

STATE OF NEW YORK

S. 8007

A. 9007

SENATE - ASSEMBLY

January 19, 2022

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

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); to amend the public health law and the education law, in relation to allowing pharmacists to direct limited service laboratories and order waived tests and modernizing nurse practitioners and, in relation to regulations for medication-related tasks provided by certified medical aides; to amend the education law, in relation to allowing for certain individuals to administer tests to determine the presence of SARS-CoV-2 or its antibodies, influenza virus or respiratory syncytial virus in certain situations; to amend part D of chapter 56 of the laws of 2014, amending the education law relating to enacting the "nurse practitioners modernization act", in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon the expiration thereof (Part C); to amend the social services law, in relation to establishing the 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 fifty 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); to repeal articles governing healthcare professions in the education law and adding such laws to the public health law and transferring all functions, powers, duties and obligations relating thereto (Part G); to amend 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 the cap on local Medicaid expenditures (Part H); relating to provide a one

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

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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 thereto (Part N); to amend the social services law, in relation to private duty nursing services reimbursement for nurses servicing adult members; to amend part MM of chapter 56 of the laws of 2020 directing the department of health to establish or procure the services of an independent panel of clinical professionals and to develop and implement a uniform task-based assessment tool, in relation to directing the department of health to develop guidelines and standards for the use of tasking tools; and to amend the public health law, in relation to establishing programs of all-inclusive care for the elderly (Part O); to amend the social services law and the public health law, in relation to providing authority for the department of health to competitively procure managed care organizations and 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 to repeal certain provisions of the social services law relating thereto (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 private insurance plans to cover abortion services without cost-sharing (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); to amend the public health law, in relation to requiring third trimester syphilis testing (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 and the insurance law, in relation to reimbursement for commercial and Medicaid services provided via telehealth

(Part V); to amend the social services law, in relation to eliminating unnecessary requirements from the utilization threshold program (Part W); to amend the public health law, in relation to redefining the duties and renaming the office of minority health to the office of health equity and renaming the minority health council to the health equity council (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 the purchase of excess coverage by physicians and dentists and reimbursement of costs therefor, and 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); to amend the financial services law, the insurance law and the public health law, in relation to clarifying provisions regarding emergency medical services and surprise bills; and to repeal certain provisions of such law relating thereto (Subpart A); to amend the insurance law and the public health law, in relation to the federal no surprises act (Subpart B); and to amend the insurance law and the public health law, in relation to administrative simplification (Subpart C) (Part AA); to amend the public health law, in relation to prescriber prevails; and to repeal certain provisions of the social services law relating to coverage for certain prescription drugs (Part BB); to amend the social services law, the executive law and the public health law, in relation to extending various provisions relating to health and mental hygiene; to amend chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, in relation to the effectiveness thereof; 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; to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to the effectiveness thereof; to amend chapter 54 of the laws of 2016, amending part C of chapter 58 of the laws of 2005 relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2020, amending the tax law and the social services law relating to certain Medicaid management, in relation to the effectiveness thereof; to amend chapter 74 of the laws of 2020, relating to directing the department of health to convene a work group on rare diseases, in relation to the effectiveness thereof; and to amend chapter 414 of the laws of 2018, creating the radon task force, 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); to amend the mental hygiene law, in relation to expanding the scope of the alcohol awareness program to become the substance use awareness program (Part JJ); to amend the facilities development corporation act in relation to authorizing the facilities development corporation to acquire, improve and lease mental health facilities providing services for the treatment of addiction (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; and to amend the mental hygiene law, in relation to extending Kendra's law and assisted outpatient treatment (Part MM); to amend the mental hygiene law, in relation to rental and mortgage payments for the mentally ill (Part NN); and to amend part L of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the appointment of temporary operators for the continued operation of programs and the provision of services for persons with serious mental illness and/or developmental disabilities and/or chemical dependence, in relation to the effectiveness thereof (Part OO)

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

1 Section 1. This act enacts into law major components of legislation
 2 necessary to implement the state health and mental hygiene budget for
 3 the 2022-2023 state fiscal year. Each component is wholly contained
 4 within a Part identified as Parts A through OO. The effective date for
 5 each particular provision contained within such Part is set forth in the
 6 last section of such Part. Any provision in any section contained within
 7 a Part, including the effective date of the Part, which makes a refer-
 8 ence to a section "of this act", when used in connection with that
 9 particular component, shall be deemed to mean and refer to the corre-
 10 sponding section of the Part in which it is found. Section three of this
 11 act sets forth the general effective date of this act.

12

PART A

1 Section 1. Short title. This act shall be known and may be cited as
2 the "nurses across New York (NANY) program".

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

5 § 2807-aa. Nurse loan repayment program. 1.(a) Monies shall be made
6 available, subject to appropriations, for purposes of loan repayment in
7 accordance with the provisions of this section for registered profes-
8 sional nurses licensed to practice pursuant to section sixty-nine
9 hundred five of the education law. Notwithstanding sections one hundred
10 twelve and one hundred sixty-three of the state finance law and sections
11 one hundred forty-two and one hundred forty-three of the economic devel-
12 opment law, or any other contrary provision of law, such funding shall
13 be allocated regionally with one-third of available funds going to New
14 York city and two-thirds of available funds going to the rest of the
15 state and shall be distributed in a manner to be determined by the
16 commissioner without a competitive bid or request for proposals.

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

25 (ii) Funding awarded pursuant to this section shall not exceed the
26 total qualifying outstanding debt of the nurse from student loans to
27 cover tuition and other related educational expenses, made by or guaran-
28 teed by the federal or state government, or made by a lending or educa-
29 tional institution approved under title IV of the federal higher educa-
30 tion act. Loan repayment awards shall be used solely to repay such
31 outstanding debt.

32 (iii) A nurse receiving funds pursuant to this section shall be eligi-
33 ble for a loan repayment award to be determined by the commissioner over
34 a three-year period distributed as follows: thirty percent of total
35 award for the first year; thirty percent of total award for the second
36 year; and any unpaid balance of the total award not to exceed the maxi-
37 mum award amount for the third year.

38 (iv) In the event that a three-year commitment pursuant to the agree-
39 ment referenced in subparagraph (i) of this paragraph is not fulfilled,
40 the recipient shall be responsible for repayment of amounts paid which
41 shall be calculated in accordance with the formula set forth in subdivi-
42 sion (b) of section two hundred fifty-four-o of title forty-two of the
43 United States Code, as amended.

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

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

54 3. In the event there are undistributed funds within amounts made
55 available for distributions pursuant to this section, such funds may be
56 reallocated and distributed in current or subsequent distribution peri-

1 ods in a manner determined by the commissioner for the purpose set forth
2 in this section.

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

6 PART B

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

9 ARTICLE 169

10 INTERSTATE MEDICAL LICENSURE COMPACT

11 Section 8860. Short title.

12 8861. Purpose.

13 8862. Definitions.

14 8863. Eligibility.

15 8864. Designation of state of principal license.

16 8865. Application and issuance of expedited licensure.

17 8866. Fees for expedited licensure.

18 8867. Renewal and continued participation.

19 8868. Coordinated information system.

20 8869. Joint investigations.

21 8870. Disciplinary actions.

22 8871. Interstate medical licensure compact commission.

23 8872. Powers and duties of the interstate commission.

24 8873. Finance powers.

25 8874. Organization and operation of the interstate commission.

26 8875. Rulemaking functions of the interstate commission.

27 8876. Oversight of interstate compact.

28 8877. Enforcement of interstate compact.

29 8878. Default procedures.

30 8879. Dispute resolution.

31 8880. Member states, effective date and amendment.

32 8881. Withdrawal.

33 8882. Dissolution.

34 8883. Severability and construction.

35 8884. Binding effect of compact and other laws.

36 § 8860. Short title. This article shall be known and may be cited as
37 the "interstate medical licensure compact".

38 § 8861. Purpose. In order to strengthen access to health care, and in
39 recognition of the advances in the delivery of health care, the member
40 states of the interstate medical licensure compact have allied in common
41 purpose to develop a comprehensive process that complements the existing
42 licensing and regulatory authority of state medical boards, provides a
43 streamlined process that allows physicians to become licensed in multi-
44 ple states, thereby enhancing the portability of a medical license and
45 ensuring the safety of patients. The compact creates another pathway
46 for licensure and does not otherwise change a state's existing medical
47 practice act. The compact also adopts the prevailing standard for licen-
48 sure and affirms that the practice of medicine occurs where the patient
49 is located at the time of the physician-patient encounter, and there-
50 fore, requires the physician to be under the jurisdiction of the state
51 medical board where the patient is located. State medical boards that
52 participate in the compact retain the jurisdiction to impose an adverse
53 action against a license to practice medicine in that state issued to a
54 physician through the procedures in the compact.

1 § 8862. Definitions. In this compact:

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

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

9 3. "Conviction" means a finding by a court that an individual is guilty
10 of a criminal offense through adjudication, or entry of a plea of
11 guilt or no contest to the charge by the offender. Evidence of an entry
12 of a conviction of a criminal offense by the court shall be considered
13 final for purposes of disciplinary action by a member board.

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

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

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

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

24 8. "Member board" means a state agency in a member state that acts in
25 the sovereign interests of the state by protecting the public through
26 licensure, regulation, and education of physicians as directed by the
27 state government.

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

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

33 11. "Physician" means any person who:

34 (a) Is a graduate of a medical school accredited by the Liaison
35 Committee on Medical Education, the Commission on Osteopathic College
36 Accreditation, or a medical school listed in the International Medical
37 Education Directory or its equivalent;

38 (b) Passed each component of the United States Medical Licensing Exam-
39 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-
40 ination (COMLEX-USA) within three attempts, or any of its predecessor
41 examinations accepted by a state medical board as an equivalent examina-
42 tion for licensure purposes;

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

46 (d) Holds specialty certification or a time-unlimited specialty
47 certificate recognized by the American Board of Medical Specialties or
48 the American Osteopathic Association's Bureau of Osteopathic Special-
49 ists;

50 (e) Possesses a full and unrestricted license to engage in the prac-
51 tice of medicine issued by a member board;

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

55 (g) Has never held a license authorizing the practice of medicine
56 subjected to discipline by a licensing agency in any state, federal, or

1 foreign jurisdiction, excluding any action related to non-payment of
2 fees related to a license;

3 (h) Has never had a controlled substance license or permit suspended
4 or revoked by a state or the United States drug enforcement adminis-
5 tration; and

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

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

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

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

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

23 § 8863. Eligibility. 1. A physician must meet the eligibility require-
24 ments as defined in subdivision eleven of section eighty-eight hundred
25 sixty-two of this article to receive an expedited license under the
26 terms and provisions of the compact.

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

32 § 8864. Designation of state of principal license. 1. A physician
33 shall designate a member state as the state of principal license for
34 purposes of registration for expedited licensure through the compact if
35 the physician possesses a full and unrestricted license to practice
36 medicine in that state, and the state is:

37 (a) the state of primary residence for the physician, or
38 (b) the state where at least twenty-five percent of the practice of
39 medicine occurs, or
40 (c) the location of the physician's employer, or
41 (d) if no state qualifies under paragraph (a), (b), or (c) of this
42 subdivision, the state designated as state of residence for purpose of
43 federal income tax.

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

47 3. The interstate commission is authorized to develop rules to facili-
48 tate redesignation of another member state as the state of principal
49 license.

50 § 8865. Application and issuance of expedited licensure. 1. A physi-
51 cian seeking licensure through the compact shall file an application for
52 an expedited license with the member board of the state selected by the
53 physician as the state of principal license.

54 2. Upon receipt of an application for an expedited license, the member
55 board within the state selected as the state of principal license shall
56 evaluate whether the physician is eligible for expedited licensure and

1 issue a letter of qualification, verifying or denying the physician's
2 eligibility, to the interstate commission.

3 (a) Static qualifications, which include verification of medical
4 education, graduate medical education, results of any medical or licens-
5 ing examination, and other qualifications as determined by the inter-
6 state commission through rule, shall not be subject to additional prima-
7 ry source verification where already primary source verified by the
8 state of principal license.

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

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

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

24 4. After receiving verification of eligibility under subdivision two
25 of this section and any fees under subdivision three of this section, a
26 member board shall issue an expedited license to the physician. This
27 license shall authorize the physician to practice medicine in the iss-
28 uing state consistent with the medical practice act and all applicable
29 laws and regulations of the issuing member board and member state.

30 5. An expedited license shall be valid for a period consistent with
31 the licensure period in the member state and in the same manner as
32 required for other physicians holding a full and unrestricted license
33 within the member state.

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

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

41 § 8866. Fees for expedited licensure. 1. A member state issuing an
42 expedited license authorizing the practice of medicine in that state may
43 impose a fee for a license issued or renewed through the compact.

44 2. The interstate commission is authorized to develop rules regarding
45 fees for expedited licenses.

46 § 8867. Renewal and continued participation. 1. A physician seeking to
47 renew an expedited license granted in a member state shall complete a
48 renewal process with the interstate commission if the physician:

49 (a) Maintains a full and unrestricted license in a state of principal
50 license;

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

54 (c) Has not had a license authorizing the practice of medicine subject
55 to discipline by a licensing agency in any state, federal, or foreign

1 jurisdiction, excluding any action related to non-payment of fees
2 related to a license; and

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

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

8 3. The interstate commission shall collect any renewal fees charged
9 for the renewal of a license and distribute the fees to the applicable
10 member board.

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

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

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

17 § 8868. Coordinated information system. 1. The interstate commission
18 shall establish a database of all physicians licensed, or who have
19 applied for licensure, under section eighty-eight hundred sixty-five of
20 this article.

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

25 3. Member boards shall report disciplinary or investigatory informa-
26 tion determined as necessary and proper by rule of the interstate
27 commission.

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

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

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

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

38 § 8869. Joint investigations. 1. Licensure and disciplinary records of
39 physicians are deemed investigative.

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

44 3. A subpoena issued by a member state shall be enforceable in other
45 member states.

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

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

52 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any
53 member board against a physician licensed through the compact shall be
54 deemed unprofessional conduct which may be subject to discipline by
55 other member boards, in addition to any violation of the medical prac-
56 tice act or regulations in that state.

1 2. If a license granted to a physician by the member board in the
2 state of principal license is revoked, surrendered or relinquished in
3 lieu of discipline, or suspended, then all licenses issued to the physi-
4 cian by member boards shall automatically be placed, without further
5 action necessary by any member board, on the same status. If the member
6 board in the state of principal license subsequently reinstates the
7 physician's license, a license issued to the physician by any other
8 member board shall remain encumbered until that respective member board
9 takes action to reinstate the license in a manner consistent with the
10 medical practice act of that state.

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

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

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

20 4. If a license granted to a physician by a member board is revoked,
21 surrendered, or relinquished in lieu of discipline, or suspended, then
22 any license or licenses issued to the physician by any other member
23 board or boards shall be suspended, automatically and immediately with-
24 out further action necessary by the other member board or boards, for
25 ninety days upon entry of the order by the disciplining board, to permit
26 the member board or boards to investigate the basis for the action under
27 the medical practice act of that state. A member board may terminate the
28 automatic suspension of the license it issued prior to the completion of
29 the ninety day suspension period in a manner consistent with the medical
30 practice act of that state.

31 § 8871. Interstate medical licensure compact commission. 1. The member
32 states hereby create the "interstate medical licensure compact commis-
33 sion".

34 2. The purpose of the interstate commission is the administration of
35 the interstate medical licensure compact, which is a discretionary state
36 function.

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

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

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

51 (b) Executive director, executive secretary, or similar executive of a
52 member board; or

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

54 5. The interstate commission shall meet at least once each calendar
55 year. A portion of this meeting shall be a business meeting to address
56 such matters as may properly come before the commission, including the

1 election of officers. The chairperson may call additional meetings and
2 shall call for a meeting upon the request of a majority of the member
3 states.

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

6 7. Each commissioner participating at a meeting of the interstate
7 commission is entitled to one vote. A majority of commissioners shall
8 constitute a quorum for the transaction of business, unless a larger
9 quorum is required by the bylaws of the interstate commission. A commis-
10 sioner shall not delegate a vote to another commissioner. In the absence
11 of its commissioner, a member state may delegate voting authority for a
12 specified meeting to another person from that state who shall meet the
13 requirements of subdivision four of this section.

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

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

21 (b) Discuss matters specifically exempted from disclosure by federal
22 statute;

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

25 (d) Involve accusing a person of a crime, or formally censuring a
26 person;

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

29 (f) Discuss investigative records compiled for law enforcement
30 purposes; or

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

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

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

40 11. The interstate commission shall establish an executive committee,
41 which shall include officers, members, and others as determined by the
42 bylaws. The executive committee shall have the power to act on behalf of
43 the interstate commission, with the exception of rulemaking, during
44 periods when the interstate commission is not in session. When acting on
45 behalf of the interstate commission, the executive committee shall over-
46 see the administration of the compact including enforcement and compli-
47 ance with the provisions of the compact, its bylaws and rules, and other
48 such duties as necessary.

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

51 § 8872. Powers and duties of the interstate commission. The interstate
52 commission shall have the duty and power to:

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

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

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

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

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

11 6. Pay, or provide for the payment of the expenses related to the
12 establishment, organization, and ongoing activities of the interstate
13 commission;

14 7. Establish and maintain one or more offices;

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

16 9. Purchase and maintain insurance and bonds;

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

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

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

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

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

31 15. Establish a budget and make expenditures;

32 16. Adopt a seal and bylaws governing the management and operation of
33 the interstate commission;

34 17. Report annually to the legislatures and governors of the member
35 states concerning the activities of the interstate commission during the
36 preceding year. Such reports shall also include reports of financial
37 audits and any recommendations that may have been adopted by the inter-
38 state commission;

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

41 19. Maintain records in accordance with the bylaws;

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

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

45 § 8873. Finance powers. 1. The interstate commission may levy on and
46 collect an annual assessment from each member state to cover the cost of
47 the operations and activities of the interstate commission and its
48 staff. The total assessment must be sufficient to cover the annual budg-
49 et approved each year for which revenue is not provided by other sourc-
50 es. The aggregate annual assessment amount shall be allocated upon a
51 formula to be determined by the interstate commission, which shall
52 promulgate a rule binding upon all member states.

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

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

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

5 § 8874. Organization and operation of the interstate commission. 1.
6 The interstate commission shall, by a majority of commissioners present
7 and voting, adopt bylaws to govern its conduct as may be necessary or
8 appropriate to carry out the purposes of the compact within twelve
9 months of the first interstate commission meeting.

10 2. The interstate commission shall elect or appoint annually from
11 among its commissioners a chairperson, a vice-chairperson, and a treas-
12 urer, each of whom shall have such authority and duties as may be speci-
13 fied in the bylaws. The chairperson, or in the chairperson's absence or
14 disability, the vice-chairperson, shall preside at all meetings of the
15 interstate commission.

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

18 4. The officers and employees of the interstate commission shall be
19 immune from suit and liability, either personally or in their official
20 capacity, for a claim for damage to or loss of property or personal
21 injury or other civil liability caused or arising out of, or relating
22 to, an actual or alleged act, error, or omission that occurred, or that
23 such person had a reasonable basis for believing occurred, within the
24 scope of interstate commission employment, duties, or responsibilities;
25 provided that such person shall not be protected from suit or liability
26 for damage, loss, injury, or liability caused by the intentional or
27 willful and wanton misconduct of such person.

28 (a) The liability of the executive director and employees of the
29 interstate commission or representatives of the interstate commission,
30 acting within the scope of such person's employment or duties for acts,
31 errors, or omissions occurring within such person's state, may not
32 exceed the limits of liability set forth under the constitution and laws
33 of that state for state officials, employees, and agents. The interstate
34 commission is considered to be an instrumentality of the states for the
35 purposes of any such action. Nothing in this paragraph shall be
36 construed to protect such person from suit or liability for damage,
37 loss, injury, or liability caused by the intentional or willful and
38 wanton misconduct of such person.

39 (b) The interstate commission shall defend the executive director, its
40 employees, and subject to the approval of the attorney general or other
41 appropriate legal counsel of the member state represented by an inter-
42 state commission representative, shall defend such interstate commission
43 representative in any civil action seeking to impose liability arising
44 out of an actual or alleged act, error or omission that occurred within
45 the scope of interstate commission employment, duties or responsibil-
46 ities, or that the defendant had a reasonable basis for believing
47 occurred within the scope of interstate commission employment, duties,
48 or responsibilities, provided that the actual or alleged act, error, or
49 omission did not result from intentional or willful and wanton miscon-
50 duct on the part of such person.

