conditions if a sufficient  
10 number of providers, as determined by the commissioner, suffer a finan-  
11 cial hardship as a consequence of such alternative payment methodology  
12 requirements, or if he or she shall determine that such alternative  
13 payment methodologies significantly threaten individuals access to ambu-  
14 latory behavioral health services. Such waiver may be applied on a  
15 provider specific or industry wide basis. Further, such conditions may  
16 be waived, as the commissioner determines necessary, to comply with  
17 federal rules or regulations governing these payment methodologies.  
18 Nothing in this section shall prohibit managed care organizations and  
19 providers from negotiating different rates and methods of payment during  
20 such periods described above, subject to the approval of the department  
21 of health. The department of health shall consult with the office of  
22 ~~[alcoholism and substance abuse]~~ addiction services and supports and the  
23 office of mental health in determining whether such alternative rates  
24 shall be approved. The commissioner of health may, in consultation with  
25 the commissioner of ~~[alcoholism and substance abuse]~~ addiction services  
26 and supports and the commissioner of the office of mental health,  
27 promulgate regulations, including emergency regulations promulgated  
28 prior to October 1, 2015 to establish rates for ambulatory behavioral  
29 health services, as are necessary to implement the provisions of this  
30 section. Rates promulgated under this section shall be included in the  
31 report required under section 45-c of part A of this chapter.

32 2. Notwithstanding any contrary provision of law, the fees paid by  
33 managed care organizations licensed under article 44 of the public  
34 health law or under article 43 of the insurance law, to providers  
35 licensed pursuant to article 28 of the public health law or article 36,  
36 31 or 32 of the mental hygiene law, for ambulatory behavioral health  
37 services provided to patients enrolled in the child health insurance  
38 program pursuant to title 1-A of article 25 of the public health law,  
39 shall be in the form of fees for such services which are equivalent to  
40 the payments established for such services under the ambulatory patient  
41 group (APG) rate-setting methodology or any such other fees established  
42 pursuant to the Medicaid state plan. The commissioner of health shall  
43 consult with the commissioner of ~~[alcoholism and substance abuse]~~  
44 addiction services and supports and the commissioner of the office of  
45 mental health in determining such services and establishing such fees.  
46 Such ambulatory behavioral health fees to providers available under this  
47 section shall be for all rate periods on and after the effective date of  
48 this chapter through March 31, ~~[2023]~~ 2027, provided, however, that  
49 managed care organizations and providers may negotiate different rates  
50 and methods of payment during such periods described above, subject to  
51 the approval of the department of health. The department of health  
52 shall consult with the office of ~~[alcoholism and substance abuse]~~  
53 addiction services and supports and the office of mental health in  
54 determining whether such alternative rates shall be approved. The  
55 report required under section 16-a of part C of chapter 60 of the laws  
56 of 2014 shall also include the population of patients enrolled in the

1 child health insurance program pursuant to title 1-A of article 25 of  
2 the public health law in its examination on the transition of behavioral  
3 health services into managed care.

4 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating  
5 to increasing Medicaid payments to providers through managed care organ-  
6 izations and providing equivalent fees through an ambulatory patient  
7 group methodology, as amended by section 19 of part E of chapter 57 of  
8 the laws of 2019, is amended to read as follows:

9 Section 1. a. Notwithstanding any contrary provision of law, the  
10 commissioners of mental health and [~~alcoholism and substance abuse~~]  
11 addiction services and supports are authorized, subject to the approval  
12 of the director of the budget, to transfer to the commissioner of health  
13 state funds to be utilized as the state share for the purpose of  
14 increasing payments under the medicaid program to managed care organiza-  
15 tions licensed under article 44 of the public health law or under arti-  
16 cle 43 of the insurance law. Such managed care organizations shall  
17 utilize such funds for the purpose of reimbursing providers licensed  
18 pursuant to article 28 of the public health law, or pursuant to article  
19 36, 31 or article 32 of the mental hygiene law for ambulatory behavioral  
20 health services, as determined by the commissioner of health in consul-  
21 tation with the commissioner of mental health and commissioner of [~~aleo-~~  
22 ~~holism and substance abuse~~] addiction services and supports, provided to  
23 medicaid enrolled outpatients and for all other behavioral health  
24 services except inpatient included in New York state's Medicaid redesign  
25 waiver approved by the centers for medicare and Medicaid services (CMS).  
26 Such reimbursement shall be in the form of fees for such services which  
27 are equivalent to the payments established for such services under the  
28 ambulatory patient group (APG) rate-setting methodology as utilized by  
29 the department of health or by the office of mental health or office of  
30 [~~alcoholism and substance abuse~~] addiction services and supports for  
31 rate-setting purposes or any such other fees pursuant to the Medicaid  
32 state plan or otherwise approved by CMS in the Medicaid redesign waiver;  
33 provided, however, that the increase to such fees that shall result from  
34 the provisions of this section shall not, in the aggregate and as deter-  
35 mined by the commissioner of health in consultation with the commission-  
36 ers of mental health and [~~alcoholism and substance abuse~~] addiction  
37 services and supports, be greater than the increased funds made avail-  
38 able pursuant to this section. The increase of such behavioral health  
39 fees to providers available under this section shall be for all rate  
40 periods on and after the effective date of section [~~2~~] 19 of part [~~P~~] E  
41 of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027  
42 for patients in the city of New York, for all rate periods on and after  
43 the effective date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the  
44 laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside  
45 the city of New York, and for all rate periods on and after the effec-  
46 tive date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the laws of  
47 [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for all services provided to  
48 persons under the age of twenty-one; provided, however, the commissioner  
49 of health, in consultation with the commissioner of [~~alcoholism and~~  
50 ~~substance abuse~~] addiction services and supports and the commissioner of  
51 mental health, may require, as a condition of approval of such ambulatory  
52 behavioral health fees, that aggregate managed care expenditures to  
53 eligible providers meet the alternative payment methodology requirements  
54 as set forth in attachment I of the New York state medicaid section one  
55 thousand one hundred fifteen medicaid redesign team waiver as approved  
56 by the centers for medicare and medicaid services. The commissioner of

1 health shall, in consultation with the commissioner of [~~alcoholism and~~  
2 ~~substance abuse~~] addiction services and supports and the commissioner of  
3 mental health, waive such conditions if a sufficient number of provid-  
4 ers, as determined by the commissioner, suffer a financial hardship as a  
5 consequence of such alternative payment methodology requirements, or if  
6 he or she shall determine that such alternative payment methodologies  
7 significantly threaten individuals access to ambulatory behavioral  
8 health services. Such waiver may be applied on a provider specific or  
9 industry wide basis. Further, such conditions may be waived, as the  
10 commissioner determines necessary, to comply with federal rules or regu-  
11 lations governing these payment methodologies. Nothing in this section  
12 shall prohibit managed care organizations and providers from negotiating  
13 different rates and methods of payment during such periods described,  
14 subject to the approval of the department of health. The department of  
15 health shall consult with the office of [~~alcoholism and substance abuse~~]  
16 addiction services and supports and the office of mental health in  
17 determining whether such alternative rates shall be approved. The  
18 commissioner of health may, in consultation with the commissioners of  
19 mental health and [~~alcoholism and substance abuse~~] addiction services  
20 and supports, promulgate regulations, including emergency regulations  
21 promulgated prior to October 1, 2013 that establish rates for behavioral  
22 health services, as are necessary to implement the provisions of this  
23 section. Rates promulgated under this section shall be included in the  
24 report required under section 45-c of part A of chapter 56 of the laws  
25 of 2013.

26 b. Notwithstanding any contrary provision of law, the fees paid by  
27 managed care organizations licensed under article 44 of the public  
28 health law or under article 43 of the insurance law, to providers  
29 licensed pursuant to article 28 of the public health law or article 36,  
30 31 or 32 of the mental hygiene law, for ambulatory behavioral health  
31 services provided to patients enrolled in the child health insurance  
32 program pursuant to title 1-A of article 25 of the public health law,  
33 shall be in the form of fees for such services which are equivalent to  
34 the payments established for such services under the ambulatory patient  
35 group (APG) rate-setting methodology. The commissioner of health shall  
36 consult with the commissioner of [~~alcoholism and substance abuse~~]  
37 addiction services and supports and the commissioner of the office of  
38 mental health in determining such services and establishing such fees.  
39 Such ambulatory behavioral health fees to providers available under this  
40 section shall be for all rate periods on and after the effective date of  
41 this chapter through March 31, [~~2023~~] 2027, provided, however, that  
42 managed care organizations and providers may negotiate different rates  
43 and methods of payment during such periods described above, subject to  
44 the approval of the department of health. The department of health shall  
45 consult with the office of [~~alcoholism and substance abuse~~] addiction  
46 services and supports and the office of mental health in determining  
47 whether such alternative rates shall be approved. The report required  
48 under section 16-a of part C of chapter 60 of the laws of 2014 shall  
49 also include the population of patients enrolled in the child health  
50 insurance program pursuant to title 1-A of article 25 of the public  
51 health law in its examination on the transition of behavioral health  
52 services into managed care.