51 (c) To the extent not covered by the state involved, member state, or
52 the interstate commission, the representatives or employees of the
53 interstate commission shall be held harmless in the amount of a settle-
54 ment or judgment, including attorney's fees and costs, obtained against
55 such persons arising out of an actual or alleged act, error, or omission
56 that occurred within the scope of interstate commission employment,

1 duties, or responsibilities, or that such persons had a reasonable basis
2 for believing occurred within the scope of interstate commission employ-
3 ment, duties, or responsibilities, provided that the actual or alleged
4 act, error, or omission did not result from intentional or willful and
5 wanton misconduct on the part of such persons.

6 § 8875. Rulemaking functions of the interstate commission. 1. The
7 interstate commission shall promulgate reasonable rules in order to
8 effectively and efficiently achieve the purposes of the compact.
9 Notwithstanding the foregoing, in the event the interstate commission
10 exercises its rulemaking authority in a manner that is beyond the scope
11 of the purposes of the compact, or the powers granted hereunder, then
12 such an action by the interstate commission shall be invalid and have no
13 force or effect.

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

18 3. Not later than thirty days after a rule is promulgated, any person
19 may file a petition for judicial review of the rule in the United States
20 District Court for the District of Columbia or the federal district
21 where the interstate commission has its principal offices, provided that
22 the filing of such a petition shall not stay or otherwise prevent the
23 rule from becoming effective unless the court finds that the petitioner
24 has a substantial likelihood of success. The court shall give deference
25 to the actions of the interstate commission consistent with applicable
26 law and shall not find the rule to be unlawful if the rule represents a
27 reasonable exercise of the authority granted to the interstate commis-
28 sion.

29 § 8876. Oversight of interstate compact. 1. The executive, legisla-
30 tive, and judicial branches of state government in each member state
31 shall enforce the compact and shall take all actions necessary and
32 appropriate to effectuate the compact's purposes and intent. The
33 provisions of the compact and the rules promulgated hereunder shall have
34 standing as statutory law but shall not override existing state authori-
35 ty to regulate the practice of medicine.

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

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

45 § 8877. Enforcement of interstate compact. 1. The interstate commis-
46 sion, in the reasonable exercise of its discretion, shall enforce the
47 provisions and rules of the compact.

48 2. The interstate commission may, by majority vote of the commission-
49 ers, initiate legal action in the United States District Court for the
50 District of Columbia, or, at the discretion of the interstate commis-
51 sion, in the federal district where the interstate commission has its
52 principal offices, to enforce compliance with the provisions of the
53 compact, and its promulgated rules and bylaws, against a member state in
54 default. The relief sought may include both injunctive relief and
55 damages. In the event judicial enforcement is necessary, the prevailing

1 party shall be awarded all costs of such litigation including reasonable
2 attorney's fees.

3 3. The remedies herein shall not be the exclusive remedies of the
4 interstate commission. The interstate commission may avail itself of
5 any other remedies available under state law or the regulation of a
6 profession.

7 § 8878. Default procedures. 1. The grounds for default include, but
8 are not limited to, failure of a member state to perform such obli-
9 gations or responsibilities imposed upon it by the compact, or the rules
10 and bylaws of the interstate commission promulgated under the compact.

11 2. If the interstate commission determines that a member state has
12 defaulted in the performance of its obligations or responsibilities
13 under the compact, or the bylaws or promulgated rules, the interstate
14 commission shall:

15 (a) Provide written notice to the defaulting state and other member
16 states, of the nature of the default, the means of curing the default,
17 and any action taken by the interstate commission. The interstate
18 commission shall specify the conditions by which the defaulting state
19 must cure its default; and

20 (b) Provide remedial training and specific technical assistance
21 regarding the default.

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

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

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

36 6. The member state which has been terminated is responsible for all
37 dues, obligations, and liabilities incurred through the effective date
38 of termination including obligations, the performance of which extends
39 beyond the effective date of termination.

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

44 8. The defaulting state may appeal the action of the interstate
45 commission by petitioning the United States District Court for the
46 District of Columbia or the federal district where the interstate
47 commission has its principal offices. The prevailing party shall be
48 awarded all costs of such litigation including reasonable attorney's
49 fees.

50 § 8879. Dispute resolution. 1. The interstate commission shall
51 attempt, upon the request of a member state, to resolve disputes which
52 are subject to the compact and which may arise among member states or
53 member boards.

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

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

3 2. The compact shall become effective and binding upon legislative
4 enactment of the compact into law by no less than seven states. There-
5 after, it shall become effective and binding on a state upon enactment
6 of the compact into law by that state.

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

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

14 § 8881. Withdrawal. 1. Once effective, the compact shall continue in
15 force and remain binding upon each and every member state; provided that
16 a member state may withdraw from the compact by specifically repealing
17 the statute which enacted the compact into law.

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

23 3. The withdrawing state shall immediately notify the chairperson of
24 the interstate commission in writing upon the introduction of legis-
25 lation repealing the compact in the withdrawing state.

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

29 5. The withdrawing state is responsible for all dues, obligations and
30 liabilities incurred through the effective date of withdrawal, including
31 obligations, the performance of which extend beyond the effective date
32 of withdrawal.

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

36 7. The interstate commission is authorized to develop rules to address
37 the impact of the withdrawal of a member state on licenses granted in
38 other member states to physicians who designated the withdrawing member
39 state as the state of principal license.

40 § 8882. Dissolution. 1. The compact shall dissolve effective upon the
41 date of the withdrawal or default of the member state which reduces the
42 membership in the compact to one member state.

43 2. Upon the dissolution of the compact, the compact becomes null and
44 void and shall be of no further force or effect, and the business and
45 affairs of the interstate commission shall be concluded and surplus
46 funds shall be distributed in accordance with the bylaws.

47 § 8883. Severability and construction. 1. The provisions of the
48 compact shall be severable, and if any phrase, clause, sentence, or
49 provision is deemed unenforceable, the remaining provisions of the
50 compact shall be enforceable.

51 2. The provisions of the compact shall be liberally construed to
52 effectuate its purposes.

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

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

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

6 3. All lawful actions of the interstate commission, including all
7 rules and bylaws promulgated by the commission, are binding upon the
8 member states.

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

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

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

18 ARTICLE 170

19 NURSE LICENSURE COMPACT

20 Section 8900. Nurse licensure compact.

21 8901. Findings and declaration of purpose.

22 8902. Definitions.

23 8903. General provisions and jurisdiction.

24 8904. Applications for licensure in a party state.

25 8905. Additional authorities invested in party state licensing
26 boards.

27 8906. Coordinated licensure information system and exchange of
28 information.

29 8907. Establishment of the interstate commission of nurse licen-
30 sure compact administrators.

31 8908. Rulemaking.

32 8909. Oversight, dispute resolution and enforcement.

33 8910. Effective date, withdrawal and amendment.

34 8911. Construction and severability.

35 § 8900. Nurse licensure compact. The nurse license compact as set
36 forth in the article is hereby adopted and entered into with all party
37 states joining therein.

38 § 8901. Findings and declaration of purpose 1. Findings. The party
39 states find that:

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

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

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

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

51 e. The current system of duplicative licensure for nurses practicing
52 in multiple states is cumbersome and redundant for both nurses and
53 states; and

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

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

3 a. Facilitate the states' responsibility to protect the public's
4 health and safety;

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

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

9 d. Promote compliance with the laws governing the practice of nursing
10 in each jurisdiction;

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

15 f. Decrease redundancies in the consideration and issuance of nurse
16 licenses; and

17 g. Provide opportunities for interstate practice by nurses who meet
18 uniform licensure requirements.

19 § 8902. Definitions. 1. Definitions. As used in this compact:

20 a. "Adverse action" means any administrative, civil, equitable or
21 criminal action permitted by a state's laws which is imposed by a
22 licensing board or other authority against a nurse, including actions
23 against an individual's license or multistate licensure privilege such
24 as revocation, suspension, probation, monitoring of the licensee, limi-
25 tation on the licensee's practice, or any other encumbrance on licensure
26 affecting a nurse's authorization to practice, including issuance of a
27 cease and desist action.

28 b. "Alternative program" means a non-disciplinary monitoring program
29 approved by a licensing board.

30 c. "Coordinated licensure information system" means an integrated
31 process for collecting, storing and sharing information on nurse licen-
32 sure and enforcement activities related to nurse licensure laws that is
33 administered by a nonprofit organization composed of and controlled by
34 licensing boards.

35 d. "Commission" means the interstate commission of nurse licensure
36 compact administrators.

37 e. "Current significant investigative information" means:

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

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

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

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

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

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

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

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

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

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

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

15 n. "Single-state license" means a nurse license issued by a party
16 state that authorizes practice only within the issuing state and does
17 not include a multistate licensure privilege to practice in any other
18 party state.

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

21 p. "State practice laws" means a party state's laws, rules and regu-
22 lations that govern the practice of nursing, define the scope of nursing
23 practice, and create the methods and grounds for imposing discipline.
24 "State practice laws" shall not include requirements necessary to obtain
25 and retain a license, except for qualifications or requirements of the
26 home state.

27 § 8903. General provisions and jurisdiction. 1. General provisions and
28 jurisdiction. a. A multistate license to practice registered or licensed
29 practical/vocational nursing issued by a home state to a resident in
30 that state will be recognized by each party state as authorizing a nurse
31 to practice as a registered nurse (RN) or as a licensed
32 practical/vocational nurse (LPN/VN), under a multistate licensure privi-
33 lege, in each party state.

34 b. A state shall implement procedures for considering the criminal
35 history records of applicants for an initial multistate license or
36 licensure by endorsement. Such procedures shall include the submission
37 of fingerprints or other biometric-based information by applicants for
38 the purpose of obtaining an applicant's criminal history record informa-
39 tion from the federal bureau of investigation and the agency responsible
40 for retaining that state's criminal records.

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

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

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

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

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

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

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

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

9 vii. Has not been convicted or found guilty, or has entered into an
10 agreed disposition, of a felony offense under applicable state or feder-
11 al criminal law;

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

15 ix. Is not currently enrolled in an alternative program;

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

18 xi. Has a valid United States social security number.

19 d. All party states shall be authorized, in accordance with existing
20 state due process law, to take adverse action against a nurse's multi-
21 state licensure privilege such as revocation, suspension, probation or
22 any other action that affects a nurse's authorization to practice under
23 a multistate licensure privilege, including cease and desist actions. If
24 a party state takes such action, it shall promptly notify the adminis-
25 trator of the coordinated licensure information system. The administra-
26 tor of the coordinated licensure information system shall promptly noti-
27 fy the home state of any such actions by remote states.

28 e. A nurse practicing in a party state shall comply with the state
29 practice laws of the state in which the client is located at the time
30 service is provided. The practice of nursing is not limited to patient
31 care but shall include all nursing practice as defined by the state
32 practice laws of the party state in which the client is located. The
33 practice of nursing in a party state under a multistate licensure privi-
34 lege will subject a nurse to the jurisdiction of the licensing board,
35 the courts and the laws of the party state in which the client is
36 located at the time service is provided.

37 f. Individuals not residing in a party state shall continue to be able
38 to apply for a party state's single-state license as provided under the
39 laws of each party state. However, the single-state license granted to
40 these individuals will not be recognized as granting the privilege to
41 practice nursing in any other party state. Nothing in this compact shall
42 affect the requirements established by a party state for the issuance of
43 a single-state license.

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

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

51 ii. A nurse who fails to satisfy the multistate licensure requirements
52 set forth in this article due to a disqualifying event occurring after
53 this compact's effective date shall be ineligible to retain or renew a
54 multistate license, and the nurse's multistate license shall be revoked
55 or deactivated in accordance with applicable rules adopted by the
56 commission.

1 § 8904. Applications for licensure in a party state. 1. Applications
2 for licensure in a party state. a. Upon application for a multistate
3 license, the licensing board in the issuing party state shall ascertain,
4 through the coordinated licensure information system, whether the appli-
5 cant has ever held, or is the holder of, a license issued by any other
6 state, whether there are any encumbrances on any license or multistate
7 licensure privilege held by the applicant, whether any adverse action
8 has been taken against any license or multistate licensure privilege
9 held by the applicant and whether the applicant is currently participat-
10 ing in an alternative program.

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

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

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

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

23 d. If a nurse changes primary state of residence by moving from a
24 party state to a non-party state, the multistate license issued by the
25 prior home state will convert to a single-state license, valid only in
26 the former home state.

27 § 8905. Additional authorities invested in party state licensing
28 boards. 1. Licensing board authority. In addition to the other powers
29 conferred by state law, a licensing board shall have the authority to:

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

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

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

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

41 c. Complete any pending investigations of a nurse who changes primary
42 state of residence during the course of such investigations. The licens-
43 ing board shall also have the authority to take appropriate action or
44 actions and shall promptly report the conclusions of such investigations
45 to the administrator of the coordinated licensure information system.
46 The administrator of the coordinated licensure information system shall
47 promptly notify the new home state of any such actions.

48 d. Issue subpoenas for both hearings and investigations that require
49 the attendance and testimony of witnesses, as well as the production of
50 evidence. Subpoenas issued by a licensing board in a party state for the
51 attendance and testimony of witnesses or the production of evidence from
52 another party state shall be enforced in the latter state by any court
53 of competent jurisdiction, according to the practice and procedure of
54 that court applicable to subpoenas issued in proceedings pending before
55 it. The issuing authority shall pay any witness fees, travel expenses,

1 mileage and other fees required by the service statutes of the state in
2 which the witnesses or evidence are located.

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

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

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

14 2. Adverse actions. a. If adverse action is taken by the home state
15 against a nurse's multistate license, the nurse's multistate licensure
16 privilege to practice in all other party states shall be deactivated
17 until all encumbrances have been removed from the multistate license.
18 All home state disciplinary orders that impose adverse action against a
19 nurse's multistate license shall include a statement that the nurse's
20 multistate licensure privilege is deactivated in all party states during
21 the pendency of the order.

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

27 § 8906. Coordinated licensure information system and exchange of
28 information. 1. Coordinated licensure information system and exchange
29 of information. a. All party states shall participate in a coordinated
30 licensure information system of all licensed registered nurses (RNs) and
31 licensed practical/vocational nurses (LPNs/VNs). This system will
32 include information on the licensure and disciplinary history of each
33 nurse, as submitted by party states, to assist in the coordination of
34 nurse licensure and enforcement efforts.

35 b. The commission, in consultation with the administrator of the coor-
36 dated licensure information system, shall formulate necessary and
37 proper procedures for the identification, collection and exchange of
38 information under this compact.

39 c. All licensing boards shall promptly report to the coordinated
40 licensure information system any adverse action, any current significant
41 investigative information, denials of applications with the reasons for
42 such denials and nurse participation in alternative programs known to
43 the licensing board regardless of whether such participation is deemed
44 nonpublic or confidential under state law.

45 d. Current significant investigative information and participation in
46 nonpublic or confidential alternative programs shall be transmitted
47 through the coordinated licensure information system only to party state
48 licensing boards.

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

54 f. Any personally identifiable information obtained from the coordi-
55 nated licensure information system by a party state licensing board
56 shall not be shared with non-party states or disclosed to other entities

1 or individuals except to the extent permitted by the laws of the party
2 state contributing the information.

3 g. Any information contributed to the coordinated licensure informa-
4 tion system that is subsequently required to be expunged by the laws of
5 the party state contributing that information shall also be expunged
6 from the coordinated licensure information system.

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

10 i. Identifying information;

11 ii. Licensure data;

12 iii. Information related to alternative program participation; and

13 iv. Other information that may facilitate the administration of this
14 compact, as determined by commission rules.

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

17 § 8907. Establishment of the interstate commission of nurse licensure
18 compact administrators. 1. Commission of nurse licensure compact admin-
19 istrators. The party states hereby create and establish a joint public
20 entity known as the interstate commission of nurse licensure compact
21 administrators. The commission is an instrumentality of the party
22 states.

23 2. Venue. Venue is proper, and judicial proceedings by or against the
24 commission shall be brought solely and exclusively, in a court of compe-
25 tent jurisdiction where the principal office of the commission is
26 located. The commission may waive venue and jurisdictional defenses to
27 the extent it adopts or consents to participate in alternative dispute
28 resolution proceedings.

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

31 4. Membership, voting and meetings. a. Each party state shall have and
32 be limited to one administrator. The head of the state licensing board
33 or designee shall be the administrator of this compact for each party
34 state. Any administrator may be removed or suspended from office as
35 provided by the law of the state from which the administrator is
36 appointed. Any vacancy occurring in the commission shall be filled in
37 accordance with the laws of the party state in which the vacancy exists.

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

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

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

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

52 i. Noncompliance of a party state with its obligations under this
53 compact;

54 ii. The employment, compensation, discipline or other personnel
55 matters, practices or procedures related to specific employees or other

1 matters related to the commission's internal personnel practices and
2 procedures;

3 iii. Current, threatened or reasonably anticipated litigation;

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

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

7 vi. Disclosure of trade secrets or commercial or financial information
8 that is privileged or confidential;

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

11 viii. Disclosure of investigatory records compiled for law enforcement
12 purposes;

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

16 x. Matters specifically exempted from disclosure by federal or state
17 statute.

18 b. If a meeting, or portion of a meeting, is closed pursuant to this
19 paragraph the commission's legal counsel or designee shall certify that
20 the meeting may be closed and shall reference each relevant exempting
21 provision. The commission shall keep minutes that fully and clearly
22 describe all matters discussed in a meeting and shall provide a full and
23 accurate summary of actions taken, and the reasons therefor, including a
24 description of the views expressed. All documents considered in
25 connection with an action shall be identified in such minutes. All
26 minutes and documents of a closed meeting shall remain under seal,
27 subject to release by a majority vote of the commission or order of a
28 court of competent jurisdiction.

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

33 i. Establishing the fiscal year of the commission;

34 ii. Providing reasonable standards and procedures:

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

36 (2) Governing any general or specific delegation of any authority or
37 function of the commission;

38 iii. Providing reasonable procedures for calling and conducting meet-
39 ings of the commission, ensuring reasonable advance notice of all meet-
40 ings and providing an opportunity for attendance of such meetings by
41 interested parties, with enumerated exceptions designed to protect the
42 public's interest, the privacy of individuals, and proprietary informa-
43 tion, including trade secrets. The commission may meet in closed session
44 only after a majority of the administrators vote to close a meeting in
45 whole or in part. As soon as practicable, the commission must make
46 public a copy of the vote to close the meeting revealing the vote of
47 each administrator, with no proxy votes allowed;

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

50 v. Providing reasonable standards and procedures for the establishment
51 of the personnel policies and programs of the commission. Notwithstand-
52 ing any civil service or other similar laws of any party state, the
53 bylaws shall exclusively govern the personnel policies and programs of
54 the commission; and

55 vi. Providing a mechanism for winding up the operations of the commis-
56 sion and the equitable disposition of any surplus funds that may exist

1 after the termination of this compact after the payment or reserving of
2 all of its debts and obligations.

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

6 b. The commission shall maintain its financial records in accordance
7 with the bylaws.

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

10 7. Powers of the commission. The commission shall have the following
11 powers:

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

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

18 c. To purchase and maintain insurance and bonds;

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

22 e. To cooperate with other organizations that administer state
23 compacts related to the regulation of nursing, including but not limited
24 to sharing administrative or staff expenses, office space or other
25 resources;

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

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

35 h. To lease, purchase, accept appropriate gifts or donations of, or
36 otherwise to own, hold, improve or use, any property, whether real,
37 personal or mixed; provided that at all times the commission shall avoid
38 any appearance of impropriety;

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

41 j. To establish a budget and make expenditures;

42 k. To borrow money;

43 l. To appoint committees, including advisory committees comprised of
44 administrators, state nursing regulators, state legislators or their
45 representatives, and consumer representatives, and other such interested
46 persons;

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

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

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

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

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

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

11 d. The commission shall keep accurate accounts of all receipts and
12 disbursements. The receipts and disbursements of the commission shall be
13 subject to the audit and accounting procedures established under its
14 bylaws. However, all receipts and disbursements of funds handled by the
15 commission shall be audited yearly by a certified or licensed public
16 accountant, and the report of the audit shall be included in and become
17 part of the annual report of the commission.

18 9. Qualified immunity, defense and indemnification. a. The administra-
19 tors, officers, executive director, employees and representatives of the
20 commission shall be immune from suit and liability, either personally or
21 in their official capacity, for any claim for damage to or loss of prop-
22 erty or personal injury or other civil liability caused by or arising
23 out of any actual or alleged act, error or omission that occurred, or
24 that the person against whom the claim is made had a reasonable basis
25 for believing occurred, within the scope of the commission's employment,
26 duties or responsibilities; provided that nothing in this paragraph
27 shall be construed to protect any such person from suit or liability for
28 any damage, loss, injury or liability caused by the intentional, willful
29 or wanton misconduct of that person.

30 b. The commission shall defend any administrator, officer, executive
31 director, employee or representative of the commission in any civil
32 action seeking to impose liability arising out of any actual or alleged
33 act, error or omission that occurred within the scope of the commis-
34 sion's employment, duties or responsibilities, or that the person
35 against whom the claim is made had a reasonable basis for believing
36 occurred within the scope of the commission's employment, duties or
37 responsibilities; provided that nothing herein shall be construed to
38 prohibit that person from retaining his or her own counsel; and provided
39 further that the actual or alleged act, error or omission did not result
40 from that person's intentional, willful or wanton misconduct.

41 c. The commission shall indemnify and hold harmless any administrator,
42 officer, executive director, employee or representative of the commis-
43 sion for the amount of any settlement or judgment obtained against that
44 person arising out of any actual or alleged act, error or omission that
45 occurred within the scope of the commission's employment, duties or
46 responsibilities, or that such person had a reasonable basis for believ-
47 ing occurred within the scope of the commission's employment, duties or
48 responsibilities, provided that the actual or alleged act, error or
49 omission did not result from the intentional, willful or wanton miscon-
50 duct of that person.

51 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise
52 its rulemaking powers pursuant to the criteria set forth in this article
53 and the rules adopted thereunder. Rules and amendments shall become
54 binding as of the date specified in each rule or amendment and shall
55 have the same force and effect as provisions of this compact.

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

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

7 i. On the website of the commission; and

8 ii. On the website of each licensing board or the publication in which
9 each state would otherwise publish proposed rules.

10 b. The notice of proposed rulemaking shall include:

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

13 ii. The text of the proposed rule or amendment, and the reason for the
14 proposed rule;

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

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

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

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

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

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

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

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

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

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

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

51 a. Meet an imminent threat to public health, safety or welfare;

52 b. Prevent a loss of the commission or party state funds; or

53 c. Meet a deadline for the promulgation of an administrative rule that
54 is required by federal law or rule.

55 6. Revisions. The commission may direct revisions to a previously
56 adopted rule or amendment for purposes of correcting typographical

1 errors, errors in format, errors in consistency or grammatical errors.
2 Public notice of any revisions shall be posted on the website of the
3 commission. The revision shall be subject to challenge by any person for
4 a period of thirty days after posting. The revision may be challenged
5 only on grounds that the revision results in a material change to a
6 rule. A challenge shall be made in writing, and delivered to the
7 commission, prior to the end of the notice period. If no challenge is
8 made, the revision will take effect without further action. If the
9 revision is challenged, the revision may not take effect without the
10 approval of the commission.

11 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.
12 a. Each party state shall enforce this compact and take all actions
13 necessary and appropriate to effectuate this compact's purposes and
14 intent.

15 b. The commission shall be entitled to receive service of process in
16 any proceeding that may affect the powers, responsibilities or actions
17 of the commission, and shall have standing to intervene in such a
18 proceeding for all purposes. Failure to provide service of process in
19 such proceeding to the commission shall render a judgment or order void
20 as to the commission, this compact or promulgated rules.

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

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

28 ii. Provide remedial training and specific technical assistance
29 regarding the default.

30 b. If a state in default fails to cure the default, the defaulting
31 state's membership in this compact may be terminated upon an affirmative
32 vote of a majority of the administrators, and all rights, privileges and
33 benefits conferred by this compact may be terminated on the effective
34 date of termination. A cure of the default does not relieve the offend-
35 ing state of obligations or liabilities incurred during the period of
36 default.

37 c. Termination of membership in this compact shall be imposed only
38 after all other means of securing compliance have been exhausted. Notice
39 of intent to suspend or terminate shall be given by the commission to
40 the governor of the defaulting state and to the executive officer of the
41 defaulting state's licensing board and each of the party states.

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

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

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

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

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

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

8 i. The party states may submit the issues in dispute to an arbitration
9 panel, which will be comprised of individuals appointed by the compact
10 administrator in each of the affected party states, and an individual
11 mutually agreed upon by the compact administrators of all the party
12 states involved in the dispute.

13 ii. The decision of a majority of the arbitrators shall be final and
14 binding.

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

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

25 c. The remedies herein shall not be the exclusive remedies of the
26 commission. The commission may pursue any other remedies available under
27 federal or state law.

28 § 8910. Effective date, withdrawal and amendment. 1. Effective date.

29 a. This compact shall become effective and binding on the earlier of
30 the date of legislative enactment of this compact into law by no less
31 than twenty-six states or the effective date of the chapter of the laws
32 of two thousand twenty-two that enacted this compact. Thereafter, the
33 compact shall become effective and binding as to any other compacting
34 state upon enactment of the compact into law by that state. All party
35 states to this compact, that also were parties to the prior nurse licen-
36 sure compact, superseded by this compact, (herein referred to as "prior
37 compact"), shall be deemed to have withdrawn from said prior compact
38 within six months after the effective date of this compact.

39 b. Each party state to this compact shall continue to recognize a
40 nurse's multistate licensure privilege to practice in that party state
41 issued under the prior compact until such party state has withdrawn from
42 the prior compact.

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

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

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

55 3. Amendment. a. This compact may be amended by the party states. No
56 amendment to this compact shall become effective and binding upon the

1 party states unless and until it is enacted into the laws of all party
2 states.

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

6 § 8911. Construction and severability. 1. Construction and severabil-
7 ity. This compact shall be liberally construed so as to effectuate the
8 purposes thereof. The provisions of this compact shall be severable, and
9 if any phrase, clause, sentence or provision of this compact is declared
10 to be contrary to the constitution of any party state or of the United
11 States, or if the applicability thereof to any government, agency,
12 person or circumstance is held to be invalid, the validity of the
13 remainder of this compact and the applicability thereof to any govern-
14 ment, agency, person or circumstance shall not be affected thereby. If
15 this compact shall be held to be contrary to the constitution of any
16 party state, this compact shall remain in full force and effect as to
17 the remaining party states and in full force and effect as to the party
18 state affected as to all severable matters.

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

21 3. a. an applicant for licensure in a qualified high-need healthcare
22 profession who provides documentation and attestation that he or she
23 holds a license in good standing from another state, may request the
24 issuance of a temporary practice permit, which, if granted will permit
25 the applicant to work under the supervision of a New York state licensee
26 in accordance with regulations of the commissioner. The department may
27 grant such temporary practice permit when it appears based on the appli-
28 cation and supporting documentation received that the applicant will
29 meet the requirements for licensure in this state because he or she has
30 provided documentation and attestation that they hold a license in good
31 standing from another state with significantly comparable licensure
32 requirements to those of this state, except the department has not been
33 able to secure direct source verification of the applicant's underlying
34 credentials (e.g., license verification, receipt of original transcript,
35 experience verification). Such permit shall be valid for six months or
36 until ten days after notification that the applicant does not meet the
37 qualifications for licensure. An additional six months may be granted
38 upon a determination by the department that the applicant is expected to
39 qualify for the full license upon receipt of the remaining direct source
40 verification documents requested by the department in such time period
41 and that the delay in providing the necessary documentation for full
42 licensure was due to extenuating circumstances which the applicant could
43 not avoid.

44 b. a temporary practice permit issued under paragraph a of this subdi-
45 vision shall be subject to the full disciplinary and regulatory authori-
46 ty of the board of regents and the department, pursuant to this title,
47 as if such authorization were a professional license issued under this
48 article.

49 c. for purposes of this subdivision "high-need healthcare profession"
50 means a licensed healthcare profession of which there are an insuffi-
51 cient number of licensees to serve in the state or a region of the
52 state, as determined by the commissioner of health, in consultation with
53 the commissioner of education. The commissioner of health shall main-
54 tain a list of such licensed professions, which shall be posted online
55 and updated from time to time as warranted.

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

8

PART C

9 Section 1. Subdivision 6 of section 571 of the public health law, as
10 amended by chapter 444 of the laws of 2013, is amended to read as
11 follows:

12 6. "Qualified health care professional" means a physician, dentist,
13 podiatrist, optometrist performing a clinical laboratory test that does
14 not use an invasive modality as defined in section seventy-one hundred
15 one of the education law, pharmacist, physician assistant, specialist
16 assistant, nurse practitioner, or midwife, who is licensed and regis-
17 tered with the state education department.

18 § 2. Section 6801 of the education law, is amended by adding a new
19 subdivision 7 to read as follows:

20 7. A licensed pharmacist is a qualified health care professional under
21 section five hundred seventy-one of the public health law for the
22 purposes of directing a limited service laboratory and ordering and
23 administering tests approved by the Food and Drug Administration (FDA),
24 subject to certificate of waiver requirements established pursuant to
25 the federal clinical laboratory improvement act of nineteen hundred
26 eighty-eight.

27 § 3. Subparagraph (iv) of paragraph (a) of subdivision 3 of section
28 6902 of the education law, as amended by section 2 of part D of chapter
29 56 of the laws of 2014, is amended to read as follows:

30 (iv) The practice protocol shall reflect current accepted medical and
31 nursing practice[~~., The protocols shall be filed with the department~~
32 ~~within ninety days of the commencement of the practice]~~ and may be
33 updated periodically. The commissioner shall make regulations establish-
34 ing the procedure for the review of protocols and the disposition of any
35 issues arising from such review.

36 § 4. Paragraph (b) of subdivision 3 of section 6902 of the education
37 law, as added by section 2 of part D of chapter 56 of the laws of 2014,
38 is amended to read as follows:

39 (b) Notwithstanding subparagraph (i) of paragraph (a) of this subdivi-
40 sion[~~7~~]:

41 (i) a nurse practitioner, certified under section sixty-nine hundred
42 ten of this article and practicing for more than three thousand six
43 hundred hours in a specialty area other than primary care or such other
44 related areas as determined by the commissioner of health, may comply
45 with this paragraph in lieu of complying with the requirements of para-
46 graph (a) of this subdivision relating to collaboration with a physi-
47 cian, a written practice agreement and written practice protocols. A
48 nurse practitioner complying with this paragraph shall have collabora-
49 tive relationships with one or more licensed physicians qualified to
50 collaborate in the specialty involved or a hospital, licensed under
51 article twenty-eight of the public health law, that provides services
52 through licensed physicians qualified to collaborate in the specialty
53 involved and having privileges at such institution. As evidence that the
54 nurse practitioner maintains collaborative relationships, the nurse

1 practitioner shall complete and maintain a form, created by the depart-
2 ment, to which the nurse practitioner shall attest, that describes such
3 collaborative relationships. For purposes of this paragraph, "collabora-
4 tive relationships" shall mean that the nurse practitioner shall commu-
5 nicate, whether in person, by telephone or through written (including
6 electronic) means, with a licensed physician qualified to collaborate in
7 the specialty involved or, in the case of a hospital, communicate with a
8 licensed physician qualified to collaborate in the specialty involved
9 and having privileges at such hospital, for the purposes of exchanging
10 information, as needed, in order to provide comprehensive patient care
11 and to make referrals as necessary. Such form shall also reflect the
12 nurse practitioner's acknowledgement that if reasonable efforts to
13 resolve any dispute that may arise with the collaborating physician or,
14 in the case of a collaboration with a hospital, with a licensed physi-
15 cian qualified to collaborate in the specialty involved and having priv-
16 ileges at such hospital, about a patient's care are not successful, the
17 recommendation of the physician shall prevail. Such form shall be
18 updated as needed and may be subject to review by the department. The
19 nurse practitioner shall maintain documentation that supports such
20 collaborative relationships. Failure to comply with the requirements
21 found in this paragraph by a nurse practitioner who is not complying
22 with such provisions of paragraph (a) of this subdivision, shall be
23 subject to professional misconduct provisions as set forth in article
24 one hundred thirty of this title.

25 (ii) a nurse practitioner, certified under section sixty-nine
26 hundred ten of this article and practicing for more than three thousand
27 six hundred hours in primary care, shall be exempt from the requirements
28 of subparagraph (i) of paragraph (a) of this subdivision. For purposes
29 of this paragraph, "primary care" shall include but not be limited to
30 general pediatrics, general adult medicine, general geriatric medicine,
31 general internal medicine, obstetrics and gynecology, family medicine,
32 or such other related areas as determined by the commissioner of health.

33 § 5. Section 3 of part D of chapter 56 of the laws of 2014, amending
34 the education law relating to enacting the "nurse practitioners modern-
35 ization act", as amended by section 10 of part S of chapter 57 of the
36 laws of 2021, is amended to read as follows:

37 § 3. This act shall take effect on the first of January after it shall
38 have become a law [~~and shall expire June 30 of the seventh year after it~~
39 ~~shall have become a law, when upon such date the provisions of this act~~
40 ~~shall be deemed repealed~~]; provided, however, that effective immedi-
41 ately, the addition, amendment and/or repeal of any rule or regulation
42 necessary for the implementation of this act on its effective date is
43 authorized and directed to be made and completed on or before such
44 effective date.

45 § 6. Section 6908 of the education law is amended by adding a new
46 subdivision 3 to read as follows:

47 3. This article shall not be construed as prohibiting medication-re-
48 lated tasks provided by a certified medication aide in accordance with
49 regulations developed by the commissioner, in consultation with the
50 commissioner of health. At a minimum, such regulations shall:

51 a. specify the medication-related tasks that may be performed by
52 certified medication aides pursuant to this subdivision. Such tasks
53 shall include the administration of medications which are routine and
54 pre-filled or otherwise packaged in a manner that promotes relative ease
55 of administration, provided that administration of medications by
56 injection, sterile procedures, and central line maintenance shall be

1 prohibited. Provided, however, such prohibition shall not apply to
2 injections of insulin or other injections for diabetes care, to
3 injections of low molecular weight heparin, and to pre-filled auto-in-
4 jections of naloxone and epinephrine for emergency purposes, and
5 provided, further, that entities employing certified medication aides
6 pursuant to this subdivision shall establish a systematic approach to
7 address drug diversion;

8 b. provide that medication-related tasks performed by certified medi-
9 cation aides may be performed only under the supervision of a registered
10 professional nurse licensed in New York state, as set forth in this
11 subdivision and subdivision eleven of section sixty-nine hundred nine of
12 this article, where such nurse is employed by a residential health care
13 facility licensed pursuant to article twenty-eight of the public health
14 law;

15 c. establish a process by which a registered professional nurse may
16 assign medication-related tasks to a certified medication aide. Such
17 process shall include, but not be limited to:

18 (i) allowing assignment of medication-related tasks to a certified
19 medication aide only where such certified medication aide has demon-
20 strated to the satisfaction of the supervising registered professional
21 nurse competency in every medication-related task that such certified
22 medication aide is authorized to perform, a willingness to perform such
23 medication-related tasks, and the ability to effectively and efficiently
24 communicate with the individual receiving services and understand such
25 individual's needs;

26 (ii) authorizing the supervising registered professional nurse to
27 revoke any assigned medication-related task from a certified medication
28 aide for any reason; and

29 (iii) authorizing multiple registered professional nurses to jointly
30 agree to assign medication-related tasks to a certified medication aide,
31 provided further that only one registered professional nurse shall be
32 required to determine if the certified medication aide has demonstrated
33 competency in the medication-related task to be performed;

34 d. provide that medication-related tasks may be performed only in
35 accordance with and pursuant to an authorized health practitioner's
36 ordered care;

37 e. provide that only a certified nurse aide may perform medication-re-
38 lated tasks as a certified medication aide when such aide has:

39 (i) a valid New York state nurse aide certificate;

40 (ii) a high school diploma, GED or similar education credential;

41 (iii) evidence of being at least eighteen years old;

42 (iv) at least one year of experience providing nurse aide services in
43 an article twenty-eight residential health care facility;

44 (v) the ability to read, write, and speak English and to perform basic
45 math skills;

46 (vi) completed the requisite training and demonstrated competencies of
47 a certified medication aide as determined by the commissioner in consul-
48 tation with the commissioner of health;

49 (vii) successfully completed competency examinations satisfactory to
50 the commissioner in consultation with the commissioner of health; and

51 (viii) meets other appropriate qualifications as determined by the
52 commissioner in consultation with the commissioner of health;

53 f. prohibit a certified medication aide from holding themselves out,
54 or accepting employment as, a person licensed to practice nursing under
55 the provisions of this article;

1 g. provide that a certified medication aide is not required nor
2 permitted to assess the medication or medical needs of an individual;

3 h. provide that a certified medication aide shall not be authorized to
4 perform any medication-related tasks or activities pursuant to this
5 subdivision that are outside the scope of practice of a licensed practi-
6 cal nurse or any medication-related tasks that have not been appropri-
7 ately assigned by the supervising registered professional nurse;

8 i. provide that a certified medication aide shall document all medica-
9 tion-related tasks provided to an individual, including medication
10 administration to each individual through the use of a medication admin-
11 istration record; and

12 j. provide that the supervising registered professional nurse shall
13 retain the discretion to decide whether to assign medication-related
14 tasks to certified medication aides under this program and shall not be
15 subject to coercion, retaliation, or the threat of retaliation.

16 § 7. Section 6909 of the education law is amended by adding a new
17 subdivision 11 to read as follows:

18 11. A registered professional nurse, while working for a residential
19 health care facility licensed pursuant to article twenty-eight of the
20 public health law, may, in accordance with this subdivision, assign
21 certified medication aides to perform medication-related tasks for indi-
22 viduals pursuant to the provisions of subdivision three of section
23 sixty-nine hundred eight of this article and supervise certified medica-
24 tion aides who perform assigned medication-related tasks.

25 § 8. Paragraph (a) of subdivision 3 of section 2803-j of the public
26 health law, as added by chapter 717 of the laws of 1989, is amended to
27 read as follows:

28 (a) Identification of individuals who have successfully completed a
29 nurse aide training and competency evaluation program, [~~or~~] a nurse aide
30 competency evaluation program, or a medication aide program;

31 § 9. Subdivision 6 of section 6527 of the education law is amended by
32 adding a new paragraph (h) to read as follows:

33 (h) administering tests to determine the presence of SARS-CoV-2 or its
34 antibodies, influenza virus or respiratory syncytial virus.

35 § 10. Subdivision 4 of section 6909 of the education law is amended by
36 adding a new paragraph (h) to read as follows:

37 (h) administering tests to determine the presence of SARS-CoV-2 or its
38 antibodies, influenza virus or respiratory syncytial virus.

39 § 11. Section 6909 of the education law is amended by adding a new
40 subdivision 11 to read as follows:

41 11. A registered professional nurse or certified nurse practitioner
42 may, in accordance with this subdivision, assign the task of administer-
43 ing tests to determine the presence of SARS-CoV-2 or its antibodies,
44 influenza virus or respiratory syncytial virus, to an individual,
45 provided that:

46 (a) prior to making such assignment the registered professional nurse
47 or certified nurse practitioner shall provide the individual assigned
48 such task with specific instructions for performing the specimen
49 collection and criteria for identifying, reporting and responding to
50 problems or complications;

51 (b) the registered professional nurse or certified nurse practitioner
52 provides training to the individual and personally verifies that the
53 individual can safely and competently perform the tasks assigned;

54 (c) the registered professional nurse or certified nurse practitioner
55 determines that the individual is willing to perform such task; and

1 (d) the specimen collection is consistent with an authorized health
2 practitioner's ordered care.

3 § 12. Section 6527 of the education law is amended by adding a new
4 subdivision 11 to read as follows:

5 11. A physician may, in accordance with this subdivision, assign the
6 task of administering tests to determine the presence of SARS-CoV-2 or
7 its antibodies, influenza virus or respiratory syncytial virus, to an
8 individual, provided that:

9 (a) prior to making such assignment the physician shall provide the
10 individual assigned such task with specific instructions for performing
11 the specimen collection and criteria for identifying, reporting and
12 responding to problems or complications;

13 (b) the physician provides training to the individual and personally
14 verifies that the individual can safely and competently perform the
15 tasks assigned;

16 (c) the physician determines that the individual is willing to perform
17 such task; and

18 (d) the specimen collection is consistent with an authorized health
19 practitioner's ordered care.

20 § 13. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2022; provided,
22 however, that sections six, seven and eight of this act shall expire and
23 be deemed repealed two years after it shall have become a law.