53 § 3. Section 2 of part H of chapter 111 of the laws of 2010, relating  
54 to increasing Medicaid payments to providers through managed care organ-  
55 izations and providing equivalent fees through an ambulatory patient



1 group methodology, as amended by section 20 of part E of chapter 57 of  
2 the laws of 2019, is amended to read as follows:

3 § 2. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2010, and shall  
5 expire on March 31, ~~2023~~ 2027.

6 § 4. This act shall take effect immediately; provided, however that  
7 the amendments to section 1 of part H of chapter 111 of the laws of  
8 2010, relating to increasing Medicaid payments to providers through  
9 managed care organizations and providing equivalent fees through an  
10 ambulatory patient group methodology, made by section two of this act  
11 shall not affect the expiration of such section and shall expire there-  
12 with.

13 PART MM

14 Section 1. Section 18 of chapter 408 of the laws of 1999, constituting  
15 Kendra's law, as amended by chapter 67 of the laws of 2017, is amended  
16 to read as follows:

17 § 18. This act shall take effect immediately, provided that section  
18 fifteen of this act shall take effect April 1, 2000, provided, further,  
19 that subdivision (e) of section 9.60 of the mental hygiene law as added  
20 by section six of this act shall be effective 90 days after this act  
21 shall become law; and that this act shall expire and be deemed repealed  
22 June 30, ~~2022~~ 2023.

23 § 2. Intentionally omitted.

24 § 3. This act shall take effect immediately.

25 PART NN

26 Section 1. Section 41.38 of the mental hygiene law, as amended by  
27 chapter 218 of the laws of 1988, is amended to read as follows:

28 § 41.38 Rental and mortgage payments of community residential facilities  
29 for the mentally ill.

30 (a) "Supportive housing" shall mean, for the purpose of this section  
31 only, the method by which the commissioner contracts to provide rental  
32 support and funding for non-clinical support services in order to main-  
33 tain recipient stability.

34 (b) Notwithstanding any inconsistent provision of this article, the  
35 commissioner may reimburse voluntary agencies for the reasonable cost of  
36 rental of or the reasonable mortgage payment or the reasonable principal  
37 and interest payment on a loan for the purpose of financing an ownership  
38 interest in, and proprietary lease from, an organization formed for the  
39 purpose of the cooperative ownership of real estate, together with other  
40 necessary costs associated with rental or ownership of property, for a  
41 community residence ~~[or]~~, a residential care center for adults, or  
42 supportive housing, under ~~[his]~~ their jurisdiction less any income  
43 received from a state or federal agency or third party insurer which is  
44 specifically intended to offset the cost of rental of the facility or  
45 housing a client at the facility, subject to the availability of appro-  
46 priations therefor and such commissioner's certification of the reason-  
47 ableness of the rental cost, mortgage payment, principal and interest  
48 payment on a loan as provided in this section or other necessary costs  
49 associated with rental or ownership of property, with the approval of  
50 the director of the budget.

51 § 2. This act shall take effect April 1, 2022.

## PART OO

Intentionally Omitted

## PART PP

Section 1. Subdivision 4 of section 364-j of the social services law is amended by adding two new paragraphs (w) and (x) to read as follows:

(w) Notwithstanding any provision of law to the contrary, administrative fees paid to a managed care provider or a pharmacy benefit manager under the medical assistance program shall be reduced for the purpose of increasing reimbursement rates to retail pharmacies under the Medicaid managed care program. Beginning on and after July first, two thousand twenty-two, all reimbursement paid by Medicaid managed care plans to retail pharmacies shall include a professional dispensing fee and the drug acquisition cost for each outpatient drug dispensed at no less than the amount established under the fee-for-service program, as defined in section three hundred sixty-seven-a of this title, regardless of whether such reimbursement is paid directly by the Medicaid managed care plan or passed through a pharmacy benefit manager or other entity. The reimbursement provided for under this paragraph shall not apply to any existing reimbursement arrangements involving an eligible provider under section 340B of the federal public health services act or a comprehensive HIV special needs plan under section forty-four hundred three-c of the public health law under the medical assistance program. No managed care provider or pharmacy benefit manager shall reimburse a pharmacy owned by or affiliated with such entity at a higher rate than that paid by such entity to a pharmacy it does not own or is not otherwise affiliated with.

(x) Notwithstanding any provision of law to the contrary, a managed care provider or pharmacy benefit manager acting on its behalf, as defined in section two hundred eighty-a of the public health law, shall not deny any retail pharmacy the opportunity to participate in another provider's pharmacy network under the medical assistance program at preferred participation status, provided that such retail pharmacy agrees to the same reimbursement amount, as defined in paragraph (w) of this subdivision, and is able to fill and dispense prescription and over-the-counter medications for those enrolled in the medical assistance program.

§ 2. Section 280-a of the public health law is amended by adding a new subdivision 6 to read as follows:

6. Delivery option. Notwithstanding any provision of law to the contrary, no pharmacy benefit manager shall limit the option for an individual receiving prescription or over-the-counter medications to receive such medications from their local, non-mail order pharmacy of choice via delivery including in-person delivery, United States postal service or other mail or courier service. No restrictions, prohibitions or prior authorization requirements shall be based on the individual's choice in delivery type or distance from a pharmacy.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that:

(a) the amendments to subdivision 4 of section 364-j of the social services law made by section one of this act shall take effect July 1, 2022;

(b) if this act shall have become a law after such effective date it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2022;

(c) the amendments to subdivision 4 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; and

(d) if chapter 828 of the laws of 2021 shall not have taken effect on or before such effective date then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2021 takes effect.

#### PART QQ

Section 1. Subparagraph (i) of paragraph (e) of subdivision 2 of section 365-a of the social services law, as amended by section 2 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

(i) personal care services, including personal emergency response services, shared aide and an individual aide, subject to the provisions of subparagraphs (ii), (iii), (iv)[~~-(v)~~] and (vi) of this paragraph, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease, as determined to meet the recipient's needs for assistance when cost effective and appropriate, and when prescribed by a qualified independent physician selected or approved by the department of health, in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location;

§ 2. Subparagraph (v) of paragraph (e) of subdivision 2 of section 365-a of the social services law is REPEALED.

§ 3. Paragraph (c) of subdivision 2 of section 365-f of the social services law, as amended by section 3 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

(c) has been determined by the social services district, pursuant to an assessment of the person's appropriateness for the program, conducted with an appropriate long term home health care program, a certified home health agency, or an AIDS home care program or pursuant to the personal care program, as being in need of home care services or private duty nursing and [~~as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for persons with a dementia or Alzheimer's diagnosis, as needing at least supervision with more than one activity of daily living, provided that the provisions related to activities of daily living in this paragraph shall only apply to persons who initially seek eligibility for the program on or after October first, two thousand twenty, and~~] who is able and willing or has a designated representative, including a legal guardian able and willing to make informed choices, or a designated relative or other adult who is able and willing to assist in making informed choices, as to the type and quality of services, including but not limited to such services as nursing care, personal care, transportation and respite services; and

§ 4. This act shall take effect immediately.

#### PART RR

1 Section 1. The public health law is amended by adding a new section  
2 3614-f to read as follows:

3 § 3614-f. Fair pay for home care. 1. For the purpose of this section,  
4 "home care aide" shall have the same meaning defined in section thirty-  
5 six hundred fourteen-c of this article.

6 2. Beginning January first, two thousand twenty-three, the minimum  
7 wage for a home care aide shall be no less than one hundred and fifty  
8 percent of the higher of: (a) the otherwise applicable minimum wage  
9 under section six hundred fifty-two of the labor law, or (b) any other-  
10 wise applicable wage rule or order under article nineteen of the labor  
11 law.

12 3. Where any home care aide is paid less than required by this  
13 section, the home care aide, or the commissioner of labor acting on  
14 behalf of the home care aide, may bring an action under article six or  
15 nineteen of the labor law.

16 4. (a) The commissioner shall establish a regional minimum hourly base  
17 reimbursement rate for all providers employing workers subject to the  
18 minimum wage provisions established in subdivision one of this section.  
19 The regional minimum hourly base reimbursement rate shall be based on  
20 regions established by the commissioner, provided that for areas subject  
21 to section thirty-six hundred fourteen-c of this article, each area with  
22 a different prevailing rate of total compensation, as defined in that  
23 section, shall be its own region.