24 PART D

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

27 § 367-w. Health care and mental hygiene worker bonuses. 1. Purpose
28 and intent. New York's essential front line health care and mental
29 hygiene workers have seen us through a once-in-a-century public health
30 crisis and turned our state into a model for battling and beating
31 COVID-19. To attract talented people into the profession at a time of
32 such significant strain while also retaining those who have been working
33 so tirelessly these past two years, we must recognize the efforts of our
34 health care and mental hygiene workforce and reward them financially for
35 their service.

36 To do that, the commissioner of health is hereby directed to seek
37 additional federal spending authority under section 9817 of the American
38 Rescue Plan Act of 2021 to maximize federal financial participation with
39 respect to spending on home and community based services and to seek
40 such other federal approvals as applicable, and, subject to federal
41 financial participation, to support with federal and state funding
42 bonuses to be made available during the state fiscal year of 2023 to
43 recruit, retain, and reward health care and mental hygiene workers.

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

45 (a) "Employee" means certain front line health care and mental hygiene
46 practitioners, technicians, assistants and aides that provide hands on
47 health or care services to individuals, without regard to whether the
48 person works full-time, part-time, on a salaried, hourly, or temporary
49 basis, or as an independent contractor, that received an annualized base
50 salary of one hundred thousand dollars or less, to include such titles
51 as determined by the commissioner, in consultation with the commissioner
52 of mental health, the commissioner for people with developmental disa-
53 bilities, the commissioner of addiction services and supports, and the

1 commissioner of children and family services, as applicable, and
2 approved by the director of budget.

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

12 (i) providers and facilities licensed, certified or otherwise author-
13 ized under articles twenty-eight, thirty, thirty-six or forty of the
14 public health law, articles sixteen, thirty-one, thirty-two or thirty-
15 six of the mental hygiene law, article seven of this chapter, fiscal
16 intermediaries under section three hundred sixty-five-f of this title,
17 and pharmacies registered under section six thousand eight hundred eight
18 of the education law;

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

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

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

30 3. Tracking and submission of claims for bonuses. (a) The commis-
31 sioner, in consultation with the commissioner of labor and the Medicaid
32 inspector general, and subject to any necessary approvals by the federal
33 centers for Medicare and Medicaid services, shall develop such forms and
34 procedures as may be needed to identify the number of hours employees
35 worked and to provide reimbursement to employers for the purposes of
36 funding employee bonuses in accordance with hours worked during the
37 vesting period.

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

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

44 (ii) submit claims for reimbursement of employee bonus payments. In
45 filling out the information required to submit such claims, employers
46 shall use information obtained from tracking required pursuant to para-
47 graph (a) of this subdivision and provide such other information as may
48 be prescribed by the commissioner. In determining an employee's annual-
49 ized base salary, the employer shall use information based on payroll
50 records from calendar year two thousand twenty-one, if available to the
51 employer.

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

1 (d) Employers shall maintain contemporaneous records for all tracking
2 and claims related information and documents required to substantiate
3 claims submitted under this section for a period of no less than six
4 years. Employers shall furnish such records and information, upon
5 request, to the commissioner, the Medicaid inspector general, the
6 commissioner of labor, the secretary of the United States Department of
7 Health and Human Services, and the deputy attorney general for Medicaid
8 fraud control.

9 4. Payment of worker bonuses. (a) Employers shall be required to pay
10 bonuses to employees pursuant to a schedule issued by the commissioner
11 based on the number of hours worked during the vesting period. The sche-
12 dule shall divide the payment of bonuses into two vesting periods based
13 on the employee's start date with the employer. No employee's first
14 vesting period may begin later than March thirty-first, two thousand
15 twenty-three, and in total both vesting periods may not exceed one year
16 in duration. The schedule shall provide for total payments not to exceed
17 three thousand dollars per employee in accordance with the following:

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

21 (ii) employees who have worked an average of at least thirty but less
22 than forty hours per week over the course of a vesting period would
23 receive a one thousand dollar bonus for such vesting period;

24 (iii) employees who have worked an average of at least forty hours per
25 week over the course of a vesting period would receive a one thousand
26 five hundred dollar bonus for such vesting period.

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

31 (c) Employees shall be eligible for bonuses for no more than two vest-
32 ing periods, in an amount equal to but not greater than three thousand
33 dollars per employee.

34 (d) Any bonus due and payable to an employee under this section shall
35 be made by the employer no later than thirty days after the bonus is
36 paid to the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~san~~ 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
14 budget, shall be eligible for the health care and mental hygiene worker
15 bonus. Such bonus shall only be paid to employees that receive an annu-
16 alized base salary of one hundred thousand dollars or less.

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

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

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

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

37 § 5. An employee under this act shall be limited to a bonus of three
38 thousand dollars per employee without regard to which section or
39 sections such employee may be eligible.

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

44 § 7. This act shall take effect immediately.

45 PART E

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

49 1. A state aid base grant shall be reimbursed to municipalities for
50 the core public health services identified in section six hundred two of
51 this title, in an amount of the greater of [~~sixty five~~] one dollar and
52 thirty cents per capita, [~~for each person in the municipality,~~] or [~~six~~
53 ~~hundred fifty thousand dollars~~] seven hundred fifty thousand dollars,
54 provided that the municipality expends at least [~~six hundred fifty thou-~~

1 ~~said dollars]~~ seven hundred fifty thousand dollars, for such core public
2 health services. A municipality must provide all the core public health
3 services identified in section six hundred two of this title to qualify
4 for such base grant unless the municipality has the approval of the
5 commissioner to expend the base grant on a portion of such core public
6 health services. If any services in such section are not provided, the
7 commissioner [~~may~~] shall limit the municipality's per capita or base
8 grant to reflect the scope of the reduced services, in an amount not to
9 exceed five hundred seventy-seven thousand five hundred dollars. The
10 commissioner may use the amount that is not granted to contract with
11 agencies, associations, or organizations to provide such services; or
12 the health department may use such proportionate share to provide the
13 services upon approval of the director of the division of the budget.

14 § 2. Subdivision 2 of section 605 of the public health law, as amended
15 by section 1 of part 0 of chapter 57 of the laws of 2019, is amended to
16 read as follows:

17 2. State aid reimbursement for public health services provided by a
18 municipality under this title, shall be made if the municipality is
19 providing some or all of the core public health services identified in
20 section six hundred two of this title, pursuant to an approved applica-
21 tion for state aid, at a rate of no less than thirty-six per centum,
22 except for the city of New York which shall receive no less than twenty
23 per centum, of the difference between the amount of moneys expended by
24 the municipality for public health services required by section six
25 hundred two of this title during the fiscal year and the base grant
26 provided pursuant to subdivision one of this section. Provided, however,
27 that a municipality's fringe benefit costs shall be eligible for
28 reimbursement at a fringe benefit rate not to exceed fifty per centum,
29 as defined by section six hundred sixteen of this article. No such
30 reimbursement shall be provided for services that are not eligible for
31 state aid pursuant to this article.

32 § 3. Subdivisions 1 and 2 of section 616 of the public health law,
33 subdivision 1 as amended by section 2 of part 0 of chapter 57 of the
34 laws of 2019 and subdivision 2 as added by chapter 901 of the laws of
35 1986, are amended, and a new subdivision 4 is added to read as follows:

36 1. The total amount of state aid provided pursuant to this article
37 shall be limited to the amount of the annual appropriation made by the
38 legislature. In no event, however, shall such state aid be less than an
39 amount to provide the full base grant and, as otherwise provided by
40 subdivision two of section six hundred five of this article, no less
41 than thirty-six per centum, except for the city of New York which shall
42 receive no less than twenty per centum, and reimbursement of a munici-
43 pality's fringe benefit costs not to exceed a fringe benefit rate of
44 fifty per centum as defined by subdivision four of this section, of the
45 difference between the amount of moneys expended by the municipality for
46 eligible public health services pursuant to an approved application for
47 state aid during the fiscal year and the base grant provided pursuant to
48 subdivision one of section six hundred five of this article.

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~~].

54 4. Moneys appropriated for the purposes of this article to a munici-
55 pality may include reimbursement of a municipality's fringe benefits,

1 including but not limited to employee retirement funds, health insurance
2 and federal old age and survivor's insurance.

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

5 PART F

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

8 1-a. The state emergency medical services council shall advise the
9 commissioner on such issues as the commissioner may require related to
10 the provision of emergency medical service, specialty care, designated
11 facility care, and disaster medical care, and assist in the coordination
12 of such. This shall include, but is not limited to, the recommendation,
13 periodic revision, and application of rules and regulations, appropri-
14 ateness review standards, treatment protocols, and quality improvement
15 standards. The state emergency medical services council shall meet as
16 frequently as determined necessary by the commissioner.

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

19 1-a. Each regional emergency medical services council shall advise the
20 state emergency medical services council, the commissioner and the
21 department on such issues as the state emergency medical services coun-
22 cil, the commissioner and the department may require, related to the
23 provision of emergency medical service, specialty care, designated
24 facility care, and disaster medical care, and assist in the regional
25 coordination of such.

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

28 § 3004. Emergency medical services quality and sustainability assur-
29 ance program. The commissioner, with the advice of the state emergency
30 medical advisory committee, may create an emergency medical services
31 quality and sustainability assurance program. Standards and require-
32 ments of the quality and sustainability assurance program may include
33 but not be limited to: clinical standards, quality metrics, safety stan-
34 dards, emergency vehicle operator standards, clinical competencies,
35 sustainability metrics and minimum requirements for quality assurance
36 and sustainability assurance programs to be followed by emergency
37 medical services agencies, to promote positive patient outcomes, safety,
38 and emergency medical services system sustainability throughout the
39 state. The commissioner is hereby authorized to promulgate regulations
40 related to the standards and requirements of the quality and sustaina-
41 bility assurance program. Quality and sustainability assurance programs
42 shall require each emergency medical services agency to perform regular
43 and periodic review of quality and sustainability assurance program
44 metrics, identification of agency deficiencies and strengths, develop-
45 ment of programs to improve agency metrics, strengthen system sustaina-
46 bility, and continuous monitoring of care provided. The department may
47 contract for services to assist in the oversight of these metrics state-
48 wide with subject matter experts to assist in the oversight of these
49 metrics statewide. The department may delegate authority to oversee
50 these metrics and regulations to counties or other contractors as deter-
51 mined by the commissioner. Emergency medical services agencies that do
52 not meet the standards and requirements set forth in the quality assur-
53 ance program set by the commissioner may be subject to enforcement
54 actions, including but not limited to revocation, suspension, perform-

1 ance improvement plans, or restriction from specific types of response
2 such as but not limited to suspension of ability to respond to requests
3 for emergency medical assistance or to perform emergency medical
4 services.

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

7 § 3018. Statewide comprehensive emergency medical system plan. 1. The
8 department, in consultation with the state emergency medical advisory
9 committee, shall develop and maintain a statewide comprehensive emergency
10 medical system plan that shall provide for a coordinated emergency
11 medical system in New York state, including but not be limited to:

12 (a) Establishing a comprehensive statewide emergency medical system,
13 incorporating facilities, transportation, workforce, communications, and
14 other to improve the delivery of emergency medical service and thereby
15 decrease morbidity, hospitalization, disability, and mortality;

16 (b) Improving the accessibility of high-quality emergency medical
17 service;

18 (c) Coordinating professional medical organizations, hospitals, and
19 other public and private agencies in developing approaches whereby
20 persons who are presently using the existing emergency department for
21 routine, nonurgent, primary medical care will be served appropriately
22 and economically; and

23 (d) Conducting, promoting, and encouraging programs of education and
24 training designed to upgrade the knowledge and skills of emergency
25 medical service practitioners training throughout New York state with
26 emphasis on regions underserved by emergency medical services.

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

32 3. Each regional emergency medical advisory committee shall develop
33 and maintain a comprehensive regional emergency medical system plan that
34 shall provide for a coordinated emergency medical system within the
35 region. Such plans shall be subject to review by the state emergency
36 medical advisory committee and approval by the department.

37 4. Each county shall develop and maintain a comprehensive county emer-
38 gency medical system plan that shall provide for a coordinated emergency
39 medical system within the county. The county office of emergency medical
40 services shall be responsible for the development and maintenance of the
41 comprehensive county emergency medical system plan. Such plans shall be
42 subject to review by the regional emergency medical advisory committee,
43 the state advisory council and approval by the department. The depart-
44 ment shall be responsible for oversight of each county's compliance with
45 their plan.

46 5. The commissioner may promulgate regulations to ensure compliance
47 with this section.

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

50 § 3019. Emergency medical systems training program. 1. There is hereby
51 established a training program for emergency medical systems that
52 includes students, emergency medical service practitioners, agencies,
53 facilities, and personnel, and the commissioner may provide funding
54 within the amount appropriated to conduct such training programs. Until
55 such time as the department announces the training program pursuant to
56 this section is in effect, all current standards, curriculums, and

1 requirements for students, emergency medical service practitioners,
2 agencies, facilities, and personnel shall remain in effect.

3 2. The department, in consultation with the state emergency medical
4 advisory council, shall establish minimum education standards, curric-
5 ulums and requirements for all emergency medical system training
6 programs. No person shall profess to provide emergency medical system
7 training without the approval of the department.

8 3. The department is authorized to provide, either directly or through
9 contract, emergency medical system training for emergency medical
10 service practitioners and emergency medical system agency personnel,
11 develop and distribute training materials for use by instructors, and to
12 recruit additional instructors to provide training.

13 4. The department may visit and inspect any emergency medical system
14 training program or training center operating under this article and the
15 regulations adopted therefore to ensure compliance.

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

19 6. The commissioner shall, within amounts appropriated, establish an
20 emergency medical system mental health and wellness program that
21 provides resources to emergency medical service practitioners to reduce
22 burnout, prevent suicides, and increase safety.

23 7. The department may create or adopt with the approval of the commis-
24 sioner additional standards, training and criteria to become a credent-
25 ialled emergency medical service practitioner to provide specialized,
26 advanced, or other services that further support or advance the emergen-
27 cy medical system.

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

30 8. (a) Notwithstanding any other provision of law, all determinations
31 of need shall be consistent with the state emergency medical system plan
32 established in section three thousand eighteen of this article. The
33 commissioner may promulgate regulations to provide for the standards on
34 the determination of need. The department shall issue a new emergency
35 medical system agency certificate only upon a determination that a
36 public need for the proposed service has been established pursuant to
37 regulation. If the department determines that a public need exists for
38 only a portion of a proposed service, a certificate may be issued for
39 that portion. Prior to reaching a final determination of need, the
40 department shall forward a summary of the proposed service including any
41 documentation received or subsequent reports created thereto, to the
42 state emergency medical services advisory council for review and recom-
43 mendation to the department on the approval of the application. An
44 applicant or other concerned party may appeal any determination made by
45 the department pursuant to this section within fourteen days. Appeals
46 shall be heard pursuant to the provisions of section twelve-a of this
47 chapter, and a final determination as to need shall be made by the
48 commissioner upon review of the report and recommendation of the presid-
49 ing administrative law judge.

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

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

1 1. "Emergency medical service" means [~~initial emergency medical~~
2 ~~assistance including, but not limited to, the treatment of trauma,~~
3 ~~burns, respiratory, circulatory and obstetrical emergencies~~] care of a
4 person to, from, at, in, or between the person's home, scene of injury,
5 hospitals, health care facilities, public events or other locations, by
6 emergency medical services practitioners as a patient care team member,
7 for emergency, non-emergency, specialty, low acuity, preventative, or
8 interfacility care; emergency and non-emergency medical dispatch; coord-
9 ination of emergency medical system equipment and personnel; assess-
10 ment; treatment, transportation, routing, referrals and communications
11 with treatment facilities and medical personnel; public education, inju-
12 ry prevention and wellness initiatives; administration of immunizations
13 as approved by the state emergency medical services council; and
14 follow-up and restorative care.

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

17 PART G

18 Section 1. Notwithstanding any other provision of law, rule, or regu-
19 lation to the contrary, the following articles of title 8 of the educa-
20 tion law governing the healthcare professions are hereby REPEALED and
21 all removed provisions, and all powers authorized pursuant to such
22 provisions, are hereby added to the public health law under the authori-
23 ty of the commissioner of health, pursuant to a plan to be proposed not
24 inconsistent with this section, which shall include the text of the new
25 laws to be adopted.

- 26 Article 131 MEDICINE
- 27 Article 131-A DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO
- 28 PHYSICIANS, PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS
- 29 Article 131-B PHYSICIAN ASSISTANTS
- 30 Article 131-C SPECIALIST ASSISTANTS
- 31 Article 132 CHIROPRACTIC
- 32 Article 133 DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING
- 33 Article 134 LICENSED PERFUSIONISTS
- 34 Article 136 PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS
- 35 Article 137 PHARMACY
- 36 Article 137-A REGISTERED PHARMACY TECHNICIANS
- 37 Article 139 NURSING
- 38 Article 140 PROFESSIONAL MIDWIFERY PRACTICE ACT
- 39 Article 141 PODIATRY
- 40 Article 143 OPTOMETRY
- 41 Article 144 OPHTHALMIC DISPENSING
- 42 Article 153 PSYCHOLOGY
- 43 Article 154 SOCIAL WORK
- 44 Article 155 MASSAGE THERAPY
- 45 Article 156 OCCUPATIONAL THERAPY
- 46 Article 157 DIETETICS AND NUTRITION
- 47 Article 159 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
- 48 Article 160 ACUPUNCTURE
- 49 Article 162 ATHLETIC TRAINERS
- 50 Article 163 MENTAL HEALTH PRACTITIONERS
- 51 Article 164 RESPIRATORY THERAPISTS AND RESPIRATORY THERAPY TECHNICIANS
- 52 Article 165 CLINICAL LABORATORY TECHNOLOGY PRACTICE ACT
- 53 Article 166 MEDICAL PHYSICS PRACTICE
- 54 Article 167 APPLIED BEHAVIOR ANALYSIS

1 Article 168 LICENSED PATHOLOGISTS' ASSISTANTS

2 § 2. Transfer of functions, powers, duties and obligations. Notwith-
3 standing any inconsistent provisions of law to the contrary, effective
4 January 1, 2023, all functions, powers, duties and obligations of the
5 education department concerning the professions of medicine, physicians,
6 physicians assistants, specialist assistants, chiropractic, dentistry,
7 dental hygiene, registered dental assisting, perfusionists, physical
8 therapy, physical therapy assistants, pharmacy, registered pharmacy
9 technicians, nursing, professional midwifery, podiatry, optometry,
10 ophthalmic dispensing, psychology, social work, massage therapy, occupa-
11 tional therapy, dietetics and nutrition, speech-language pathologists
12 and audiologist, acupuncture, athletic trainers, mental health practi-
13 tioners, respiratory therapists, respiratory therapy technicians, clin-
14 ical laboratory technology, medical physics, applied behavior analysis,
15 and licensed pathologists' assistants under title 8 of the education law
16 shall be transferred to the New York state department of health.

17 § 3. Transfer of records. All books, papers and property of the state
18 education department with respect to the functions, powers and duties
19 transferred by sections one through nine of this act are to be delivered
20 to the appropriate offices within the department of health, at such
21 place and time, and in such manner as the department of health requires.

22 § 4. Continuity of authority. For the purpose of all functions,
23 powers, duties and obligations of the state education department trans-
24 ferred to and assumed by the department of health, the department of
25 health shall continue the operation of the provisions previously done by
26 the state education department, pursuant to sections one through nine of
27 this act.

28 § 5. Completion of unfinished business. Any business or other matter
29 undertaken or commenced by the state education department pertaining to
30 or connected with the functions, powers, duties and obligations hereby
31 transferred and assigned to the department of health and pending on the
32 effective date of January 1, 2023 shall be conducted and completed by
33 the department of health in the same manner and under the same terms and
34 conditions and with the same effect as if conducted and completed by the
35 state education department.

36 § 6. Continuation of rules and regulations. All rules, regulations,
37 acts, orders, determinations, and decisions of the state education
38 department in force at the time of such transfer and assumption, shall
39 continue in force and effect as rules, regulations, acts, orders, deter-
40 minations and decisions of the department of health until duly modified
41 or abrogated by the department of health.

42 § 7. Terms occurring in laws, contracts and other documents. When-
43 ever the state education department is referred to or designated in any
44 law, contract or document pertaining to the functions, powers, obli-
45 gations and duties hereby transferred and assigned, such reference or
46 designation shall be deemed to refer to department of health or the
47 commissioner thereof.

48 § 8. Existing rights and remedies preserved. No existing right or
49 remedy of any character shall be lost, impaired or affected by reason of
50 sections one through nine of this act.