24 (b) For the purposes of this section, "regional minimum hourly base  
25 reimbursement rate" means a reimbursement rate that reflects the average  
26 combined costs associated with the provision of direct service inclusive  
27 of, but not limited to, overtime costs; all benefits; all payroll taxes,  
28 including but not limited to federal insurance contributions act, medi-  
29 care, federal unemployment tax act, state unemployment insurance, disa-  
30 bility insurance, workers' compensation, and the metropolitan transpor-  
31 tation authority tax; related increases tied to base wages such as  
32 compression; reasonable administrative costs as defined by the commis-  
33 sioner; allowances for capital costs; the development of profit or  
34 reserves as allowable by law or regulations of the commissioner; and any  
35 additional supplemental payments.

36 5. (a) The initial regional minimum hourly base reimbursement rate  
37 shall be no less than the following:

38 (i) thirty-eight dollars and fifty cents per hour in the wage parity  
39 region, encompassing all counties subject to section thirty-six hundred  
40 fourteen of this article; and

41 (ii) thirty-eight dollars and eighteen cents per hour for the counties  
42 in the remainder of the state.

43 (b) For consumer directed personal assistance services provided under  
44 section three hundred sixty-five-f of the social services law, the  
45 initial regional minimum hourly base reimbursement rate shall reflect  
46 the rates established in paragraph (a) of this subdivision, provided  
47 that the commissioner may reduce such rates by no more than twelve and  
48 nine-tenths percent. In the event that such reduction occurs, a per  
49 member, per month increase reflective of actual administrative and  
50 general costs, adjusted to reflect regional differences as regions are  
51 defined in this section, shall be made to fiscal intermediaries adminis-  
52 tering such programs. If the department or a managed care organization  
53 chooses not to utilize the per member, per month payment established  
54 pursuant to this paragraph, the regional minimum hourly base reimburse-  
55 ment rate for that region, as defined in paragraph (a) of this subdivi-  
56 sion, shall apply.

6. No payment made to a provider who employs home care aides subject to this section that is less than the regional minimum hourly base reimbursement rate established by the commissioner for a region for services provided under authorization by a local department of social services, a managed care provider under section three hundred sixty-four-j of the social services law, or a managed long-term care provider under section forty-four hundred-f of this chapter shall be deemed adequate.

(a) The commissioner shall submit any and all necessary applications for approvals and/or waivers to the federal centers for medicare and medicaid services to secure approval to establish minimum hourly base reimbursement rates and make state-directed payments to providers for the purposes of supporting wage increases.

(b) Directed payments shall be made to such providers of medicaid services through contracts with managed care organizations where applicable, provided that the commissioner ensures that such directed payments are in accordance with the terms of this section.

(c) The commissioner shall ensure that managed care capitation is adjusted to ensure rate adequacy for the managed care organizations.

7. Nothing in this section shall preclude providers employing home care aides covered under this section or payers from contracting for services at rates higher than the regional minimum hourly base reimbursement rate if the parties agree to such terms.

8. The commissioner shall publish and post regional minimum hourly base reimbursement rates annually and shall take all necessary steps to advise commercial and government programs payers of home care services of the regional minimum hourly base reimbursement rates and require other state authorized payers to reimburse providers of home care services at the minimum hourly base reimbursement rate.

9. Following the initial established regional minimum hourly base reimbursement rate established under this section, the commissioner shall annually adjust the regional hourly base reimbursement rate for each region to reflect costs or other increases in wages, benefits, or other requirements. The commissioner shall develop a methodology for annual increases, taking into consideration relevant data sources, including but not limited to information from certified cost reports and statistical reports submitted to the department by providers employing individuals subject to this section for the prior calendar year, consumer price index increases; subsequent pandemic or other public health emergencies; and other relevant economic factors. Prior to finalizing such methodology, the commissioner shall establish a public workgroup that shall include provider, consumer, managed care organization, and labor representatives from each geographical region in which there is an established regional minimum hourly base reimbursement rate; statewide associations; and other stakeholders to inform the process. The commissioner shall publish and take public input on the proposed methodology to be used to update regional minimum hourly base reimbursement rates.

10. Annual increases to the regional minimum hourly base reimbursement rates shall be issued and posted by the department by September thirtieth of the prior calendar year to when such rates shall take effect.

11. For years in which rate adjustments to the regional minimum hourly base reimbursement rate have not been calculated prior to the start of the calendar year, the previous year's rate shall remain in place until the new rate is calculated. If it is determined that retroactive rate adjustments are necessary, payment adjustments will be made as a direct pass through to providers within sixty days of the adjusted rate.



1     § 2. Section 3614-d of the public health law, as added by section 49  
2 of part B of chapter 57 of the laws of 2015, is amended to read as  
3 follows:

4     § 3614-d. Universal standards for coding of payment for medical  
5 assistance claims for long term care. Claims for payment submitted under  
6 contracts or agreements with insurers under the medical assistance  
7 program for home and community-based long-term care services provided  
8 under this article, by fiscal intermediaries operating pursuant to  
9 section three hundred sixty-five-f of the social services law, and by  
10 residential health care facilities operating pursuant to article twen-  
11 ty-eight of this chapter shall have standard billing codes. Such insur-  
12 ers shall include but not be limited to Medicaid managed care plans and  
13 managed long term care plans. Such payments shall be based on universal  
14 billing codes approved by the department or a nationally accredited  
15 organization as approved by the department; provided, however, such  
16 coding shall be consistent with any codes developed as part of the  
17 uniform assessment system for long term care established by the depart-  
18 ment and shall include, for any entity operating pursuant to this arti-  
19 cle or section three hundred sixty-five-f of the social services law  
20 that is unable to control the cumulative hours worked by an individual  
21 in a given payroll period, a code that is specific to the hourly cost of  
22 services at an overtime rate.

23     § 3. The state finance law is amended by adding a new section 91-h to  
24 read as follows:

25     § 91-h. Fair pay for home care fund. 1. There is hereby established in  
26 the joint custody of the commissioner of taxation and finance and the  
27 comptroller, a special fund to be known as the "fair pay for home care  
28 fund".

29     2. The fund shall consist of, but not be limited to:

30     a. revenues and federal medical assistance percentage reimbursements  
31 in excess of the standard reimbursement received by the department of  
32 health pursuant to section thirty-seven of part B of chapter fifty-seven  
33 of the laws of two thousand fifteen;

34     b. an amount equal to savings from the permanent conversion or decer-  
35 tification of residential health care facility beds, as defined in  
36 section twenty-eight hundred one or twenty-eight hundred two of the  
37 public health law;

38     c. any unspent monies from the New York works economic development  
39 funds or a life sciences initiative created by section one of chapter  
40 fifty-four of the laws of two thousand seventeen which were originally  
41 appropriated prior to the two thousand nineteen state fiscal year which  
42 have not been bound by a contract as of April first two thousand twen-  
43 ty-two and which are not otherwise legally required to be spent on capi-  
44 tal projects under bonding requirements through the dormitory authority  
45 of New York state or other bonding entity; and

46     d. any grants, gifts or bequests received by the state for the  
47 purposes of the fund under this section.

48     3. Monies of the fund shall be distributed to the commissioner of  
49 health, or the commissioner's designee, for the purpose of increasing  
50 medical assistance reimbursements under title eleven of article five of  
51 the social services law to entities subject to minimum wage requirements  
52 for home care aides under section thirty-six hundred fourteen-f of the  
53 public health law, provided that the monies of this fund shall be  
54 utilized to offset general fund expenses related to implementation and  
55 ongoing costs of section thirty-six hundred fourteen-f of the public

1 health law and shall not be the sole source of funds made available to  
2 meet the requirements established by such section.

3 § 4. Paragraph (c) of subdivision 1 of section 92 of part H of chapter  
4 59 of the laws of 2011 amending the public health law and other laws  
5 relating to known and projected department of health state fund Medicaid  
6 expenditures, as amended by section 1 of part CCC of chapter 56 of the  
7 laws of 2020, is amended to read as follows:

8 (c) Projections may be adjusted by the director of the budget to  
9 account for any changes in the New York state federal medical assistance  
10 percentage amount established pursuant to the federal social security  
11 act, changes in provider revenues, reductions to local social services  
12 district medical assistance administration, minimum wage increases,  
13 increases to the mandatory base wage for home care workers pursuant to  
14 article 36 of the public health law, and beginning April 1, 2012 the  
15 operational costs of the New York state medical indemnity fund and state  
16 costs or savings from the basic health plan. Such projections may be  
17 adjusted by the director of the budget to account for increased or expe-  
18 dited department of health state funds medicaid expenditures as a result  
19 of a natural or other type of disaster, including a governmental decla-  
20 ration of emergency.