51 § 9. Pending actions or proceedings. No action or proceeding pending
52 at the time when sections one through nine of this act shall take effect
53 relating to the functions, powers and duties of the state education
54 department transferred pursuant to sections one through nine of this
55 act, brought by or against the state education department or board of
56 regents shall be affected by any provision of sections one through one

1 hundred forty of this act, but the same may be prosecuted or defended in
2 the name of commissioner of the department of health. In all such
3 actions and proceedings, the commissioner of health, upon application to
4 the court, shall be substituted as a party.
5 § 10. This act shall take effect January 1, 2023.

6 PART H

7 Section 1. Subdivision 1 of section 91 of part H of chapter 59 of the
8 laws of 2011, amending the public health law and other laws relating to
9 general hospital reimbursement for annual rates, as amended by section 2
10 of part A of chapter 56 of the laws of 2013, is amended to read as
11 follows:

12 1. Notwithstanding any inconsistent provision of state law, rule or
13 regulation to the contrary, subject to federal approval, the year to
14 year rate of growth of department of health state funds Medicaid spend-
15 ing shall not exceed the [~~ten~~] five year rolling average of the [~~medical~~
16 ~~component of the consumer price index as published by the United States~~
17 ~~department of labor, bureau of labor statistics,~~] Medicaid spending
18 annual growth rate projections within the National Health Expenditure
19 Accounts produced by the office of the actuary in the federal Centers
20 for Medicare and Medicaid services for the preceding [~~ten~~] five years;
21 provided, however, that for state fiscal year 2013-14 and for each
22 fiscal year thereafter, the maximum allowable annual increase in the
23 amount of department of health state funds Medicaid spending shall be
24 calculated by multiplying the department of health state funds Medicaid
25 spending for the previous year, minus the amount of any department of
26 health state operations spending included therein, by such [~~ten~~] five
27 year rolling average.

28 § 2. Paragraph (a) of subdivision 1 of section 92 of part H of chapter
29 59 of the laws of 2011, amending the public health law and other laws
30 relating to relating to known and projected department of health state
31 fund Medicaid expenditures, as amended by section 1 of part A of chapter
32 57 of the laws of 2021, is amended to read as follows:

33 (a) For state fiscal years 2011-12 through [~~2021-22~~] 2023-24, the
34 director of the budget, in consultation with the commissioner of health
35 referenced as "commissioner" for purposes of this section, shall assess
36 on a quarterly basis, as reflected in quarterly reports pursuant to
37 subdivision five of this section known and projected department of
38 health state funds medicaid expenditures by category of service and by
39 geographic regions, as defined by the commissioner.

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

42 PART I

43 Section 1. 1. Notwithstanding any provision of law to the contrary,
44 for the state fiscal years beginning April 1, 2022 and ending on March
45 31, 2024, all department of health Medicaid payments made for services
46 provided on and after April 1, 2022, shall be subject to a uniform rate
47 increase of one percent, subject to the approval of the commissioner of
48 the department of health and director of the budget. Such rate increase
49 shall be subject to federal financial participation.

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

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

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

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

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

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

16 § 2. 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.

18 PART J

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

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

32 § 2. 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 K

35 Section 1. The public health law is amended by adding a new section
36 2825-g to read as follows:

37 § 2825-g. Health care facility transformation program: statewide IV.
38 1. A statewide health care facility transformation program is hereby
39 established within the department for the purpose of transforming, rede-
40 signing, and strengthening quality health care services in alignment
41 with statewide and regional health care needs, and in the ongoing
42 pandemic response. The program shall also provide funding, subject to
43 lawful appropriation, in support of capital projects that facilitate
44 furthering such transformational goals.

45 2. The commissioner shall enter into an agreement with the dormitory
46 authority of the state of New York pursuant to section sixteen hundred
47 eighty-r of the public authorities law, which shall apply to this agree-
48 ment, subject to the approval of the director of the division of the
49 budget, for the purposes of the distribution, and administration of
50 available funds, pursuant to such agreement, and made available pursuant
51 to this section and appropriation. Such funds may be awarded and
52 distributed by the department for grants to health care facilities

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

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

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

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

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

46 4. Notwithstanding sections one hundred twelve and one hundred sixty-
47 three of the state finance law, sections one hundred forty-two and one
48 hundred forty-three of the economic development law, or any inconsistent
49 provision of law to the contrary, up to two hundred million dollars of
50 the funds appropriated for this program shall be awarded, without a
51 competitive bid or request for proposal process, for grants to health
52 care providers for purposes of modernization of an emergency department
53 of regional significance. For purposes of this subdivision, an emergency
54 department shall be considered to have regional significance if it: (a)
55 serves as Level 1 trauma center with the highest volume in its region;
56 (b) includes the capacity to segregate patients with communicable

1 diseases, trauma or severe behavioral health issues from other patients
2 in the emergency department; (c) provides training in emergency care and
3 trauma care to residents from multiple hospitals in the region; and (d)
4 serves a high proportion of Medicaid patients.

5 5. (a) Notwithstanding sections one hundred twelve and one hundred
6 sixty-three of the state finance law, sections one hundred forty-two and
7 one hundred forty-three of the economic development law, or any incon-
8 sistent provision of law to the contrary, up to seven hundred fifty
9 million dollars of the funds appropriated for this program shall be
10 awarded, without a competitive bid or request for proposal process, for
11 grants to health care providers (hereafter "applicants").

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

17 6. Notwithstanding sections one hundred twelve and one hundred sixty-
18 three of the state finance law, sections one hundred forty-two and one
19 hundred forty-three of the economic development law, or any inconsis-
20 tent provision of law to the contrary, up to one hundred fifty million
21 dollars of the funds appropriated for this program shall be awarded,
22 without a competitive bid or request for proposal process, for techno-
23 logical and telehealth transformation projects.

24 7. Notwithstanding sections one hundred twelve and one hundred sixty-
25 three of the state finance law, sections one hundred forty-two and one
26 hundred forty-three of the economic development law, or any inconsis-
27 tent provision of law to the contrary, up to fifty million dollars of the
28 funds appropriated for this program shall be awarded, without a compet-
29 itive bid or a request for proposal process, to residential and communi-
30 ty-based alternatives to the traditional model of nursing home care.

31 8. Selection of awards made by the department pursuant to subdivisions
32 three, four, five, six and seven of this section shall be contingent on
33 an evaluation process acceptable to the commissioner and approved by the
34 director of the division of the budget. Disbursement of awards may be
35 contingent on achieving certain process and performance metrics and
36 milestones that are structured to ensure that the goals of the project
37 are achieved.

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

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

50

PART L

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

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

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

49 (b) [~~(i)~~] Any transfer, assignment or other disposition of [~~ten~~
50 ~~percent or more of~~] an interest, stock, or voting rights in a sole
51 proprietorship, partnership [~~or~~], limited liability company, non-for-
52 profit corporation, or corporation which is the operator of a hospital
53 [~~to a new partner or member~~] or any transfer, assignment or other dispo-
54 sition which results in the ownership or control of an interest, stock,
55 or voting rights in that operator, shall be approved by the public
56 health and health planning council, in accordance with the provisions of

1 subdivisions two [~~and~~], three, and three-b of this section, except that:
2 [~~(A) any such change shall be subject to the approval by the public~~]

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

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

15 (iii) No prior approval of the public health and health planning coun-
16 cil shall be required with respect to a transfer, assignment or disposi-
17 tion [~~involving less than ten percent of~~], directly or indirectly, of:
18 (A) an interest, stock, or voting rights of less than ten percent in
19 [~~such partnership or limited liability company~~] the operator, to [~~a new~~
20 ~~any person,~~ partner [~~or~~], member, [~~no prior approval of the public~~
21 ~~health and health planning council shall be required~~] or stockholder who
22 has not been previously approved by the public health and health plan-
23 ning council, or its predecessor for that operator. However, no such
24 transaction shall be effective unless at least ninety days prior to the
25 intended effective date thereof, the [~~partnership or limited liability~~
26 ~~company~~] operator fully completes and files with the public health and
27 health planning council notice on a form, to be developed by the public
28 health and health planning council, which shall disclose such informa-
29 tion as may reasonably be necessary for the department to recommend and
30 for the public health and health planning council to determine whether
31 it should bar the transaction for any of the reasons set forth in [item
32 ~~(A), (B), (C) or (D)]~~ clause one, two, three or four below, 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. [~~Within ninety days from~~
41 ~~the date of receipt of such notice, the~~] The public health and health
42 planning council may bar any transaction under this subparagraph: [~~(A)~~
43 (1) if the equity position of the partnership [~~or~~], limited liability
44 company, or corporation that operates a hospital for profit, determined
45 in accordance with generally accepted accounting principles, would be
46 reduced as a result of the transfer, assignment or disposition; [~~(B)~~
47 (2) if the transaction would result in the ownership of a partnership or
48 membership interest or stock by any persons who have been convicted of a
49 felony described in subdivision five of section twenty-eight hundred six
50 of this article; [~~(C)~~] (3) if there are reasonable grounds to believe
51 that the proposed transaction does not satisfy the character and compe-
52 tence criteria set forth in subdivision three or three-b of this
53 section; or [~~(D)~~] (4) if the transaction, together with all transactions
54 under this subparagraph for the [~~partnership, or successor,~~] operator
55 during any five year period would, in the aggregate, involve twenty-five
56 percent or more of the interest in the [~~partnership~~] operator. The

1 public health and health planning council shall state specific reasons
2 for barring any transaction under this subparagraph and shall so notify
3 each party to the proposed transaction~~[~~r~~]; or~~
4 ~~[(iii) With respect to a transfer, assignment or disposition of] (B)~~
5 an interest, stock, or voting rights ~~[in such partnership or limited~~
6 ~~liability company]~~ to any ~~[remaining]~~ person, partner ~~[or]~~, member,
7 ~~[which transaction involves the withdrawal of the transferor from the~~
8 ~~partnership or limited liability company, no prior approval of the~~
9 ~~public health and health planning council shall be required]~~ or stock-
10 holder, previously approved by the public health and health planning
11 council, or its predecessor, for that operator. However, no such trans-
12 action shall be effective unless at least ninety days prior to the
13 intended effective date thereof, the ~~[partnership or limited liability~~
14 ~~company]~~ operator fully completes and files with the public health and
15 health planning council notice on a form, to be developed by the public
16 health and health planning council, which shall disclose such informa-
17 tion as may reasonably be necessary for the department to recommend and
18 for the public health and health planning council to determine whether
19 it should bar the transaction for the reason set forth below, and has
20 fully responded to any request for additional information by the depart-
21 ment acting on behalf of the public health and health planning council
22 during the review period. Such transaction will be final upon completion
23 of the review period, which shall be no longer than ninety days from the
24 date the department receives a complete response to its final request
25 for additional information, unless, prior thereto, the public health and
26 health planning council has notified each party to the proposed trans-
27 action that it has barred such transactions. ~~[Within ninety days from~~
28 ~~the date of receipt of such notice, the]~~ The public health and health
29 planning council may bar any transaction under this subparagraph if the
30 equity position of the partnership ~~[or]~~, limited liability company, or
31 corporation that operates a hospital for profit, determined in accord-
32 ance with generally accepted accounting principles, would be reduced as
33 a result of the transfer, assignment or disposition. The public health
34 and health planning council shall state specific reasons for barring any
35 transaction under this subparagraph and shall so notify each party to
36 the proposed transaction.

37 (c) ~~[Any transfer, assignment or other disposition of ten percent or~~
38 ~~more of the stock or voting rights thereunder of a corporation which is~~
39 ~~the operator of a hospital or which is a member of a limited liability~~
40 ~~company which is the operator of a hospital to a new stockholder, or any~~
41 ~~transfer, assignment or other disposition of the stock or voting rights~~
42 ~~thereunder of such a corporation which results in the ownership or~~
43 ~~control of more than ten percent of the stock or voting rights there-~~
44 ~~under of such corporation by any person not previously approved by the~~
45 ~~public health and health planning council, or its predecessor, for that~~
46 ~~corporation shall be subject to approval by the public health and health~~
47 ~~planning council, in accordance with the provisions of subdivisions two~~
48 ~~and three of this section and rules and regulations pursuant thereto,~~
49 ~~except that: any such transaction shall be subject to the approval by~~
50 ~~the public health and health planning council in accordance with para-~~
51 ~~graph (b) of subdivision three of this section only with respect to a~~
52 ~~new stockholder or a new principal stockholder, and shall not be subject~~
53 ~~to paragraph (a) of subdivision three of this section. In the absence of~~
54 ~~such approval, the operating certificate of such hospital shall be~~
55 ~~subject to revocation or suspension. No prior approval of the public~~
56 ~~health and health planning council shall be required with respect to a~~

1 ~~transfer, assignment or disposition of ten percent or more of the stock~~
2 ~~or voting rights thereunder of a corporation which is the operator of a~~
3 ~~hospital or which is a member of a limited liability company which is~~
4 ~~the owner of a hospital to any person previously approved by the public~~
5 ~~health and health planning council, or its predecessor, for that corpo-~~
6 ~~ration. However, no such transaction shall be effective unless at least~~
7 ~~ninety days prior to the intended effective date thereof, the stockhold-~~
8 ~~er completes and files with the public health and health planning coun-~~
9 ~~cil notice on forms to be developed by the public health and health~~
10 ~~planning council, which shall disclose such information as may reason-~~
11 ~~ably be necessary for the public health and health planning council to~~
12 ~~determine whether it should bar the transaction. Such transaction will~~
13 ~~be final as of the intended effective date unless, prior thereto, the~~
14 ~~public health and health planning council shall state specific reasons~~
15 ~~for barring such transactions under this paragraph and shall notify each~~
16 ~~party to the proposed transaction.] Nothing in this [paragraph] subdivi-
17 sion shall be construed as permitting [a] any person, partner, member,
18 or stockholder not previously approved by the public health and health
19 planning council for that [~~corporation~~] operator to [~~become the owner~~
20 ~~of~~] own or control, directly or indirectly, ten percent or more of the
21 interest, stock, or voting rights of [a] any partnership, limited
22 liability company, not-for-profit corporation, or corporation which is
23 the operator of a hospital or a corporation which is a member of a
24 limited liability company which is the owner of a hospital without first
25 obtaining the approval of the public health and health planning council.
26 In the absence of approval by the public health and health planning
27 council as required under this subdivision, the operating certificate of
28 such hospital shall be subject to revocation or suspension. Failure to
29 provide notice as required under this subdivision may subject the oper-
30 ating certificate of such operator to revocation or suspension.~~

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

35 § 3611-a. Change in the operator or owner. 1. Any [~~change in the~~
36 ~~person who, or any~~] transfer, assignment, or other disposition of an
37 interest, stock, or voting rights [~~of ten percent or more~~] in a sole
38 proprietorship, partnership, limited liability company, not-for-profit
39 corporation or corporation which is the operator of a licensed home care
40 services agency or a certified home health agency, or any transfer,
41 assignment or other disposition which results in the ownership or
42 control of an interest, stock, or voting rights [~~of ten percent or~~
43 ~~more,~~] in [~~a limited liability company or a partnership which is the~~]
44 that operator [~~of a licensed home care services agency or a certified~~
45 ~~home health agency~~], shall be approved by the public health and health
46 planning council, in accordance with the provisions of subdivision four
47 of section thirty-six hundred five of this article relative to licensure
48 or subdivision two of section thirty-six hundred six of this article
49 relative to certificate of approval, except that:

50 (a) Public health and health planning council approval shall be
51 required only with respect to the person, [~~or the~~] partner, member or
52 [~~partner~~] stockholder that is acquiring the interest, stock, or voting
53 rights[~~, and~~].

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

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

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

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

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

49 (iii) Nothing in this subdivision shall be construed as permitting any
50 person, partner, member, or stockholder not previously approved by the
51 public health and health planning council for that operator to own or
52 control, directly or indirectly, ten percent or more of the interest,
53 stock, or voting rights of any partnership, limited liability company,
54 not-for-profit corporation, or corporation which is the operator of a
55 licensed home care services agency or a certified home health agency

1 without first obtaining the approval of the public health and health
2 planning council.

3 (iv) In the absence of approval by the public health and health plan-
4 ning council as required under this paragraph, the license or certif-
5 icate of approval of such operator shall be subject to revocation or
6 suspension. Failure to provide notice as required under this paragraph
7 may subject the license or certificate of approval of such operator to
8 revocation or suspension thereof.

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

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

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

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

44 ~~3.]~~ (a) The commissioner shall charge to applicants for a change in
45 operator or owner of a licensed home care services agency or a certified
46 home health agency an application fee in the amount of two thousand
47 dollars.

48 (b) The fees paid by certified home health agencies pursuant to this
49 subdivision for any application approved in accordance with this section
50 shall be deemed allowable costs in the determination of reimbursement
51 rates established pursuant to this article. All fees pursuant to this
52 section shall be payable to the department of health for deposit into
53 the special revenue funds - other, miscellaneous special revenue fund -
54 339, certificate of need account.

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

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

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

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

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

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

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

1 notified each party to the proposed transaction that it has barred such
2 transactions under this paragraph and has stated specific reasons for
3 barring such transactions.

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

12 (v) In the absence of approval by the public health and health plan-
13 ning council as required under this paragraph, the certificate of
14 approval of such operator shall be subject to revocation or suspension.
15 Failure to provide notice as required under this paragraph may subject
16 the certificate of approval of such operator to revocation or suspen-
17 sion.

18 § 5. This act shall take effect immediately.

19 PART M

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

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

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

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

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

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

44 4. The commissioner may waive the requirements of this section on a
45 case-by-case basis with respect to a nursing home that demonstrates to
46 the commissioner's satisfaction that it experienced unexpected or excep-
47 tional circumstances that prevented compliance. The commissioner may
48 also exclude from revenues and expenses, on a case-by-case basis,
49 extraordinary revenues and capital expenses, incurred due to a natural
50 disaster or other circumstances set forth by the commissioner in regu-
51 lation. The commissioner may also exclude from revenues, on a case-by-
52 case basis, the capital per diem portion of the reimbursement rate for
53 nursing homes that have a three-star CMS rating. At least thirty days
54 before any action by the commissioner under this subdivision, the

1 commissioner shall transmit the proposed action to the state office of
2 the long-term care ombudsman and the chairs of the senate and assembly
3 health committees, and post it on the department's website.

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

7 (d) The commissioner shall promulgate regulations, and may promulgate
8 emergency regulations, to implement the provisions of this subdivision.
9 Such regulations shall be developed in consultation with the nursing
10 home industry and advocates for residential health care facility resi-
11 dents and, further, the commissioner shall provide notification concern-
12 ing such regulations to the chairs of the senate and assembly health
13 committees, the chair of the senate finance committee and the chair of
14 the assembly ways and means committee. Such regulations shall include
15 provisions for rate adjustments or payment enhancements to facilitate a
16 minimum four-year transition of facilities to the rate-setting methodol-
17 ogy established by this subdivision and may also include, but not be
18 limited to, provisions for facilitating quality improvements in residen-
19 tial health care facilities. For purposes of facilitating quality
20 improvements through the establishment of a nursing home quality pool to
21 be funded at the discretion of the commissioner by (i) adjustments in
22 medical assistance rates, (ii) funds made available through state appro-
23 priations, or (iii) a combination thereof, those facilities that
24 contribute to the quality pool, but are deemed ineligible for quality
25 pool payments due exclusively to a specific case of employee misconduct,
26 shall nevertheless be eligible for a quality pool payment if the facili-
27 ty properly reported the incident, did not receive a survey citation
28 from the commissioner or the Centers for Medicare and Medicaid Services
29 establishing the facility's culpability with regard to such misconduct
30 and, but for the specific case of employee misconduct, the facility
31 would have otherwise received a quality pool payment. Regulations
32 pertaining to the facilitation of quality improvement may be made effec-
33 tive for periods on and after January first, two thousand thirteen.

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

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

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

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

54 (B) a federally designated critical access hospital;

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

56 (D) a residential health care facility;

1 (E) an adult care facility;

2 (F) a general hospital that is a safety net hospital, which for
3 purpose of this subdivision shall mean:

4 (1) such hospital has at least thirty percent of its inpatient
5 discharges made up of Medicaid eligible individuals, uninsured individ-
6 uals or Medicaid dually eligible individuals and with at least thirty-
7 five percent of its outpatient visits made up of Medicaid eligible indi-
8 viduals, uninsured individuals or Medicaid dually-eligible individuals;
9 or

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

13 (G) an independent practice association or accountable care organiza-
14 tion authorized under applicable regulations that participate in managed
15 care provider network arrangements with any of the provider types in
16 subparagraphs (A) through (F) of this paragraph.