21 § 5. Paragraph (a) of subdivision 3 of section 3614-c of the public  
22 health law is amended by adding a new subparagraph (v) to read as  
23 follows:

24 (v) for all periods on or after January first, two thousand twenty-  
25 three, the cash portion of the minimum rate of home care aide total  
26 compensation shall be the minimum wage for home care aides in the appli-  
27 cable region, as defined in section thirty-six hundred fourteen-f of  
28 this article. The benefit portion of the minimum rate of home care aide  
29 total compensation shall be four dollars and eighty-four cents.

30 § 6. Subparagraph (iv) of paragraph (b) of subdivision 3 of section  
31 3614-c of the public health law, as amended by section 1 of part OO of  
32 chapter 56 of the laws of 2020, is amended and a new subparagraph (v) is  
33 added to read as follows:

34 (iv) for all periods on or after March first, two thousand sixteen,  
35 the cash portion of the minimum rate of home care aide total compen-  
36 sation shall be ten dollars or the minimum wage as laid out in paragraph  
37 (b) of subdivision one of section six hundred fifty-two of the labor  
38 law, whichever is higher. The benefit portion of the minimum rate of  
39 home care aide total compensation shall be three dollars and twenty-two  
40 cents[-];

41 (v) for all periods on or after January first, two thousand twenty-  
42 three, the cash portion of the minimum rate of home care aide total  
43 compensation shall be the minimum wage for the applicable region, as  
44 defined in section thirty-six hundred fourteen-f of this chapter. The  
45 benefit portion of the minimum rate of home care aide total compensation  
46 shall be three dollars and eighty-nine cents.

47 § 7. Severability. If any provision of this act, or any application of  
48 any provision of this act, is held to be invalid, or to violate or be  
49 inconsistent with any federal law or regulation, that shall not affect  
50 the validity or effectiveness of any other provision of this act, or of  
51 any other application of any provision of this act which can be given  
52 effect without that provision or application; and to that end, the  
53 provisions and applications of this act are severable.

54 § 8. This act shall take effect January 1, 2023.

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "quality incentive vital access provider program (QIVAPP) act".

3 § 2. The public health law is amended by adding a new section 4403-ff  
4 to read as follows:

5 § 4403-ff. Quality incentive vital access provider program. 1. Monies  
6 shall be made available, subject to appropriation, to reward investments  
7 in qualified home and personal care providers and networks, in accord-  
8 ance with the provisions of this section, by managed long-term care  
9 plans established pursuant to section forty-four hundred three-f of this  
10 article.

11 2. Notwithstanding any contrary provisions of law, the commissioner  
12 shall make available additional rate add-ons to eligible plans, in a  
13 manner determined by the commissioner, to be used to increase reimburse-  
14 ment to qualified providers where eligible plan applicants and qualified  
15 providers meet the following standards:

16 (a) The plan must show full compliance with this chapter, including  
17 all wage and hour requirements;

18 (b) The plans pay a qualified provider a base contracted amount that  
19 reflects the cost of investments for home and personal care aide  
20 services effective July first, two thousand twenty-two, and begin such  
21 payments for services provided after this date in conjunction with  
22 contract payment terms;

23 (c) The plan identifies a qualified provider that maintains or partic-  
24 ipates in a specialty training program for home health aides and  
25 personal care aides in excess of the training required in 18 NYCRR  
26 505.14(e)(2)(ii) and 10 NYCRR 766.11, and shall provide a letter of  
27 support for that training program from labor organizations;

28 (d) The plan identifies qualified network providers that have a writ-  
29 ten quality assurance program that has been successfully implemented;

30 (e) The plan identifies qualified network providers that provide  
31 comprehensive health insurance coverage to their employees that meets or  
32 exceeds criteria identified by the department; and

33 (f) The plan provides network survey data to the department and any  
34 other data as needed.

35 3. Notwithstanding subdivisions one and two of this section, no plan  
36 applicant shall receive quality incentive rate add-ons under this chap-  
37 ter and no qualified provider shall receive increased reimbursement  
38 under this chapter if either fail to meet any of the requirements of  
39 subdivision two of this section. Provided, however, if an otherwise  
40 qualified provider cannot meet any of these standards, the department  
41 will consider exceptions on a case by case basis, if they can be justi-  
42 fied.

43 4. The commissioner is authorized to promulgate any rules or regu-  
44 lations necessary to implement the quality incentive vital access  
45 program established by this section.

46 § 3. This act shall take effect immediately.

47 PART TT

48 Section 1. Section 26 of part B of chapter 59 of the laws of 2016,  
49 section 8 of part C of chapter 57 of the laws of 2018, sections 11, 12,  
50 20 and 21 of part MM of chapter 56 of the laws of 2020 shall be of no  
51 force or effect on or after the effective date of this section.

52 § 2. This act shall take effect immediately.

53 PART UU

1 Section 1. Subdivision (a) of section 25.03 of the mental hygiene law,  
2 as amended by section 4 of part G of chapter 56 of the laws of 2013, is  
3 amended to read as follows:

4 (a) In accordance with the provisions of this article, and within  
5 appropriations made available, the office may provide state aid to a  
6 program operated by a local governmental unit or voluntary agency [~~up to~~  
7 ~~one hundred per centum of the approved net operating costs of such~~  
8 ~~program~~] based on a payment for services model developed by the office,  
9 in consultation with operators of funded programs, for programs operated  
10 by a local governmental unit or voluntary agency, and state aid may also  
11 be granted to a program operated by a local governmental unit or a  
12 voluntary agency for capital costs associated with the provision of  
13 services at a rate of up to one hundred percent of approved capital  
14 costs. Such state aid shall not be granted unless and until such program  
15 operated by a local governmental unit or voluntary agency is in compli-  
16 ance with all regulations promulgated by the commissioner regarding the  
17 financing of capital projects. Such state aid [~~for approved net operat-~~  
18 ~~ing costs~~] shall be made available by way of advance or reimbursement,  
19 through either contracts entered into between the office and such volun-  
20 tary agency or by distribution of such state aid to local governmental  
21 units through [~~a grant~~] the process pursuant to section 25.11 of this  
22 article.

23 § 2. Subdivisions (a) and (b) of section 25.11 of the mental hygiene  
24 law, as added by section 9 of part G of chapter 56 of the laws of 2013,  
25 are amended to read as follows:

26 (a) Local governmental units shall be granted state aid by a state aid  
27 funding authorization letter issued by the office [~~for approved net~~  
28 ~~operating costs~~] based on a payment for services model developed by the  
29 office, in consultation with operators of funded programs, for voluntary  
30 agencies [~~to support the base amount of state aid provided to such~~  
31 ~~voluntary agencies for the prior year~~] provided that the local govern-  
32 mental unit has approved and submitted budgets for the voluntary agen-  
33 cies to the office. The voluntary agency budgets shall identify the  
34 nature of the services to be provided which must be consistent with the  
35 local services plan submitted by the local governmental unit pursuant to  
36 article forty-one of this chapter, the areas to be served and include a  
37 description of the voluntary agency contributions and local governmental  
38 unit funding provided. The local governmental unit shall enter into  
39 contracts with the voluntary agencies receiving such state aid. Such  
40 contracts shall include funding requirements set by the office including  
41 but not limited to responsibilities of voluntary agencies relating to  
42 work scopes, program performance and operations, [~~application of program~~  
43 ~~income, prohibited use of funds,~~] recordkeeping and audit obligations.  
44 Upon designation by the office, local governmental units shall notify  
45 voluntary agencies as to the source of funding received by such volun-  
46 tary agencies.

47 (b) State aid made available to a local governmental unit [~~for~~  
48 ~~approved net operating costs~~] based on a payment for services model  
49 developed by the office, in consultation with operators of funded  
50 programs for a program operated by a voluntary agency or a local govern-  
51 mental unit may be reduced where a review of such voluntary agency's  
52 prior year's budget and/or performance indicates[~~+~~ ~~(1)~~] that the  
53 program operated by a local governmental unit or voluntary agency has  
54 failed to meet minimum performance standards and requirements of the  
55 office including, but not limited to, maintaining service utilization  
56 rates and productivity standards as set by the office provided however,

1 that upon determination that the program is not meeting the minimum  
2 standards and requirements, the office shall notify such program oper-  
3 ated by a local governmental unit or voluntary agency of their deficien-  
4 cies, and if appropriate, a corrective action plan that includes specif-  
5 ic actions to address any deficiencies and a timetable for  
6 implementation shall be developed. State aid may be reduced if a correc-  
7 tive action plan is not approved by the office or is not implemented in  
8 a timely and satisfactory manner[+]

9 ~~(2) that the voluntary agency has had an increase in voluntary agency~~  
10 ~~contributions that reduces the approved net operating costs necessary,~~  
11 ~~except where the office has approved an alternative use of such volun-~~  
12 ~~tary agency contributions or such voluntary agency contributions are~~  
13 ~~necessary to ensure financial viability].~~

14 § 3. This act shall take effect January 1, 2023 and shall apply to  
15 program budgets developed on or after such date.

16 PART VV

17 Section 1. Subdivisions 2 and 2-a of section 1.03 of the mental  
18 hygiene law, subdivision 2 as amended and subdivision 2-a as added by  
19 chapter 281 of the laws of 2019, are amended to read as follows:

20 2. [~~"Commissioner" means the commissioner of mental health,~~] "Commis-  
21 sioner" means the commissioner of addiction and mental health services  
22 and the commissioner of developmental disabilities [~~and the commissioner~~  
23 ~~of addiction services and supports~~] as used in this chapter. Any power  
24 or duty heretofore assigned to the commissioner of mental hygiene or to  
25 the department of mental hygiene pursuant to this chapter shall hereaft-  
26 er be assigned to the commissioner of [~~mental health~~] addiction and  
27 mental health services in the case of facilities, programs, or services  
28 for individuals with [~~mental illness~~] a mental health diagnosis, to the  
29 commissioner of developmental disabilities in the case of facilities,  
30 programs, or services for individuals with developmental disabilities,  
31 to the commissioner of addiction [~~services~~] and [~~supports~~] mental health  
32 services in the case of facilities, programs, or addiction disorder  
33 services in accordance with the provisions of titles D and E of this  
34 chapter.

35 2-a. Notwithstanding any other section of law or regulation, on and  
36 after the effective date of this subdivision, any and all references to  
37 the office of alcoholism and substance abuse services and the predeces-  
38 sor agencies to the office of alcoholism and substance abuse services  
39 including the division of alcoholism and alcohol abuse and the division  
40 of substance abuse services and all references to the office of mental  
41 health, shall be known as the "office of addiction [~~services~~] and  
42 [~~supports~~] mental health services." Nothing in this subdivision shall  
43 be construed as requiring or prohibiting the further amendment of stat-  
44 utes or regulations to conform to the provisions of this subdivision.

45 § 2. Section 5.01 of the mental hygiene law, as amended by chapter 281  
46 of the laws of 2019, is amended and two new sections 5.01-a and 5.01-b  
47 are added to read as follows:

48 § 5.01 Department of mental hygiene.

49 There shall continue to be in the state government a department of  
50 mental hygiene. Within the department there shall be the following  
51 autonomous offices:

52 (1) office of addiction and mental health services; and

53 (2) office for people with developmental disabilities[+]

54 ~~(3) office of addiction services and supports].~~



1 § 5.01-a Office of addiction and mental health services.

2 (a) The office of addiction and mental health services shall be a new  
3 office within the department formed by the integration of the offices  
4 and services of mental health and addiction services and supports which  
5 shall focus on the integration of care and issues related to both mental  
6 illness and addiction in the state and carry out the intent of the  
7 legislature in establishing the offices pursuant to articles seven and  
8 nineteen of this chapter. The office of addiction and mental health  
9 services is charged with ensuring the development of comprehensive plans  
10 for the integration of programs and services in the area of research,  
11 prevention, care and treatment, co-occurring disorders, rehabilitation,  
12 education and training, and shall be staffed to perform the responsibil-  
13 ities attributed to the office pursuant to sections 7.07 and 19.07 of  
14 this chapter and provide integrated services and programs to promote  
15 recovery for individuals with a mental health diagnosis, substance use  
16 disorder, or a mental health diagnosis and substance use disorder.

17 (b) The commissioner of the office of addiction and mental health  
18 services shall be vested with the powers, duties, and obligations of the  
19 office of mental health and the office of addiction services and  
20 supports. Additionally, two deputy commissioners shall be appointed,  
21 one deputy commissioner to represent addiction services and supports,  
22 which shall be prominently represented to ensure the needs of substance  
23 use disorder communities are met, and one deputy commissioner to repre-  
24 sent mental health services. In conjunction with one another, the  
25 commissioners shall develop a plan for integrating services which shall  
26 be made available for public comment.

27 (c) The office of addiction and mental health services may license  
28 providers to provide integrated services for individuals with a mental  
29 health diagnosis, substance use disorder, or a mental health diagnosis  
30 and substance use disorder, in accordance with regulations issued by the  
31 commissioner. Such direct licensing mechanism allows for resources to  
32 get to community-based organizations in an expedited manner.

33 (d) The office of addiction and mental health services shall establish  
34 a standing advisory committee on addiction and mental health services.  
35 The standing advisory committee shall consist of seven members appointed  
36 by the governor as follows: (i) two members appointed on the recommenda-  
37 tion of the temporary president of the senate; (ii) two members  
38 appointed on the recommendation of the speaker of the assembly; (iii)  
39 one member appointed on the recommendation of the minority leader of the  
40 senate; (iv) one member appointed on the recommendation of the minority  
41 leader of the assembly; and (v) one member appointed on the recommenda-  
42 tion of the department of health AIDS institute, the office of mental  
43 health and the office of addiction services and supports to ensure the  
44 intent of the legislature is fulfilled in establishing the integration  
45 of services by such office. Such standing advisory committee shall  
46 consist of providers, peers, family members, individuals who have  
47 utilized addiction services and supports and/or mental health services,  
48 the local government unit as defined in article forty-one of this chap-  
49 ter, public and private sector unions and representatives of other agen-  
50 cies or offices as the designated standing advisory committee may deem  
51 necessary. Such standing advisory committee shall meet regularly in  
52 furtherance of its functions and at any other time at the request of the  
53 designated standing advisory committee leader.

54 § 5.01-b Office of addiction and mental health services.

1 Until January first, two thousand twenty-three, the office of  
2 addiction and mental health services shall consist of the office of  
3 mental health and the office of addiction services and supports.

4 § 3. Section 5.03 of the mental hygiene law, as amended by chapter 281  
5 of the laws of 2019, is amended to read as follows:

6 § 5.03 Commissioners.

7 The head of the office of addiction and mental health services shall  
8 be the commissioner of [~~mental health~~] addiction and mental health  
9 services; and the head of the office for people with developmental disa-  
10 bilities shall be the commissioner of developmental disabilities[~~, and~~  
11 ~~the head of the office of addiction services and supports shall be the~~  
12 ~~commissioner of addiction services and supports~~]. Each commissioner  
13 shall be appointed by the governor, by and with the advice and consent  
14 of the senate, to serve at the pleasure of the governor. Until the  
15 commissioner of addiction and mental health services is appointed by the  
16 governor and confirmed by the senate, the commissioner of mental health  
17 and the commissioner of addiction services and supports shall continue  
18 to oversee mental health and addiction services respectively, and work  
19 collaboratively to integrate care for individuals with both mental  
20 health and substance use disorders.

21 § 4. Section 5.05 of the mental hygiene law, as added by chapter 978  
22 of the laws of 1977, subdivision (a) as amended by chapter 168 of the  
23 laws of 2010, subdivision (b) as amended by chapter 294 of the laws of  
24 2007, paragraph 1 of subdivision (b) as amended by section 14 of part J  
25 of chapter 56 of the laws of 2012, subdivision (d) as added by chapter  
26 58 of the laws of 1988 and subdivision (e) as added by chapter 588 of  
27 the laws of 2011, is amended to read as follows:

28 § 5.05 Powers and duties of the head of the department.

29 (a) The commissioners of the office of addiction and mental health  
30 services and the office for people with developmental disabilities, as  
31 the heads of the department, shall jointly visit and inspect, or cause  
32 to be visited and inspected, all facilities either public or private  
33 used for the care, treatment [~~and~~], rehabilitation, and recovery of  
34 individuals with a mental [~~illness~~] health diagnosis, substance use  
35 disorder and developmental disabilities in accordance with the require-  
36 ments of section four of article seventeen of the New York state consti-  
37 tution.