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

19

PART N

20 Section 1. Subparagraph 4 of paragraph (b) of subdivision 1 of section
21 366 of the social services law, as added by section 1 of part D of chap-
22 ter 56 of the laws of 2013, is amended to read as follows:

23 (4) An individual who is a pregnant woman or is a member of a family
24 that contains a dependent child living with a parent or other caretaker
25 relative is eligible for standard coverage if [~~his or her MAGI~~] their
26 household income does not exceed [~~the MAGI equivalent of~~] one hundred
27 [~~thirty~~] thirty-three percent of the [~~highest amount that ordinarily~~
28 ~~would have been paid to a person without any income or resources under~~
29 ~~the family assistance program as it existed on the first day of Novem-~~
30 ~~ber, nineteen hundred ninety-seven~~] federal poverty line for the appli-
31 cable family size, which shall be calculated in accordance with guidance
32 issued by the Secretary of the United States department of health and
33 human services; for purposes of this subparagraph, the term dependent
34 child means a person who is under eighteen years of age, or is eighteen
35 years of age and a full-time student, who is deprived of parental
36 support or care by reason of the death, continued absence, or physical
37 or mental incapacity of a parent, or by reason of the unemployment of
38 the parent, as defined by the department of health.

39 § 2. Subparagraph 2 of paragraph (c) of subdivision 1 of section 366
40 of the social services law, as added by section 1 of part D of chapter
41 56 of the laws of 2013, is amended to read as follows:

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

50 § 3. Subparagraph 5 of paragraph (c) of subdivision 1 of section 366
51 of the social services law, as added by section 1 of part D of chapter
52 56 of the laws of 2013, is amended to read as follows:

53 (5) A disabled individual at least sixteen years of age, but under the
54 age of sixty-five, who: would be eligible for benefits under the supple-

1 mental security income program but for earnings in excess of the allow-
2 able limit; has net available income that does not exceed two hundred
3 fifty percent of the applicable federal income official poverty line, as
4 defined and updated by the United States department of health and human
5 services, for a one-person or two-person household, as defined by the
6 commissioner in regulation; [~~has household resources, as defined in~~
7 ~~paragraph (e) of subdivision two of section three hundred sixty-six e of~~
8 ~~this title, other than retirement accounts, that do not exceed twenty~~
9 ~~thousand dollars for a one-person household or thirty thousand dollars~~
10 ~~for a two-person household, as defined by the commissioner in regu-~~
11 ~~lation,]~~ and contributes to the cost of medical assistance provided
12 pursuant to this subparagraph in accordance with subdivision twelve of
13 section three hundred sixty-seven-a of this title; for purposes of this
14 subparagraph, disabled means having a medically determinable impairment
15 of sufficient severity and duration to qualify for benefits under
16 section 1902(a)(10)(A)(ii)(xv) of the social security act.

17 § 4. Subparagraph 10 of paragraph (c) of subdivision 1 of section 366
18 of the social services law, as added by section 1 of part D of chapter
19 56 of the laws of 2013, is amended to read as follows:

20 (10) A resident of a home for adults operated by a social services
21 district, or a residential care center for adults or community residence
22 operated or certified by the office of mental health, and has not,
23 according to criteria promulgated by the department consistent with this
24 title, sufficient income, or in the case of a person sixty-five years of
25 age or older, certified blind, or certified disabled, sufficient income
26 [~~and resources~~], including available support from responsible relatives,
27 to meet all the costs of required medical care and services available
28 under this title.

29 § 5. Paragraph (a) of subdivision 2 of section 366 of the social
30 services law, as separately amended by chapter 32 and 588 of the laws of
31 1968, the opening paragraph as amended by chapter 41 of the laws of
32 1992, subparagraph 1 as amended by section 27 of part C of chapter 109
33 of the laws of 2006, subparagraphs 3 and 6 as amended by chapter 938 of
34 the laws of 1990, subparagraph 4 as amended by section 43 and subpara-
35 graph 7 as amended by section 47 of part C of chapter 58 of the laws of
36 2008, subparagraph 5 as amended by chapter 576 of the laws of 2007,
37 subparagraph 9 as amended by chapter 110 of the laws of 1971, subpara-
38 graph 10 as added by chapter 705 of the laws of 1988, clauses (i) and
39 (ii) of subparagraph 10 as amended by chapter 672 of the laws of 2019,
40 clause (iii) of subparagraph 10 as amended by chapter 170 of the laws of
41 1994, and subparagraph 11 as added by chapter 576 of the laws of 2015,
42 is amended to read as follows:

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

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

49 (ii) for applications for medical assistance filed on or after January
50 first, two thousand six, a homestead which is essential and appropriate
51 to the needs of the household; provided, however, that in determining
52 eligibility of an individual for medical assistance for nursing facility
53 services and other long term care services, the individual shall not be
54 eligible for such assistance if the individual's equity interest in the
55 homestead exceeds seven hundred fifty thousand dollars; provided
56 further, that the dollar amount specified in this clause shall be

1 increased, beginning with the year two thousand eleven, from year to
2 year, in an amount to be determined by the secretary of the federal
3 department of health and human services, based on the percentage
4 increase in the consumer price index for all urban consumers, rounded to
5 the nearest one thousand dollars. If such secretary does not determine
6 such an amount, the department of health shall increase such dollar
7 amount based on such increase in the consumer price index. Nothing in
8 this clause shall be construed as preventing an individual from using a
9 reverse mortgage or home equity loan to reduce the individual's total
10 equity interest in the homestead. The home equity limitation established
11 by this clause shall be waived in the case of a demonstrated hardship,
12 as determined pursuant to criteria established by such secretary. The
13 home equity limitation shall not apply if one or more of the following
14 persons is lawfully residing in the individual's homestead: (A) the
15 spouse of the individual; or (B) the individual's child who is under the
16 age of twenty-one, or is blind or permanently and totally disabled, as
17 defined in section 1614 of the federal social security act.

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

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

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

28 ~~(5)]~~ (i) such income as is disregarded or exempt under the cash
29 assistance program to which the applicant is most closely related for
30 purposes of this subparagraph, cash assistance program means either the
31 aid to dependent children program as it existed on the sixteenth day of
32 July, nineteen hundred ninety-six, or the supplemental security income
33 program; and

34 (ii) such income of a disabled person (as such term is defined in
35 section 1614(a)(3) of the federal social security act (42 U.S.C. section
36 1382c(a)(3)) or in accordance with any other rules or regulations estab-
37 lished by the social security administration), that is deposited in
38 trusts as defined in clause (iii) of subparagraph two of paragraph (b)
39 of this subdivision in the same calendar month within which said income
40 is received;

41 ~~[(6)]~~ (3) health insurance premiums;

42 ~~[(7)]~~ (4) income based on the number of family members in the medical
43 assistance household, as defined in regulations by the commissioner
44 consistent with federal regulations under title XIX of the federal
45 social security act ~~[and calculated as follows:~~

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

52 ~~(ii) The amounts for households of three or more shall be calculated~~
53 ~~by increasing the income standard for a household of two, established~~
54 ~~pursuant to clause (i) of this subparagraph, by fifteen percent for each~~
55 ~~additional household member above two, such that the income standard for~~
56 ~~a three-person household shall be one hundred fifteen percent of the~~

~~income standard for a two-person household, the income standard for a four-person household shall be one hundred thirty percent of the income standard for a two-person household, and so on.~~

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

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

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

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

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

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

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

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

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

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

~~[(11)]~~ (8) subject to the availability of federal financial participation, any amount, including earnings thereon, in a qualified NY ABLE account as established pursuant to article eighty-four of the mental hygiene law, any contributions to such NY ABLE account, and any distribution for qualified disability expenses from such account; provided

1 however, that such exemption shall be consistent with section 529A of
2 the Internal Revenue Code of 1986, as amended.

3 § 6. Subparagraphs 1 and 2 of paragraph (b) of subdivision 2 of
4 section 366 of the social services law, subparagraph 1 as amended by
5 chapter 638 of the laws of 1993 and as designated by chapter 170 of the
6 laws of 1994, subparagraph 2 as added by chapter 170 of the laws of
7 1994, clause (iii) of subparagraph 2 as amended by chapter 187 of the
8 laws of 2017, clause (iv) of subparagraph 2 as amended by chapter 656 of
9 the laws of 1997 and as further amended by section 104 of part A of
10 chapter 62 of the laws of 2011, and clause (vi) of subparagraph 2 as
11 added by chapter 435 of the laws of 2018, are amended to read as
12 follows:

13 (1) In establishing standards for determining eligibility for and
14 amount of such assistance, the department shall take into account only
15 such income [~~and resources~~], in accordance with federal requirements, as
16 [~~are~~] **is** available to the applicant or recipient and as would not be
17 required to be disregarded or set aside for future needs, and there
18 shall be a reasonable evaluation of any such income [~~or resources~~]. The
19 department shall not consider the availability of an option for an
20 accelerated payment of death benefits or special surrender value pursu-
21 ant to paragraph one of subsection (a) of section one thousand one
22 hundred thirteen of the insurance law, or an option to enter into a
23 viatical settlement pursuant to the provisions of article seventy-eight
24 of the insurance law, as an available resource in determining eligibil-
25 ity for an amount of such assistance, provided, however, that the
26 payment of such benefits shall be considered in determining eligibility
27 for and amount of such assistance. There shall not be taken into consid-
28 eration the financial responsibility of any individual for any applicant
29 or recipient of assistance under this title unless such applicant or
30 recipient is such individual's spouse or such individual's child who is
31 under twenty-one years of age. In determining the eligibility of a child
32 who is categorically eligible as blind or disabled, as determined under
33 regulations prescribed by the social security act for medical assist-
34 ance, the income [~~and resources~~] of parents or spouses of parents are
35 not considered available to that child if she/he does not regularly
36 share the common household even if the child returns to the common
37 household for periodic visits. In the application of standards of eligi-
38 bility with respect to income, costs incurred for medical care, whether
39 in the form of insurance premiums or otherwise, shall be taken into
40 account. Any person who is eligible for, or reasonably appears to meet
41 the criteria of eligibility for, benefits under title XVIII of the
42 federal social security act shall be required to apply for and fully
43 utilize such benefits in accordance with this chapter.

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

50 (i) In the case of a revocable trust created by an applicant or recip-
51 ient, as determined pursuant to regulations of the department [~~the~~
52 ~~trust corpus must be considered to be an available resource;~~], payments
53 made from the trust to or for the benefit of such applicant or recipient
54 must be considered to be available income; and any other payments from
55 the trust must be considered to be assets disposed of by such applicant

1 or recipient for purposes of paragraph (d) of subdivision five of this
2 section.

3 (ii) In the case of an irrevocable trust created by an applicant or
4 recipient, as determined pursuant to regulations of the department: any
5 portion of the trust corpus, and of the income generated by the trust
6 corpus, from which no payment can under any circumstances be made to
7 such applicant or recipient must be considered, as of the date of estab-
8 lishment of the trust, or, if later, the date on which payment to the
9 applicant or recipient is foreclosed, to be assets disposed of by such
10 applicant or recipient for purposes of paragraph (d) of subdivision five
11 of this section; ~~[any portion of the trust corpus, and of the income
12 generated by the trust corpus, from which payment could be made to or
13 for the benefit of such applicant or recipient must be considered to be
14 an available resource,]~~ payments made from the trust to or for the bene-
15 fit of such applicant or recipient must be considered to be available
16 income; and any other payments from the trust must be considered to be
17 assets disposed of by such applicant or recipient for purposes of para-
18 graph (d) of subdivision five of this section.

19 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this
20 subparagraph, in the case of an applicant or recipient who is disabled,
21 as such term is defined in section 1614(a)(3) of the federal social
22 security act, the department must not consider as available income ~~[or
23 resources]~~ the ~~[corpus or]~~ income of the following trusts which comply
24 with the provisions of the regulations authorized by clause (iv) of this
25 subparagraph: (A) a trust containing the assets of such a disabled indi-
26 vidual which was established for the benefit of the disabled individual
27 while such individual was under sixty-five years of age by the individ-
28 ual, a parent, grandparent, legal guardian, or court of competent juris-
29 diction, if upon the death of such individual the state will receive all
30 amounts remaining in the trust up to the total value of all medical
31 assistance paid on behalf of such individual; (B) and a trust containing
32 the assets of such a disabled individual established and managed by a
33 non-profit association which maintains separate accounts for the benefit
34 of disabled individuals, but, for purposes of investment and management
35 of trust funds, pools the accounts, provided that accounts in the trust
36 fund are established solely for the benefit of individuals who are disa-
37 bled as such term is defined in section 1614(a)(3) of the federal social
38 security act by such disabled individual, a parent, grandparent, legal
39 guardian, or court of competent jurisdiction, and to the extent that
40 amounts remaining in the individual's account are not retained by the
41 trust upon the death of the individual, the state will receive all such
42 remaining amounts up to the total value of all medical assistance paid
43 on behalf of such individual. Notwithstanding any law to the contrary,
44 a not-for-profit corporation may, in furtherance of and as an adjunct to
45 its corporate purposes, act as trustee of a trust for persons with disa-
46 bilities established pursuant to this subclause, provided that a trust
47 company, as defined in subdivision seven of section one hundred-c of the
48 banking law, acts as co-trustee.

49 (iv) The department shall promulgate such regulations as may be neces-
50 sary to carry out the provisions of this subparagraph. Such regulations
51 shall include provisions for: assuring the fulfillment of fiduciary
52 obligations of the trustee with respect to the remainder interest of the
53 department or state; monitoring pooled trusts; applying this subdivision
54 to legal instruments and other devices similar to trusts, in accordance
55 with applicable federal rules and regulations; and establishing proced-
56 ures under which the application of this subdivision will be waived

1 with respect to an applicant or recipient who demonstrates that such
2 application would work an undue hardship on him or her, in accordance
3 with standards specified by the secretary of the federal department of
4 health and human services. Such regulations may require: notification of
5 the department of the creation or funding of such a trust for the bene-
6 fit of an applicant for or recipient of medical assistance; notification
7 of the department of the death of a beneficiary of such a trust who is a
8 current or former recipient of medical assistance; in the case of a
9 trust, the corpus of which exceeds one hundred thousand dollars, notifi-
10 cation of the department of transactions tending to substantially
11 deplete the trust corpus; notification of the department of any trans-
12 actions involving transfers from the trust corpus for less than fair
13 market value; the bonding of the trustee when the assets of such a trust
14 equal or exceed one million dollars, unless a court of competent juris-
15 diction waives such requirement; and the bonding of the trustee when the
16 assets of such a trust are less than one million dollars, upon order of
17 a court of competent jurisdiction. The department, together with the
18 department of financial services, shall promulgate regulations governing
19 the establishment, management and monitoring of trusts established
20 pursuant to subclause (B) of clause (iii) of this subparagraph in which
21 a not-for-profit corporation and a trust company serve as co-trustees.

22 (v) Notwithstanding any acts, omissions or failures to act of a trus-
23 tee of a trust which the department or a local social services official
24 has determined complies with the provisions of clause (iii) and the
25 regulations authorized by clause (iv) of this subparagraph, the depart-
26 ment must not consider the [~~corpus~~ ~~or~~] income of any such trust as
27 available income [~~or resources~~] of the applicant or recipient who is
28 disabled, as such term is defined in section 1614(a)(3) of the federal
29 social security act. The department's remedy for redress of any acts,
30 omissions or failures to act by such a trustee which acts, omissions or
31 failures are considered by the department to be inconsistent with the
32 terms of the trust, contrary to applicable laws and regulations of the
33 department, or contrary to the fiduciary obligations of the trustee
34 shall be the commencement of an action or proceeding under subdivision
35 one of section sixty-three of the executive law to safeguard or enforce
36 the state's remainder interest in the trust, or such other action or
37 proceeding as may be lawful and appropriate as to assure compliance by
38 the trustee or to safeguard and enforce the state's remainder interest
39 in the trust.

40 (vi) The department shall provide written notice to an applicant for
41 or recipient of medical assistance who is or reasonably appears to be
42 eligible for medical assistance except for having income exceeding
43 applicable income levels. The notice shall inform the applicant or
44 recipient, in plain language, that in certain circumstances the medical
45 assistance program does not count the income of disabled applicants and
46 recipients if it is placed in a trust described in clause (iii) of this
47 subparagraph. The notice shall be included with the eligibility notice
48 provided to such applicants and recipients and shall reference where
49 additional information may be found on the department's website. This
50 clause shall not be construed to change any criterion for eligibility
51 for medical assistance.

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

55 (a) Medical assistance shall be furnished to applicants in cases
56 where, although such applicant has a responsible relative with suffi-

1 cient income [~~and resources~~] to provide medical assistance as determined
2 by the regulations of the department, the income [~~and resources~~] of the
3 responsible relative are not available to such applicant because of the
4 absence of such relative or the refusal or failure of such relative to
5 provide the necessary care and assistance. In such cases, however, the
6 furnishing of such assistance shall create an implied contract with such
7 relative, and the cost thereof may be recovered from such relative in
8 accordance with title six of article three of this chapter and other
9 applicable provisions of law.

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

13 h. Notwithstanding any other provision of this chapter or any other
14 law to the contrary, for purposes of determining medical assistance
15 eligibility for persons specified in paragraph b of this subdivision,
16 the income [~~and resources~~] of responsible relatives shall not be deemed
17 available for as long as the person meets the criteria specified in this
18 subdivision.

19 § 9. Subparagraph (vii) of paragraph (b) of subdivision 7 of section
20 366 of the social services law, as amended by chapter 324 of the laws of
21 2004, is amended to read as follows:

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

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

29 j. Notwithstanding any other provision of this chapter other than
30 subdivision six of this section or any other law to the contrary, for
31 purposes of determining medical assistance eligibility for persons spec-
32 ified in paragraph b of this subdivision, the income [~~and resources~~] of
33 a responsible relative shall not be deemed available for as long as the
34 person meets the criteria specified in this subdivision.

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

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

44 § 12. Subparagraph (vi) of paragraph (b) of subdivision 9 of section
45 366 of the social services law, as added by chapter 170 of the laws of
46 1994, is amended to read as follows:

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

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

55 k. Notwithstanding any provision of this chapter other than subdivi-
56 sion six or seven of this section, or any other law to the contrary, for

1 purposes of determining medical assistance eligibility for persons spec-
2 ified in paragraphs b and c of this subdivision, the income [~~and~~
3 ~~resources~~] of a responsible relative shall not be deemed available for
4 as long as the person meets the criteria specified in this subdivision.

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

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

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

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

25 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-
26 sion, an applicant or recipient [~~whose eligibility under this title is~~
27 ~~determined without regard to the amount of his or her accumulated~~
28 ~~resources~~] may attest to the amount of interest income generated by
29 [~~such~~] resources if the amount of such interest income is expected to be
30 immaterial to medical assistance eligibility, as determined by the
31 commissioner of health. In the event there is an inconsistency between
32 the information reported by the applicant or recipient and any informa-
33 tion obtained by the commissioner of health from other sources and such
34 inconsistency is material to medical assistance eligibility, the commis-
35 sioner of health shall request that the applicant or recipient provide
36 adequate documentation to verify [~~his or her~~] their interest income.

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

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

42 (a) Notwithstanding subdivisions two and five of this section, infor-
43 mation concerning income [~~and resources~~] of applicants for and recipi-
44 ents of medical assistance may be verified by matching client informa-
45 tion with information contained in the wage reporting system established
46 by section one hundred seventy-one-a of the tax law and in similar
47 systems operating in other geographically contiguous states, by means of
48 an income verification performed pursuant to a memorandum of understand-
49 ing with the department of taxation and finance pursuant to subdivision
50 four of section one hundred seventy-one-b of the tax law, and, to the
51 extent required by federal law, with information contained in the non-
52 wage income file maintained by the United States internal revenue
53 service, in the beneficiary data exchange maintained by the United
54 States department of health and human services, and in the unemployment
55 insurance benefits file. Such matching shall provide for procedures
56 which document significant inconsistent results of matching activities.

1 Nothing in this section shall be construed to prohibit activities the
2 department reasonably believes necessary to conform with federal
3 requirements under section one thousand one hundred thirty-seven of the
4 social security act.

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

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

12 § 20. Paragraphs (c), (d) and (e) of subdivision 2 of section 366-c of
13 the social services law are REPEALED and paragraphs (f), (g), (h), (i),
14 (j) and (k) of subdivision 2 are relettered paragraphs (c), (d), (e),
15 (f), (g) and (h).

16 § 21. Subdivisions 5 and 6 of section 366-c of the social services law
17 are REPEALED and subdivisions 7 and 8 are renumbered subdivisions 5 and
18 6.

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

22 5. (a) At the beginning or after the commencement of a continuous
23 period of institutionalization, either spouse may request [~~an assessment~~
24 ~~of the total value of their resources or~~] a determination of the commu-
25 nity spouse monthly income allowance, the amount of the family allow-
26 ance, or the method of computing the amount of the family allowance, or
27 the method of computing the amount of the community spouse income allow-
28 ance.

29 (b) [~~(i) Upon receipt of a request pursuant to paragraph (a) of this~~
30 ~~subdivision together with all relevant documentation of the resources of~~
31 ~~both spouses, the social services district shall assess and document the~~
32 ~~total value of the spouses' resources and provide each spouse with a~~
33 ~~copy of the assessment and the documentation upon which it was based. If~~
34 ~~the request is not part of an application for medical assistance bene-~~
35 ~~fits, the social services district may charge a fee for the assessment~~
36 ~~which is related to the cost of preparing and copying the assessment and~~
37 ~~documentation which fee may not exceed twenty five dollars.~~

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

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

49 6. (a) If, after a determination on an application for medical assist-
50 ance has been made, either spouse is dissatisfied with the determination
51 of the community spouse monthly allowance⁷ or the amount of monthly
52 income otherwise available to the community spouse, [~~the computation of~~
53 ~~the spousal share of resources, the attribution of resources or the~~
54 ~~determination of the community spouse's resource allocation,~~] the spouse
55 may request a fair hearing to dispute such determination. Such hearing
56 shall be held within thirty days of the request therefor.

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

8 ~~[(c) If either spouse establishes that income generated by the commu-~~
9 ~~nity spouse resource allowance, established by the social services~~
10 ~~district, is inadequate to raise the community spouse's income to the~~
11 ~~minimum monthly maintenance needs allowance, the department shall estab-~~
12 ~~lish a resource allowance for the spousal share of the institutionalized~~
13 ~~spouse adequate to provide such minimum monthly maintenance needs allow-~~
14 ~~ance.]~~

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

24 § 24. This act shall take effect January 1, 2023, subject to federal
25 financial participation; provided, however that the amendments to para-
26 graph h of subdivision 6 of section 366 of the social services law made
27 by section eight of this act shall not affect the repeal of such subdi-
28 vision and shall be deemed repealed therewith; provided further that the
29 commissioner of health shall notify the legislative bill drafting
30 commission upon the occurrence of federal financial participation in
31 order that the commission may maintain an accurate and timely effective
32 data base of the official text of the laws of the state of New York in
33 furtherance of effectuating the provisions of section 44 of the legisla-
34 tive law and section 70-b of the public officers law.

35 PART O

36 Section 1. Subdivision 3 of section 367-r of the social services law,
37 as added by section 2 of part PP of chapter 56 of the laws of 2020, is
38 amended and a new subdivision 4 is added to read as follows:

39 3. Provider directory for fee-for-service private duty nursing
40 services provided to medically fragile children and adults. The commis-
41 sioner of health is authorized to establish a directory of qualified
42 providers for the purpose of promoting the availability and ensuring
43 delivery of fee-for-service private duty nursing services to medically
44 fragile children and individuals transitioning out of such category of
45 care, and medically fragile adults. Qualified providers enrolling in
46 the directory shall ensure the availability and delivery of and shall
47 provide such services to those individuals as are in need of such
48 services, and shall receive increased reimbursement for such services
49 pursuant to paragraph (c) of subdivision two, and paragraph (c) of
50 subdivision four of this section. The directory shall offer enrollment
51 to all private duty nursing services providers to promote and ensure the
52 participation in the directory of all nursing services providers avail-
53 able to serve medically fragile children and adults.

1 4. Medically fragile adults. (a) The commissioner shall increase rates
2 for private duty nursing services that are provided to medically fragile
3 adults, as such term is defined by the commissioner in regulation, to
4 ensure the availability of such services to such adults. In establish-
5 ing rates of payment under this subdivision, the commissioner shall
6 consider the cost neutrality of such rates as related to the cost effec-
7 tiveness of caring for medically fragile adults in a non-institutional
8 setting as compared to an institutional setting. Such increased rates
9 for services rendered to such adults may take into consideration the
10 elements of cost, geographical differentials in the elements of cost
11 considered, economic factors in the area in which the private duty nurs-
12 ing service is provided, costs associated with the provision of private
13 duty nursing services to medically fragile adults, and the need for
14 incentives to improve services and institute economies and such
15 increased rates shall be payable only to those private duty nurses who
16 can demonstrate, to the satisfaction of the department of health, satis-
17 factory training and experience to provide services to such adults. Such
18 increased rates shall be determined based on application of the case mix
19 adjustment factor for AIDS home care program services rates as deter-
20 mined pursuant to applicable regulations of the department of health.
21 The commissioner may promulgate regulations to implement the provisions
22 of this subdivision.

23 (b) Private duty nursing services providers which have their rates
24 adjusted pursuant to paragraph (a) of this subdivision shall use such
25 funds solely for the purposes of recruitment and retention of private
26 duty nurses or to ensure the delivery of private duty nursing services
27 to medically fragile adults and are prohibited from using such funds for
28 any other purpose. Funds provided under paragraph (a) of this subdivi-
29 sion are not intended to supplant support provided by a local govern-
30 ment. Each such provider, with the exception of self-employed private
31 duty nurses, shall submit, at a time and in a manner to be determined by
32 the commissioner of health, a written certification attesting that such
33 funds will be used solely for the purpose of recruitment and retention
34 of private duty nurses or to ensure the delivery of private duty nursing
35 services to medically fragile adults. The commissioner of health and
36 their designees are authorized to audit each such provider to ensure
37 compliance with the written certification required by this subdivision
38 and shall recoup all funds determined to have been used for purposes
39 other than recruitment and retention of private duty nurses or the
40 delivery of private duty nursing services to medically fragile adults.
41 Such recoupment shall be in addition to any other penalties provided by
42 law.

43 (c) The commissioner of health shall, subject to the provisions of
44 paragraph (b) of this subdivision, and the provisions of subdivision
45 three of this section, and subject to the availability of federal finan-
46 cial participation, increase fees for the fee-for-service reimbursement
47 of private duty nursing services provided to medically fragile adults by
48 fee-for-service private duty nursing services providers who enroll and
49 participate in the provider directory pursuant to subdivision three of
50 this section, commencing April first, two thousand twenty-two, such that
51 such fees for reimbursement equal the final benchmark payment designed
52 to ensure adequate access to the service. In developing such benchmark
53 the commissioner of health may utilize the average two thousand eighteen
54 Medicaid managed care payments for reimbursement of such private duty
55 nursing services. The commissioner may promulgate regulations to imple-
56 ment the provisions of this paragraph.

1 § 2. Section 21 of part MM of chapter 56 of the laws of 2020, direct-
 2 ing the department of health to establish or procure the services of
 3 an independent panel of clinical professionals and to develop and imple-
 4 ment a uniform task-based assessment tool, is amended to read as
 5 follows:

6 § 21. The department of health shall develop~~[, directly or through~~
 7 ~~procurement, and shall implement an evidenced based validated uniform~~
 8 ~~task-based assessment tool no later than April 1, 2021,]~~ guidelines and
 9 standards for the use of tasking tools to assist managed care plans and
 10 local departments of social services to make appropriate and individual-
 11 ized determinations for utilization of home care services in accordance
 12 with applicable state and federal law and regulations, including the
 13 number of personal care services and consumer directed personal assist-
 14 ance hours of care each day~~[,]~~ provided pursuant to the state's medical
 15 assistance program, and how Medicaid recipients' needs for assistance
 16 with activities of daily living can be met, such as through telehealth,
 17 provided that services rendered via telehealth meet equivalent quality
 18 and safety standards of services provided through non-electronic means,
 19 and other available alternatives, including family and social supports.
 20 ~~[Notwithstanding the provisions of section 163 of the state finance law,~~
 21 ~~or sections 142 and 143 of the economic development law, or any contrary~~
 22 ~~provision of law, a contract may be entered without a competitive bid or~~
 23 ~~request for proposal process if such contract is for the purpose of~~
 24 ~~developing the evidence based validated uniform task-based assessment~~
 25 ~~tool described in this section, provided that:~~

26 ~~(a) The department of health shall post on its website, for a period~~
 27 ~~of no less than 30 days:~~

28 ~~(i) A description of the evidence based validated uniform task-based~~
 29 ~~assessment tool to be developed pursuant to the contract;~~

30 ~~(ii) The criteria for contractor selection;~~

31 ~~(iii) The period of time during which a prospective contractor may~~
 32 ~~seek to be selected by the department of health, which shall be no less~~
 33 ~~than 30 days after such information is first posted on the website, and~~

34 ~~(iv) The manner by which a prospective contractor may submit a~~
 35 ~~proposal for selection, which may include submission by electronic~~
 36 ~~means;~~

37 ~~(b) All reasonable and responsive submissions that are received from~~
 38 ~~prospective contractors in a timely fashion shall be reviewed by the~~
 39 ~~commissioner of health;~~

40 ~~(c) The commissioner of health shall select such contractor that is~~
 41 ~~best suited to serve the purposes of this section and the needs of~~
 42 ~~recipients; and~~

43 ~~(d) All decisions made and approaches taken pursuant to this section~~
 44 ~~shall be documented in a procurement record as defined in section one~~
 45 ~~hundred sixty-three of the state finance law.]~~

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

48 ARTICLE 29-EE

49 PROGRAMS OF ALL-INCLUSIVE

50 CARE FOR THE ELDERLY

51 Section 2999-s. Definitions.

52 2999-t. PACE organization establishment.

53 2999-u. Criteria for program eligibility and licensure.

54 2999-v. Eligibility and enrollment.

55 2999-w. Included program benefits.

56 2999-x. Reimbursement.

1 § 2999-s. Definitions. For the purposes of this article, the following
2 terms shall have the following meanings:

3 1. "PACE organization" means a PACE provider, as defined in 42 U.S.C.
4 § 1395(eee), established in accordance with federal public law 105-33,
5 subtitle I of title IV of the Balanced Budget Act of 1997, including
6 amendments thereto.

7 2. "Program of all-inclusive care for the elderly", "PACE" or "PACE
8 program" shall include those programs defined as "operating demon-
9 strations" by section forty-four hundred three-f of this chapter.

10 3. "PACE center" means a facility established in accordance with regu-
11 lations promulgated hereunder that is operated by a PACE organization
12 where primary care and other services are furnished to enrollees of such
13 program.

14 § 2999-t. PACE organization establishment. 1. Notwithstanding any
15 inconsistent provision to the contrary, the commissioner shall establish
16 a program for all-inclusive care for the elderly in New York, to provide
17 community-based, risk-based, and capitated long-term care services as
18 optional services under the state's Medicaid state plan and any applica-
19 ble waivers, as well as under contracts entered into between the federal
20 centers for Medicare and Medicaid services, the department, and PACE
21 organizations.

22 2. The establishment of such a program shall not preclude the contin-
23 ued operation of existing approved PACE organizations at the time of
24 enactment or implementation of this article. The department may estab-
25 lish a process, if deemed necessary, to assist the transition of such
26 existing programs through processes and requirements set forth pursuant
27 to this article.

28 § 2999-u. Criteria for program eligibility and licensure. 1. Program
29 criteria. The requirements of the PACE model, as provided for pursuant
30 to 42 U.S.C. § 1395(eee) and 42 U.S.C. § 1396(u-4), including amendments
31 thereto, shall not be waived or modified. New York state PACE organiza-
32 tion requirements shall include, but not be limited to:

33 (a) The provision and maintenance of a PACE center; and

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

36 2. Contracting. (a) Notwithstanding sections one hundred twelve and
37 one hundred sixty-three of the state finance law and sections one
38 hundred forty-two and one hundred forty-three of the economic develop-
39 ment law, the department may enter into contracts, including amendments
40 or extensions thereto, with public or private organizations that meet
41 the standards for licensure established under this article and under any
42 process established to assist in the transition of existing programs,
43 for implementation and operation of a PACE organization.

44 (b) The department may enter into additional contracts as necessary to
45 implement, operate or oversee the program, or any other contracts deemed
46 necessary to provide comprehensive community-based, risk-based and capi-
47 tated long-term care to eligible populations under the PACE program.

48 (c) PACE organizations shall contract with the federal centers for
49 Medicare and Medicaid services to enter into a PACE organization agree-
50 ment.

51 3. Licensure. (a) In setting forth requirements to establish the
52 state's PACE organization, the department shall provide for a unified
53 licensure process for PACE organizations that is inclusive of program
54 requirements set forth under articles twenty-eight, thirty-six, and
55 forty-four of this chapter, as well as pertinent regulatory requirements

1 for PACE organizations in accordance with a regulatory approach which
2 shall be established by the department.

3 (b) An entity may not operate a PACE organization in the state without
4 being licensed in accordance with this subdivision and any regulations
5 promulgated hereunder; provided, however, that this requirement shall
6 not be construed to disallow the operation of approved PACE organiza-
7 tions at the time of enactment or implementation of this act in accord-
8 ance with any process established by the department to assist the tran-
9 sition of such existing programs through processes and requirements set
10 forth in accordance with this article.

11 4. Operations and oversight. The department shall:

12 (a) Establish requirements for financial solvency for PACE organiza-
13 tions in compliance with those set forth in paragraph (c) of subdivision
14 one of section forty-four hundred three of this chapter, and shall
15 establish a contingent reserve requirement for PACE organizations which,
16 pursuant to regulations, may be different than other plans;

17 (b) Provide oversight of PACE organization operations in coordination
18 with the centers for Medicare and Medicaid services, including the
19 establishment of any rules appropriate for the safe, efficient and
20 orderly administration of the program and for the maintenance or revoca-
21 tion of licensure under this article.

22 § 2999-v. Eligibility and enrollment. 1. To be eligible for enrollment
23 in a PACE organization, an individual must:

24 (a) Be at least fifty-five years old; and

25 (b) Meet the state's eligibility criteria for nursing home level of
26 care; and

27 (c) Reside within the PACE approved service area; and

28 (d) Be able to be maintained safely in a community-based setting at
29 the time of enrollment with the assistance of the PACE organization; and

30 (e) Meet any additional program specific eligibility conditions
31 imposed under the PACE program agreement between the PACE organization,
32 the department, and the centers for Medicare and Medicaid services; or

33 (f) Be otherwise eligible for participation in a PACE demonstration or
34 specialty program authorized by the federal PACE Innovation Act and
35 approved by the centers for Medicare and Medicaid services and the
36 department. Notwithstanding any law or regulation to the contrary, in
37 the event that federal law or regulation permits expanded eligibility or
38 enrollment options, eligibility or enrollment for the applicable PACE
39 organizations may, if approved by the department, conform to such stand-
40 ards as permitted under such federal authority.

41 2. Enrollment and participation by individuals in PACE organizations
42 shall be voluntary.

43 § 2999-w. Included program benefits. Enrollees in all PACE organiza-
44 tions shall be provided a benefit package, regardless of source of
45 payment, that includes:

46 1. All Medicare-covered items and services;

47 2. All Medicaid-covered items and services, as specified in the
48 state's Medicaid plan and under section three hundred sixty-four-j of
49 the social services law; and

50 3. Other such services as determined necessary by the interdiscipli-
51 nary team to improve and maintain the participant's overall health
52 status.

53 § 2999-x. Reimbursement. The department shall develop and implement,
54 in conformance with applicable federal requirements, a methodology for
55 establishing rates of payment for costs of benefits provided by PACE
56 organizations to its Medicaid eligible enrollees.

1 § 4. This act shall take effect immediately; provided, however, that
2 section three of this act shall take effect upon the adoption of rules
3 and regulations by the commissioner of health governing the licensure of
4 PACE organizations as provided under article 29-EE of the public health
5 law as added by section three of this act; provided that the commission-
6 er of health shall notify the legislative bill drafting commission upon
7 the occurrence of the adoption of rules and regulations pursuant to such
8 section in order that the commission may maintain an accurate and timely
9 effective data base of the official text of the laws of the state of New
10 York in furtherance of effectuating the provisions of section 44 of the
11 legislative law and section 70-b of the public officers law. Effective
12 immediately, the addition, amendment and/or repeal of any rule or regu-
13 lation necessary for the implementation of this act on its effective
14 date are authorized to be made and completed on or before such effective
15 date.

16

PART P

17 Section 1. Subdivision 2 of section 364-j of the social services law
18 is amended by adding a new paragraph (d) to read as follows:

19 (d) Effective April first, two thousand twenty-two and expiring on the
20 date the commissioner of health publishes on its website a request for
21 proposals in accordance with paragraph (a) of subdivision five of this
22 section, the commissioner of health shall place a moratorium on the
23 processing and approval of applications seeking authority to establish a
24 managed care provider, including applications seeking authorization to
25 expand the scope of eligible enrollee populations. Such moratorium shall
26 not apply to:

27 (i) applications submitted to the department prior to January first,
28 two thousand twenty-two;

29 (ii) applications seeking approval to transfer ownership or control of
30 an existing managed care provider;

31 (iii) applications seeking authorization to expand an existing managed
32 care provider's approved service area;

33 (iv) applications seeking authorization to form or operate a managed
34 care provider through an entity certified under section four thousand
35 four hundred three-c or four thousand four hundred three-g of the public
36 health law;

37 (v) applications demonstrating to the commissioner of health's satis-
38 faction that submission of the application for consideration would be
39 appropriate to address a serious concern with care delivery, such as a
40 lack of adequate access to managed care providers in a geographic area
41 or a lack of adequate and appropriate care, language and cultural compe-
42 tence, or special needs services.

43 § 2. Subdivision 5 of section 364-j of the social services law, as
44 amended by section 15 of part C of chapter 58 of the laws of 2004, para-
45 graph (a) as amended by section 40 of part A of chapter 56 of the laws
46 of 2013, paragraphs (d), (e) and (f) as amended by section 80 of part H
47 of chapter 59 of the laws of 2011, is amended to read as follows:

48 5. Managed care programs shall be conducted in accordance with the
49 requirements of this section and, to the extent practicable, encourage
50 the provision of comprehensive medical services, pursuant to this arti-
51 cle.

52 (a) The managed care program notwithstanding sections one hundred
53 twelve and one hundred sixty-three of the state finance law, sections
54 one hundred forty-two and one hundred forty-three of the economic devel-

1 opment law, and any other inconsistent provision of law, the commission-
2 er of health shall, through a competitive bid process based on proposals
3 submitted to the department, provide for the selection of qualified
4 managed care providers [~~by the commissioner of health~~] to participate in
5 the managed care program pursuant to a contract with the department,
6 including [~~comprehensive HIV special needs plans and~~] special needs
7 managed care plans in accordance with the provisions of section three
8 hundred sixty-five-m of this title; provided, however, that the commis-
9 sioner of health may contract directly with comprehensive HIV special
10 needs plans [~~consistent with standards set forth in this section~~] with-
11 out a competitive bid process, and assure that such providers are acces-
12 sible taking into account the needs of persons with disabilities and the
13 differences between rural, suburban, and urban settings, and in suffi-
14 cient numbers to meet the health care needs of participants, and shall
15 consider the extent to which major public hospitals are included within
16 such providers' networks[-

17 ~~(b) A proposal~~]; and provided further that:

18 (i) Proposals submitted by a managed care provider to participate in
19 the managed care program shall:

20 [~~(i)~~] (A) designate the geographic [~~area~~] areas, as defined by the
21 commissioner of health in the request for proposals, to be served [~~by~~
22 ~~the provider~~], and estimate the number of eligible participants and
23 actual participants in such designated area;

24 [~~(ii)~~] (B) include a network of health care providers in sufficient
25 numbers and geographically accessible to service program participants;

26 [~~(iii)~~] (C) describe the procedures for marketing in the program
27 location, including the designation of other entities which may perform
28 such functions under contract with the organization;

29 [~~(iv)~~] (D) describe the quality assurance, utilization review and case
30 management mechanisms to be implemented;

31 [~~(v)~~] (E) demonstrate the applicant's ability to meet the data analy-
32 sis and reporting requirements of the program;

33 [~~(vi)~~] (F) demonstrate financial feasibility of the program; and

34 [~~(vii)~~] (G) include such other information as the commissioner of
35 health may deem appropriate.