38 (b) (1) The commissioners of the office of addiction and mental  
39 health[~~,~~] services and the office for people with developmental disabil-  
40 ities [~~and the office of alcoholism and substance abuse services~~] shall  
41 constitute an inter-office coordinating council which, consistent with  
42 the autonomy of each office for matters within its jurisdiction, shall  
43 ensure that the state policy for the prevention, care, treatment [~~and~~],  
44 rehabilitation, and recovery of individuals with a mental [~~illness~~]  
45 health diagnosis, substance use disorders and developmental disabili-  
46 ties[~~, alcoholism, alcohol abuse, substance abuse, substance dependence,~~  
47 ~~and chemical dependence~~] is planned, developed and implemented compre-  
48 hensively; that gaps in services to individuals with multiple disabili-  
49 ties are eliminated and that no person is denied treatment and services  
50 because he or she has more than one disability; that procedures for the  
51 regulation of programs which offer care and treatment for more than one  
52 class of persons with mental disabilities be coordinated between the  
53 offices having jurisdiction over such programs; and that research  
54 projects of the institutes, as identified in section 7.17 [~~or~~], 13.17,  
55 or 19.17 of this chapter or as operated by the office for people with  
56 developmental disabilities, are coordinated to maximize the success and

1 cost effectiveness of such projects and to eliminate wasteful dupli-  
2 cation.

3 (2) The inter-office coordinating council shall annually issue a  
4 report on its activities to the legislature on or before December thir-  
5 ty-first. Such annual report shall include, but not be limited to, the  
6 following information: proper treatment models and programs for persons  
7 with multiple disabilities and suggested improvements to such models and  
8 programs; research projects of the institutes and their coordination  
9 with each other; collaborations and joint initiatives undertaken by the  
10 offices of the department; consolidation of regulations of each of the  
11 offices of the department to reduce regulatory inconsistencies between  
12 the offices; inter-office or office activities related to workforce  
13 training and development; data on the prevalence, availability of  
14 resources and service utilization by persons with multiple disabilities;  
15 eligibility standards of each office of the department affecting clients  
16 suffering from multiple disabilities, and eligibility standards under  
17 which a client is determined to be an office's primary responsibility;  
18 agreements or arrangements on statewide, regional and local government  
19 levels addressing how determinations over client responsibility are made  
20 and client responsibility disputes are resolved; information on any  
21 specific cohort of clients with multiple disabilities for which substan-  
22 tial barriers in accessing or receiving appropriate care has been  
23 reported or is known to the inter-office coordinating council or the  
24 offices of the department; and coordination of planning, standards or  
25 services for persons with multiple disabilities between the inter-office  
26 coordinating council, the offices of the department and local govern-  
27 ments in accordance with the local planning requirements set forth in  
28 article forty-one of this chapter.

29 (c) The commissioners shall meet from time to time with the New York  
30 state conference of local mental hygiene directors to assure consistent  
31 procedures in fulfilling the responsibilities required by this section  
32 and by article forty-one of this chapter.

33 (d) ~~[1-]~~ (1) The commissioner of addiction and mental health services  
34 shall evaluate the type and level of care required by patients in the  
35 adult psychiatric centers authorized by section 7.17 of this chapter and  
36 develop appropriate comprehensive requirements for the staffing of inpa-  
37 tient wards. These requirements should reflect measurable need for  
38 administrative and direct care staff including physicians, nurses and  
39 other clinical staff, direct and related support and other support  
40 staff, established on the basis of sound clinical judgment. The staffing  
41 requirements shall include but not be limited to the following: (i) the  
42 level of care based on patient needs, including on ward activities, (ii)  
43 the number of admissions, (iii) the geographic location of each facili-  
44 ty, (iv) the physical layout of the campus, and (v) the physical design  
45 of patient care wards.

46 ~~[2-]~~ (2) Such commissioner, in developing the requirements, shall  
47 provide for adequate ward coverage on all shifts taking into account the  
48 number of individuals expected to be off the ward due to sick leave,  
49 workers' compensation, mandated training and all other off ward leaves.

50 ~~[3-]~~ (3) The staffing requirements shall be designed to reflect the  
51 legitimate needs of facilities so as to ensure full accreditation and  
52 certification by appropriate regulatory bodies. The requirements shall  
53 reflect appropriate industry standards. The staffing requirements shall  
54 be fully measurable.

55 ~~[4-]~~ (4) The commissioner of addiction and mental health services  
56 shall submit an interim report to the governor and the legislature on

1 the development of the staffing requirements on October first, [~~nineteen~~  
2 ~~hundred eighty-eight~~] two thousand twenty-two and again on April first,  
3 [~~nineteen hundred eighty-nine~~] two thousand twenty-three. The commis-  
4 sioner shall submit a final report to the governor and the legislature  
5 no later than October first, [~~nineteen hundred eighty-nine~~] two thousand  
6 twenty-three and shall include in his report a plan to achieve the  
7 staffing requirements and the length of time necessary to meet these  
8 requirements.

9 (e) The commissioners of the office of addiction and mental health[~~7~~]  
10 services and the office for people with developmental disabilities[~~7~~ and  
11 ~~the office of alcoholism and substance abuse services~~] shall cause to  
12 have all new contracts with agencies and providers licensed by the  
13 offices to have a clause requiring notice be provided to all current and  
14 new employees of such agencies and providers stating that all instances  
15 of abuse shall be investigated pursuant to this chapter, and, if an  
16 employee leaves employment prior to the conclusion of a pending abuse  
17 investigation, the investigation shall continue. Nothing in this section  
18 shall be deemed to diminish the rights, privileges, or remedies of any  
19 employee under any other law or regulation or under any collective  
20 bargaining agreement or employment contract.

21 § 5. Section 7.01 of the mental hygiene law, as added by chapter 978  
22 of the laws of 1977, is amended to read as follows:

23 § 7.01 Declaration of policy.

24 The state of New York and its local governments have a responsibility  
25 for the prevention and early detection of mental [~~illness~~] health disor-  
26 ders and for the comprehensively planned care, treatment [~~and~~], rehabil-  
27 itation and recovery of [~~the mentally ill citizens~~] individuals with a  
28 mental health diagnosis.

29 Therefore, it shall be the policy of the state to conduct research and  
30 to develop programs which further prevention and early detection of  
31 mental [~~illness~~] health disorders; to develop a comprehensive, inte-  
32 grated system of treatment [~~and~~], rehabilitative and recovery services  
33 for [~~the mentally ill~~] individuals with a mental health diagnosis. Such  
34 a system should include, whenever possible, the provision of necessary  
35 treatment services to people in their home communities; it should assure  
36 the adequacy and appropriateness of residential arrangements for people  
37 in need of service; and it should rely upon improved programs of insti-  
38 tutional care only when necessary and appropriate. Further, such a  
39 system should recognize the important therapeutic roles of all disci-  
40 plines which may contribute to the care or treatment of [~~the mentally~~  
41 ~~ill~~] individuals with a mental health diagnosis, such as psychology,  
42 social work, psychiatric nursing, special education and other disci-  
43 plines in the field of mental illness, as well as psychiatry and should  
44 establish accountability for implementation of the policies of the state  
45 with regard to the care [~~and~~], rehabilitation and recovery of [~~the~~  
46 ~~mentally ill~~] individuals with a mental health diagnosis.

47 To facilitate the implementation of these policies and to further  
48 advance the interests of [~~the mentally ill~~] individuals with a mental  
49 health diagnosis and their families, a new autonomous agency to be known  
50 as the office of addiction and mental health services has been estab-  
51 lished by this article. The office and its commissioner shall plan and  
52 work with local governments, voluntary agencies and all providers and  
53 consumers of mental health services in order to develop an effective,  
54 integrated, comprehensive system for the delivery of all services to  
55 [~~the mentally ill~~] individuals with a mental health diagnosis and to  
56 create financing procedures and mechanisms to support such a system of

1 services to ensure that [~~mentally ill~~] persons in need of services  
2 receive appropriate care, treatment and rehabilitation close to their  
3 families and communities. In carrying out these responsibilities, the  
4 office and its commissioner shall make full use of existing services in  
5 the community including those provided by voluntary organizations.

6 § 6. Section 19.01 of the mental hygiene law, as added by chapter 223  
7 of the laws of 1992, is amended to read as follows:  
8 § 19.01 Declaration of policy.

9 The legislature declares the following:

10 [~~Alcoholism~~] Unhealthy alcohol use, substance [~~abuse~~] use disorder and  
11 chemical dependence pose major health and social problems for individ-  
12 uals and their families when left untreated, including family devas-  
13 tation, homelessness, [~~and~~] unemployment, and death. It has been proven  
14 that successful prevention [~~and~~], integrated treatment, and sustained  
15 recovery can dramatically reduce costs to the health care, criminal  
16 justice and social welfare systems.

17 The tragic, cumulative and often fatal consequences of [~~alcoholism~~]  
18 unhealthy alcohol use and substance [~~abuse~~] use disorder are, however,  
19 preventable and treatable disabilities that require a coordinated and  
20 multi-faceted network of services.

21 The legislature recognizes locally planned and implemented prevention  
22 as a primary means to avert the onset of [~~alcoholism~~] unhealthy alcohol  
23 use and substance [~~abuse~~] use disorder. It is the policy of the state to  
24 promote comprehensive, age appropriate education for children and youth  
25 and stimulate public awareness of the risks associated with [~~alcoholism~~]  
26 unhealthy alcohol use and substance [~~abuse~~] use disorder. Further, the  
27 legislature acknowledges the need for a coordinated state policy for the  
28 establishment of prevention [~~and~~], treatment, and recovery programs  
29 designed to address the problems of chemical dependency among youth,  
30 including prevention and intervention efforts in school and community-  
31 based programs designed to identify and refer high risk youth in need of  
32 chemical dependency services.

33 Substantial benefits can be gained through [~~alcoholism~~] unhealthy  
34 alcohol use and substance [~~abuse~~] use disorder treatment for both  
35 addicted individuals and their families. Positive treatment outcomes  
36 that may be generated through a complete continuum of care offer a cost  
37 effective and comprehensive approach to [~~rehabilitating~~] treating such  
38 individuals. The primary goals of the [~~rehabilitation~~] treatment and  
39 recovery process are to [~~restore~~] rebuild social, family, lifestyle,  
40 vocational and economic supports by stabilizing an individual's physical  
41 and psychological functioning. The legislature recognizes the impor-  
42 tance of varying treatment approaches and levels of care designed to  
43 meet each [~~client's~~] individual's needs. [~~Relapse~~] Reoccurrence  
44 prevention and aftercare are two primary components of treatment that  
45 serve to promote and maintain recovery.

46 The legislature recognizes that the distinct treatment needs of  
47 special populations, including women and women with children, persons  
48 with HIV infection, persons [~~diagnosed~~] with a mental [~~illness~~] health  
49 diagnosis, persons who [~~abuse~~] misuse chemicals, the homeless and veter-  
50 ans with posttraumatic stress disorder, merit particular attention. It  
51 is the intent of the legislature to promote effective interventions for  
52 such populations in need of particular attention. The legislature also  
53 recognizes the importance of family support for individuals in alcohol  
54 or substance [~~abuse~~] use disorder treatment and recovery. Such family  
55 participation can provide lasting support to the recovering individual  
56 to [~~prevent relapse and maintain~~] support sustained recovery. The inter-



1 generational cycle of chemical dependency within families can be inter-  
2 cepted through appropriate interventions.

3 The state of New York and its local governments have a responsibility  
4 in coordinating the delivery of [~~alcoholism~~] unhealthy alcohol use and  
5 substance [~~abuse~~] use disorder services, through the entire network of  
6 service providers. To accomplish these objectives, the legislature  
7 declares that the establishment of a single, unified office of [~~alcohol-~~  
8 ~~ism and substance abuse~~] addiction and mental health services will  
9 provide an integrated framework to plan, oversee and regulate the  
10 state's prevention and treatment network. In recognition of the growing  
11 trends and incidence of chemical dependency, this consolidation allows  
12 the state to respond to the changing profile of chemical dependency.  
13 The legislature recognizes that some distinctions exist between the  
14 [~~alcoholism~~] unhealthy alcohol use and substance [~~abuse~~] use disorder  
15 field and the mental health field and where appropriate, those  
16 distinctions may be preserved. Accordingly, it is the intent of the  
17 state to establish one office of [~~alcoholism and substance abuse~~]  
18 addiction and mental health services in furtherance of a comprehensive  
19 service delivery system.

20 § 7. Upon or prior to January 1, 2023, the governor may nominate an  
21 individual to serve as commissioner of the office of addiction and  
22 mental health services. If such individual is confirmed by the senate  
23 prior to January 1, 2023, they shall become the commissioner of the  
24 office of addiction and mental health services. The governor may desig-  
25 nate a person to exercise the powers of the commissioner of the office  
26 of addiction and mental health services on an acting basis, until  
27 confirmation of a nominee by the senate, who is hereby authorized to  
28 take such actions as are necessary and proper to implement the orderly  
29 transition of the functions, powers as duties as herein provided,  
30 including the preparation for a budget request for the office as estab-  
31 lished by this act.

32 § 8. Upon the transfer pursuant to this act of the functions and  
33 powers possessed by and all of the obligations and duties of the office  
34 of mental health and the office of addiction services and supports as  
35 established pursuant to the mental hygiene law and other laws, to the  
36 office of addiction and mental health services as prescribed by this  
37 act, provision shall be made for the transfer of all employees from the  
38 office of mental health and the office of addiction services and  
39 supports into the office of addiction and mental health services.  
40 Employees so transferred shall be transferred without further examina-  
41 tion or qualification to the same or similar titles and shall remain in  
42 the same collective bargaining units and shall retain their respective  
43 civil service classifications, status, and rights pursuant to their  
44 collective bargaining units and collective bargaining agreements.

45 § 9. Notwithstanding any contrary provision of law, on or before Octo-  
46 ber 1, 2022 and annually thereafter, the office of addiction and mental  
47 health services, in consultation with the department of health, shall  
48 issue a report, and post such report on their public website, detailing  
49 the office's expenditures for addiction and mental health services,  
50 including total Medicaid spending directly by the state to licensed or  
51 designated providers and payments to managed care providers pursuant to  
52 section 364-j of the social services law. The office of addiction and  
53 mental health services shall examine reports produced pursuant to this  
54 section and may make recommendations to the governor and the legislature  
55 regarding appropriations for addiction and mental health services or

1 other provisions of law which may be necessary to effectively implement  
2 the creation and continued operation of the office.

3 § 10. Any financial saving realized from the creation of the office of  
4 addiction and mental health services shall be reinvested in the services  
5 and supports funded by such office.

6 § 11. Severability. If any clause, sentence, paragraph, section or  
7 part of this act shall be adjudged by any court of competent jurisdic-  
8 tion to be invalid, such judgment shall not affect, impair or invalidate  
9 the remainder thereof, but shall be confined in its operation to the  
10 clause, sentence, paragraph, section or part thereof directly involved  
11 in the controversy in which such judgment shall have been rendered.

12 § 12. This act shall take effect April 1, 2023. Effective immediately,  
13 the office of mental health and the office of addiction services and  
14 supports are authorized to promulgate the addition, amendment and/or  
15 repeal of any rule or regulation or engage in any work necessary for the  
16 implementation of this act on its effective date are authorized to be  
17 made and completed on or before such effective date.

18 PART WW

19 Section 1. The mental hygiene law is amended by adding two new  
20 sections 7.51 and 7.53 to read as follows:

21 § 7.51 Crisis intervention demonstration program.

22 (a) The commissioner shall establish a crisis intervention demon-  
23 stration program in the state of New York for the purpose of assisting  
24 law enforcement officers in responding to crisis situations involving  
25 persons with mental illness and/or substance use disorder.

26 (b) The commissioner shall establish within the office the position of  
27 crisis intervention team training program coordinator who will serve at  
28 the pleasure of the commissioner and who shall work with municipal  
29 police departments and any other law enforcement agency in the state  
30 that requests assistance to coordinate the provision of crisis inter-  
31 vention team training to its first responders as a part of a specialized  
32 response team or as part of training for first responders.

33 (c) The crisis intervention team training program coordinator shall:

34 (1) work with communities to develop partnerships, coordinate activ-  
35 ities and promote cooperation and collaboration between the office, the  
36 office of alcoholism and substance abuse services, law enforcement agen-  
37 cies, disability service providers and people with psychiatric or other  
38 disabilities and their families to provide crisis intervention team  
39 training;

40 (2) provide coordination activities and funding support for crisis  
41 intervention team training;

42 (3) provide support, training and community coordination to ensure  
43 that mental health service providers in the community provide alterna-  
44 tives to incarceration;

45 (4) provide funding to support training and community coordination  
46 costs as necessary. All moneys shall be deposited in the crisis inter-  
47 vention team training fund established by section ninety-nine-pp of the  
48 state finance law;

49 (5) in consultation with the crisis intervention advisory committee  
50 established by this article, distribute crisis intervention team train-  
51 ing fund moneys as needed for support, training and community coordi-  
52 nation costs; and

53 (6) submit a report to the governor, temporary president of the  
54 senate, speaker of the assembly and the crisis intervention advisory

1 committee on or before November fifteenth of each year that contains the  
2 following:

3 (A) a review of all law enforcement agencies that have provided crisis  
4 intervention team training to their officers and the number of officers  
5 that have completed the training;

6 (B) a list of communities in this state that have implemented the  
7 crisis intervention team training program through training and coordi-  
8 nation, including the length of implementation and current status of the  
9 program;

10 (C) recommendations for improvement in the community based partner-  
11 ships that support crisis intervention team responses;

12 (D) recommendations for improvement in the law enforcement and public  
13 safety agencies that provide crisis intervention team responses; and

14 (E) a review of all funding resources that the crisis intervention  
15 team training program coordinator has applied for to increase available  
16 funding, including the status of all funding requests and the total of  
17 moneys received.

18 (d) The demonstration program established pursuant to this section  
19 shall end five years after the effective date of this section.

20 § 7.53 Crisis intervention advisory committee.

21 (a) There is hereby established a crisis intervention advisory commit-  
22 tee.

23 (b) The committee shall consist of:

24 (1) The commissioner, who shall serve as chairperson of the committee  
25 and who is a nonvoting member;

26 (2) the crisis intervention team training program coordinator, who is  
27 a nonvoting member;

28 (3) one member appointed by the commissioner who is a consumer of  
29 mental health services;

30 (4) one member appointed by the commissioner who is an immediate fami-  
31 ly member of a consumer of mental health services;

32 (5) one member appointed by the commissioner who represents a state-  
33 wide advocacy agency that serves persons with mental disabilities and  
34 their families;

35 (6) one member appointed by the commissioner who is a psychiatrist or  
36 psychologist licensed in the state;

37 (7) one member appointed by the commissioner of addiction services and  
38 supports;

39 (8) one member appointed by the commissioner of addiction services and  
40 supports who represents a statewide behavior advocacy group, agency or  
41 association;

42 (9) one member appointed by the commissioner of the office for people  
43 with developmental disabilities who is either a family member or guardi-  
44 an of a person with a developmental disability;

45 (10) one member appointed by the commissioner of the office for people  
46 with developmental disabilities who is a person with a developmental  
47 disability;

48 (11) one member appointed by the commissioner of the division of crim-  
49 inal justice services upon the recommendation of a state benevolent  
50 association representing peace officers who is a certified peace offi-  
51 cer;

52 (12) one member appointed by the commissioner of the division of crim-  
53 inal justice services who is a law enforcement officer; and

54 (13) one member of a police department appointed by each county that  
55 has a crisis intervention team established pursuant to section two  
56 hundred nine-qqq of the general municipal law.

1 (c) The committee shall:

2 (1) meet at least two times in each full calendar year. The committee  
3 shall meet at the request of its chairperson; and

4 (2) review the report required by section 7.51 of this article and  
5 based on that report make recommendations to the office of mental  
6 health, the office for people with developmental disabilities, the  
7 office of addiction services and supports, the division of criminal  
8 justice services, municipal police departments, the governor, the tempo-  
9 rary president of the senate and the speaker of the assembly.

10 (d) Committee members shall not be compensated but are eligible for  
11 reimbursement of reasonable expenses.

12 § 2. The state finance law is amended by adding a new section 99-pp to  
13 read as follows:

14 § 99-pp. Crisis intervention team training fund. 1. There is hereby  
15 established in the joint custody of the comptroller and the commissioner  
16 of the office of mental health a fund to be known as the crisis inter-  
17 vention team training fund.

18 2. The crisis intervention team training fund shall consist of all  
19 moneys received from the federal government, New York state government,  
20 and private grants.

21 3. Any contractors that receive moneys pursuant to this section shall  
22 submit quarterly reports to the commissioner of the office of mental  
23 health regarding the use and effectiveness of the distributed moneys.  
24 The commissioner of the office of mental health shall include a summary  
25 of the fund analysis in the annual report required pursuant to section  
26 7.51 of the mental hygiene law.

27 § 3. The general municipal law is amended by adding a new section  
28 209-ggg to read as follows:

29 § 209-ggg. Crisis intervention teams. 1. The commissioner of the divi-  
30 sion of criminal justice services, in consultation with the commission-  
31 ers of the office of mental health, office for people with developmental  
32 disabilities and the office of addiction services and supports, shall,  
33 for all local police departments and any other enforcement agency that  
34 chooses to participate:

35 (a) establish criteria for the development of crisis intervention  
36 teams; and

37 (b) establish, and implement on an ongoing basis, a training program  
38 for all current and new employees regarding the policies and procedures  
39 established pursuant to this section. The curriculum shall include a  
40 minimum of forty hours of mandatory training in mental health issues.

41 2. The goals of the crisis intervention team program shall be to:

42 (a) provide immediate response by specifically trained law enforcement  
43 officers;

44 (b) reduce the amount of time police officers spend out of service  
45 awaiting assessment and disposition;

46 (c) afford persons with mental illness and/or substance use disorder a  
47 sense of dignity in crisis situations;

48 (d) reduce the likelihood of physical confrontation;

49 (e) identify underserved populations with mental illness and/or  
50 substance use disorder and refer them to appropriate care;

51 (f) decrease the use of arrest and detention of persons experiencing  
52 mental health and/or substance use crises by providing better access to  
53 timely treatment;

54 (g) provide therapeutic locations or protocols for officers to bring  
55 individuals in crisis for assessment that is not a law enforcement or  
56 jail facility; and

1 (h) decrease injuries to law enforcement officers during crisis  
2 events.

3 3. Other state agencies shall provide cooperation and assistance to  
4 the division of criminal justice services to assist in the effective  
5 performance of its duties.

6 § 4. Section 19.07 of the mental hygiene law is amended by adding a  
7 new subdivision (o) to read as follows:

8 (o) The office of addiction services and supports shall, in collab-  
9 oration with law enforcement and the office of mental health, establish  
10 criteria for the development of crisis intervention teams that shall  
11 include assessment of the effectiveness of the plan for community  
12 involvement, training and therapeutic response alternatives and a deter-  
13 mination of whether law enforcement officers have effective agreements  
14 with mental health care providers and all other community stakeholders.

15 § 5. This act shall take effect immediately.

16 PART XX

17 Section 1. Legislative intent. During the pandemic, New York's  
18 seniors, and disabled individuals, particularly those residing in nurs-  
19 ing homes and long-term care facilities, were at the most significant  
20 risk of contracting and dying from the coronavirus. The families of  
21 these vulnerable individuals were faced with the life and death decision  
22 to allow their loved ones to remain in a congregate facility where they  
23 would have limited access, ensuring sufficient safety and care, or bring  
24 them home and provide all care for their loved ones themselves. The  
25 health and safety risks associated with living in a congregate setting  
26 during the pandemic proved too great for many, resulting in families  
27 opting to bring their aging and disabled family members home. Keeping  
28 our most vulnerable in the home often required drastic changes to long-  
29 term care plans and brought new challenges for families trying to ensure  
30 the safety and health of their loved ones. Providing for these family  
31 members at home often required finding assistance to adequately care for  
32 these vulnerable individuals, increasing demand for home care providers.  
33 New York has a documented shortage of home care workforce, so families  
34 trying to find a caregiver whom they trusted to enter their home during  
35 this critical time for their at-risk family member became highly chal-  
36 lenging and at times impossible. As a result, consumer-directed personal  
37 assistants, or family home care, became the safety net provider for the  
38 state's most vulnerable population. Having the ability to employ a  
39 trusted friend or family member to provide the care needed for our most  
40 susceptible family members became a critical resource in providing the  
41 care they needed.

42 Ensuring the health and safety of our seniors and disabled citizens by  
43 allowing them to remain in their own homes ought to be a priority for  
44 the state as we reassess the delivery of long-term care. Maintaining and  
45 responding to an increased need for consumer-directed home care services  
46 is more crucial than ever before and requires a full assessment of the  
47 program's needs, including the number of administrators, geographical  
48 location, wages and reimbursements, and other supports needed to ensure  
49 a continuity of care for all individuals being served.

50 § 2. The commissioner of health is hereby directed to prepare a study  
51 of the Consumer Directed Personal Care Program, authorized by section  
52 365-j of the social services law, to assess the current need and costs  
53 associated with consumer-directed services within the state, including,  
54 but not limited to, total current and anticipated eligible Medicaid



1 recipients; the appropriate number of fiscal intermediaries required to  
2 ensure continuity of care and program administration for all partic-  
3 ipants statewide; the need for procurement of fiscal intermediary  
4 services; all evidence-based criteria and scoring to be used during any  
5 procurement process, if required; and the need for any programmatic  
6 changes to support the program. The commissioner shall issue recommenda-  
7 tions based on such findings.

8 § 3. The commissioner of health shall provide the study to the tempo-  
9 rary president of the senate, the speaker of the assembly, and the  
10 chairs of the senate and assembly health committees by December thirty-  
11 first, two thousand twenty-three. Until such time, all changes to the  
12 program shall be suspended, and, if necessary, a reissuance of the  
13 request for offers shall be released one hundred eighty days after the  
14 study's release. The commissioner shall also publish the study on the  
15 department of health's website within thirty days of its transmittal to  
16 the legislature.

17 § 4. This act shall take effect immediately.

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

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