36 (ii) In addition to the criteria described in subparagraph (i) of this
37 paragraph, the commissioner of health shall also consider:

38 (A) accessibility and geographic distribution of network providers,
39 taking into account the needs of persons with disabilities and the
40 differences between rural, suburban, and urban settings;

41 (B) the extent to which major public hospitals are included in the
42 submitted provider network;

43 (C) demonstrated cultural and language competencies specific to the
44 population of participants;

45 (D) the corporate organization and status of the bidder as a charita-
46 ble corporation under the not-for-profit corporation law;

47 (E) the ability of a bidder to offer plans in multiple regions;

48 (F) the type and number of products the bidder proposes to operate,
49 including products bid for in accordance with the provisions of subdivi-
50 sion six of section four thousand four hundred three-f of the public
51 health law, and other products determined by the commissioner of health,
52 including but not necessarily limited to those operated under title
53 one-A of article twenty-five of the public health law and section three
54 hundred sixty-nine-gg of this article;

55 (G) whether the bidder participates in products for integrated care
56 for participants who are dually eligible for medicaid and medicare;

1 (H) whether the bidder participates in value based payment arrange-
2 ments as defined by the department, including the delegation of signif-
3 icant financial risk to clinically integrated provider networks;

4 (I) the bidder's commitment to participation in managed care in the
5 state;

6 (J) the bidder's commitment to quality improvement;

7 (K) the bidder's commitment to community reinvestment spending, as
8 shall be defined in the procurement;

9 (L) for current or previously authorized managed care providers, past
10 performance in meeting managed care contract or federal or state
11 requirements, and if the commissioner issued any statements of findings,
12 statements of deficiency, intermediate sanctions or enforcement actions
13 to a bidder for non-compliance with such requirements, whether the
14 bidder addressed such issues in a timely manner;

15 (M) such criteria as the commissioner of health shall develop, with
16 the commissioners of the office of mental health, the office for people
17 with developmental disabilities, the office of addiction services and
18 supports, and the office of children and family services, as applicable;
19 and

20 (N) any other criteria deemed appropriate by the commissioner of
21 health.

22 (iii) Subparagraphs (i) and (ii) of this paragraph describing proposal
23 content and selection criteria requirements shall not be construed as
24 limiting or requiring the commissioner of health to evaluate such
25 content or criteria on a pass-fail, scale, or other methodological
26 basis; provided however, that the commissioner shall consider all such
27 content and criteria using methods determined by the commissioner of
28 health in their discretion and, as applicable, in consultation with the
29 commissioners of the office of mental health, the office for people with
30 developmental disabilities, the office of addiction services and
31 supports, and the office of children and family services.

32 (iv) The department of health shall post on its website:

33 (A) The request for proposals and a description of the proposed
34 services to be provided pursuant to contracts in accordance with this
35 subdivision;

36 (B) The criteria on which the department shall determine qualified
37 bidders and evaluate their proposals, including all criteria identified
38 in this subdivision;

39 (C) The manner by which a proposal may be submitted, which may include
40 submission by electronic means;

41 (D) The manner by which a managed care provider may continue to
42 participate in the managed care program pending award of managed care
43 providers through a competitive bid process pursuant to this subdivi-
44 sion; and

45 (E) Upon award, the managed care providers that the commissioner
46 intends to contract with pursuant to this subdivision, provided that the
47 commissioner shall update such list to indicate the final slate of
48 contracted managed care providers.

49 (v)(A) All responsive submissions that are received from bidders in a
50 timely fashion shall be reviewed by the commissioner of health in
51 consultation with the commissioners of the office of mental health, the
52 office for people with developmental disabilities, the office of
53 addiction services and supports, and the office of children and family
54 services, as applicable. The commissioner shall consider comments
55 resulting from the review of proposals and make awards in consultation
56 with such agencies.

1 (B) The commissioner of health shall make awards under this subdivi-
2 sion for each product, for which proposals were requested, to at least
3 two managed care providers in each geographic region defined by the
4 commissioner in the request for proposals for which at least two managed
5 care providers have submitted a proposal, and shall have discretion to
6 offer more contracts based on need for access; provided, however, that
7 the commissioner of health shall not offer any more than five (5)
8 contracts in any one region.

9 (C) Managed care providers awarded under this subdivision shall be
10 entitled to enter into a contract with the department for the purpose of
11 participating in the managed care program. Such contracts shall run for
12 a term to be determined by the commissioner, which may be renewed or
13 modified from time to time without a new request for proposals, to
14 ensure consistency with changes in federal and state laws, regulations
15 or policies, including but not limited to the expansion or reduction of
16 medical assistance services available to participants through a managed
17 care provider.

18 (D) Nothing in this paragraph or other provision of this section shall
19 be construed to limit in any way the ability of the department of health
20 to terminate awarded contracts for cause, which shall include but not be
21 limited to any violation of the terms of such contracts or violations of
22 state or federal laws and regulations and any loss of necessary state or
23 federal funding.

24 (E) Notwithstanding sections one hundred twelve and one hundred
25 sixty-three of the state finance law, sections one hundred forty-two and
26 one hundred forty-three of the economic development law, and any other
27 inconsistent provision of law, the department of health may, in accord-
28 ance with the provisions of this paragraph, issue new requests for
29 proposals and award new contracts for terms following an existing term
30 of a contract entered into under this paragraph.

31 (b)(i) Within sixty days of the department of health issuing the
32 request for proposals under paragraph (a) of this subdivision, a managed
33 care provider that was approved to participate in the managed care
34 program prior to the issuance of the request for proposals, shall submit
35 its intention to complete such proposal to the department.

36 (ii) A managed care provider that: (A) fails to submit its intent
37 timely, (B) indicates within the sixty-days its intent not to complete
38 such a proposal, (C) fails to submit a proposal within the further time-
39 frame specified by the commissioner of health in the request for
40 proposals, or (D) is not awarded the ability to participate in the
41 managed care program under paragraph (a) of this subdivision, shall,
42 upon direction from the commissioner of health, terminate its services
43 and operations in accordance with the contract between the managed care
44 provider and the department of health and shall be additionally required
45 to maintain coverage of participants for such period of time as deter-
46 mined necessary by the commissioner of health to achieve the safe and
47 orderly transfer of participants.

48 (c) [~~The commissioner of health shall make a determination whether to~~
49 ~~approve, disapprove or recommend modification of the proposal]~~ If neces-
50 sary to ensure access to sufficient number of managed care providers on
51 a geographic or other basis, including a lack of adequate and appropri-
52 ate care, language and cultural competence, or special needs services,
53 the commissioner of health may reissue a request for proposals as
54 provided for under paragraph (a) of this subdivision, provided however,
55 that such request may be limited to the geographic or other basis of
56 need that the request for proposals is seeking to address. Any awards

1 made shall be subject to the requirements of this section, including but
2 not limited to the minimum and maximum number of awards in a region.

3 ~~(d) [Notwithstanding any inconsistent provision of this title and~~
4 ~~section one hundred sixty-three of the state finance law, the commis-~~
5 ~~sioner of health may contract with managed care providers approved under~~
6 ~~paragraph (b) of this subdivision, without a competitive bid or request~~
7 ~~for proposal process, to provide coverage for participants pursuant to~~
8 ~~this title.~~

9 ~~(e) Notwithstanding any inconsistent provision of this title and~~
10 ~~section one hundred forty-three of the economic development law, no~~
11 ~~notice in the procurement opportunities newsletter shall be required for~~
12 ~~contracts awarded by the commissioner of health, to qualified managed~~
13 ~~care providers pursuant to this section.~~

14 ~~(f)]~~ The care and services described in subdivision four of this
15 section will be furnished by a managed care provider pursuant to the
16 provisions of this section when such services are furnished in accord-
17 ance with an agreement with the department of health, and meet applica-
18 ble federal law and regulations.

19 ~~(g)]~~ (e) The commissioner of health may delegate some or all of the
20 tasks identified in this section to the local districts.

21 ~~(h)]~~ (f) Any delegation pursuant to paragraph ~~(g)]~~ (e) of this
22 subdivision shall be reflected in the contract between a managed care
23 provider and the commissioner of health.

24 § 3. Subdivision 4 of section 365-m of the social services law is
25 REPEALED and a new subdivision 4 is added to read as follows:

26 4. The commissioner of health, jointly with the commissioners of the
27 office of mental health and the office of addiction services and
28 supports, shall select a limited number of special needs managed care
29 plans under section three hundred sixty-four-j of this title, in accord-
30 ance with subdivision five of such section, capable of managing the
31 behavioral and physical health needs of medical assistance enrollees
32 with significant behavioral health needs.

33 § 4. The opening paragraph of subdivision 2 of section 4403-f of the
34 public health law, as amended by section 8 of part C of chapter 58 of
35 the laws of 2007, is amended to read as follows:

36 An eligible applicant shall submit an application for a certificate of
37 authority to operate a managed long term care plan upon forms prescribed
38 by the commissioner, including any such forms or process as may be
39 required or prescribed by the commissioner in accordance with the
40 competitive bid process under subdivision six of this section. Such
41 eligible applicant shall submit information and documentation to the
42 commissioner which shall include, but not be limited to:

43 § 5. Subdivision 3 of section 4403-f of the public health law, as
44 amended by section 41-a of part H of chapter 59 of the laws of 2011, is
45 amended to read as follows:

46 3. Certificate of authority; approval. (a) The commissioner shall not
47 approve an application for a certificate of authority unless the appli-
48 cant demonstrates to the commissioner's satisfaction:

49 ~~(a)]~~ (i) that it will have in place acceptable quality-assurance
50 mechanisms, grievance procedures, mechanisms to protect the rights of
51 enrollees and case management services to ensure continuity, quality,
52 appropriateness and coordination of care;

53 ~~(b)]~~ (ii) that it will include an enrollment process which shall
54 ensure that enrollment in the plan is informed. The application shall
55 describe the disenrollment process, which shall provide that an other-

1 wise eligible enrollee shall not be involuntarily disenrolled on the
2 basis of health status;

3 [~~(e)~~] (iii) satisfactory evidence of the character and competence of
4 the proposed operators and reasonable assurance that the applicant will
5 provide high quality services to an enrolled population;

6 [~~(d)~~] (iv) sufficient management systems capacity to meet the require-
7 ments of this section and the ability to efficiently process payment for
8 covered services;

9 [~~(e)~~] (v) readiness and capability to maximize reimbursement of and
10 coordinate services reimbursed pursuant to title XVIII of the federal
11 social security act and all other applicable benefits, with such benefit
12 coordination including, but not limited to, measures to support sound
13 clinical decisions, reduce administrative complexity, coordinate access
14 to services, maximize benefits available pursuant to such title and
15 ensure that necessary care is provided;

16 [~~(f)~~] (vi) readiness and capability to arrange and manage covered
17 services and coordinate non-covered services which could include prima-
18 ry, specialty, and acute care services reimbursed pursuant to title XIX
19 of the federal social security act;

20 [~~(g)~~] (vii) willingness and capability of taking, or cooperating in,
21 all steps necessary to secure and integrate any potential sources of
22 funding for services provided by the managed long term care plan,
23 including, but not limited to, funding available under titles XVI,
24 XVIII, XIX and XX of the federal social security act, the federal older
25 Americans act of nineteen hundred sixty-five, as amended, or any succes-
26 sor provisions subject to approval of the director of the state office
27 for aging, and through financing options such as those authorized pursu-
28 ant to section three hundred sixty-seven-f of the social services law;

29 [~~(h)~~] (viii) that the contractual arrangements for providers of health
30 and long term care services in the benefit package are sufficient to
31 ensure the availability and accessibility of such services to the
32 proposed enrolled population consistent with guidelines established by
33 the commissioner; with respect to individuals in receipt of such
34 services prior to enrollment, such guidelines shall require the managed
35 long term care plan to contract with agencies currently providing such
36 services, in order to promote continuity of care. In addition, such
37 guidelines shall require managed long term care plans to offer and cover
38 consumer directed personal assistance services for eligible individuals
39 who elect such services pursuant to section three hundred sixty-five-f
40 of the social services law; and

41 [~~(i)~~] (ix) that the applicant is financially responsible and may be
42 expected to meet its obligations to its enrolled members.

43 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
44 sion, the approval of any application for certification as a managed
45 long term care plan under this section for a plan that seeks to cover a
46 population of enrollees eligible for services under title XIX of the
47 federal social security act, shall be subject to and conditioned on
48 selection through the competitive bid process provided under subdivision
49 six of this section.

50 § 6. Subdivision 6 of section 4403-f of the public health law, as
51 amended by section 41-b of part H of chapter 59 of the laws of 2011,
52 paragraph (a) as amended by section 4 and paragraphs (d), (e) and (f) as
53 added by section 5 of part MM of chapter 56 of the laws of 2020, is
54 amended to read as follows:

55 6. Approval authority. [~~(a)~~] An applicant shall be issued a certifi-
56 cate of authority as a managed long term care plan upon a determination

1 by the commissioner that the applicant complies with the operating
2 requirements for a managed long term care plan under this section;
3 provided, however, that any managed long term care plan seeking to
4 provide health and long term care services to a population of enrollees
5 that are eligible under title XIX of the federal social security act
6 shall not receive a certificate of authority, nor be eligible for a
7 contract to provide such services with the department, unless selected
8 through the competitive bid process described in this subdivision. [The

9 ~~commissioner shall issue no more than seventy-five certificates of~~
10 ~~authority to managed long term care plans pursuant to this section.~~
11 ~~Nothing in this section shall be construed as requiring the department~~
12 ~~to contract with or to contract for a particular line of business with~~
13 ~~an entity certified under this section for the provision of services~~
14 ~~available under title eleven of article five of the social services law.~~

15 ~~(b) An operating demonstration shall be issued a certificate of~~
16 ~~authority as a managed long term care plan upon a determination by the~~
17 ~~commissioner that such demonstration complies with the operating~~
18 ~~requirements for a managed long term care plan under this section.~~
19 ~~Nothing in this section shall be construed to affect the continued legal~~
20 ~~authority of an operating demonstration to operate its previously~~
21 ~~approved program.~~

22 ~~(c) For the period beginning April first, two thousand twelve and~~
23 ~~ending March thirty first, two thousand fifteen, the majority leader of~~
24 ~~the senate and the speaker of the assembly may each recommend to the~~
25 ~~commissioner, in writing, up to four eligible applicants to convert to~~
26 ~~be approved managed long term care plans. An applicant shall only be~~
27 ~~approved and issued a certificate of authority if the commissioner~~
28 ~~determines that the applicant meets the requirements of subdivision~~
29 ~~three of this section. The majority leader of the senate or the speaker~~
30 ~~of the assembly may assign their authority to recommend one or more~~
31 ~~applicants under this section to the commissioner.]~~

32 (a) Notwithstanding sections one hundred twelve and one hundred
33 sixty-three of the state finance law, sections one hundred forty-two and
34 one hundred forty-three of the economic development law, and any other
35 inconsistent provision of law, the commissioner of health shall, through
36 a competitive bid process based on proposals submitted to the depart-
37 ment, provide for the selection of qualified managed long term care
38 plans to provide health and long term care services to enrollees who are
39 eligible under title XIX of the federal social security act pursuant to
40 a contract with the department; provided, however, that:

41 (i) A proposal submitted by a managed long term care plan shall
42 include information sufficient to allow the commissioner to evaluate the
43 bidder in accordance with the requirements identified in subdivisions
44 two through four of this section.

45 (ii) In addition to the criteria described in subparagraph (i) of this
46 paragraph, the commissioner shall also consider:

47 (A) accessibility and geographic distribution of network providers,
48 taking into account the needs of persons with disabilities and the
49 differences between rural, suburban, and urban settings;

50 (B) the extent to which major public hospitals are included in the
51 submitted provider network, if applicable;

52 (C) demonstrated cultural and language competencies specific to the
53 population of participants;

54 (D) the corporate organization and status of the bidder as a charita-
55 ble corporation under the not-for-profit corporation law;

56 (E) the ability of a bidder to offer plans in multiple regions;

1 (F) the type and number of products the bidder proposes to operate,
2 including products applied for in accordance with the provisions of
3 subdivision five of section three hundred sixty-four-j of the social
4 services law, and other products determined by the commissioner, includ-
5 ing but not necessarily limited to those operated under title one-A of
6 article twenty-five of this chapter and section three hundred sixty-
7 nine-gg of the social services law;

8 (G) whether the bidder participates in products for integrated care
9 for participants who are dually eligible for medicaid and medicare;

10 (H) whether the bidder participates in value based payment arrange-
11 ments as defined by the department, including the delegation of signif-
12 icant financial risk to clinically integrated provider networks;

13 (I) the bidder's commitment to participation in managed care in the
14 state;

15 (J) the bidder's commitment to quality improvement;

16 (K) the bidder's commitment to community reinvestment spending, as
17 shall be defined in the procurement;

18 (L) for current or previously authorized managed care providers, past
19 performance in meeting managed care contract or federal or state
20 requirements, and if the commissioner issued any statements of findings,
21 statements of deficiency, intermediate sanctions or enforcement actions
22 to a bidder for non-compliance with such requirements, whether the
23 bidder addressed such issues in a timely manner;

24 (M) such criteria as the commissioner shall develop, with the commis-
25 sioners of the office of mental health, the office for people with
26 developmental disabilities, the office of addiction services and
27 supports, and the office of children and family services; and

28 (N) any other criteria deemed appropriate by the commissioner.

29 (iii) Subparagraphs (i) and (ii) of this paragraph describing proposal
30 content and selection criteria requirements shall not be construed as
31 limiting or requiring the commissioner to evaluate such content or
32 criteria on a pass-fail, scale, or other particular methodological
33 basis; provided however, that the commissioner must consider all such
34 content and criteria using methods determined by the commissioner in
35 their discretion and, as applicable, in consultation with the commis-
36 sioners of the office of mental health, the office for people with
37 developmental disabilities, the office of addiction services and
38 supports, and the office of children and family services.

39 (iv) The department shall post on its website:

40 (A) The request for proposals and a description of the proposed
41 services to be provided pursuant to contracts in accordance with this
42 subdivision;

43 (B) The criteria on which the department shall determine qualified
44 bidders and evaluate their applications, including all criteria identi-
45 fied in this subdivision;

46 (C) The manner by which a proposal may be submitted, which may include
47 submission by electronic means;

48 (D) The manner by which a managed long term care plan may continue to
49 provide health and long term care services to enrollees who are eligible
50 under title XIX of the federal social security act pending awards to
51 managed long term care plans through a competitive bid process pursuant
52 to this subdivision; and

53 (E) Upon award, the managed long term care plans that the commissioner
54 intends to contract with pursuant to this subdivision, provided that the
55 commissioner shall update such list to indicate the final slate of
56 contracted managed long term care plans.

1 (v) (A) All responsive submissions that are received from bidders in a
2 timely fashion shall be reviewed by the commissioner of health in
3 consultation with the commissioners of the office of mental health, the
4 office for people with developmental disabilities, the office of
5 addiction services and supports, and the office of children and family
6 services, as applicable. The commissioner shall consider comments
7 resulting from the review of proposals and make awards in consultation
8 with such agencies.

9 (B) The commissioner shall make awards under this subdivision, for
10 each product for which proposals were requested, to at least two managed
11 long term care plans in each geographic region defined by the commis-
12 sioner in the request for proposals for which at least two managed long
13 term care plans have submitted a proposal, and shall have discretion to
14 offer more contracts based on need for access; provided, however, that
15 the commissioner shall not offer any more than five (5) contracts in any
16 one region.

17 (C) Managed long term care plans awarded under this subdivision shall
18 be entitled to enter into a contract with the department for the purpose
19 of providing health and long term care services to enrollees who are
20 eligible under title XIX of the federal social security act. Such
21 contracts shall run for a term to be determined by the commissioner,
22 which may be renewed or modified from time to time without a new request
23 for proposals, to ensure consistency with changes in federal and state
24 laws, regulations or policies, including but not limited to the expan-
25 sion or reduction of medical assistance services available to partic-
26 ipants through a managed long term care plan.

27 (D) Nothing in this paragraph or other provision of this section shall
28 be construed to limit in any way the ability of the department to termi-
29 nate awarded contracts for cause, which shall include but not be limited
30 to any violation of the terms of such contracts or violations of state
31 or federal laws and regulations and any loss of necessary state or
32 federal funding.

33 (E) Notwithstanding sections one hundred twelve and one hundred
34 sixty-three of the state finance law, sections one hundred forty-two and
35 one hundred forty-three of the economic development law, and any other
36 inconsistent provision of law, the department may, in accordance with
37 the provisions of this paragraph, issue new requests for proposals and
38 award new contracts for terms following an existing term of a contract
39 entered into under this paragraph.

40 (b) (i) Within sixty days of the department issuing the request for
41 proposals under paragraph (a) of this subdivision, a managed long term
42 care plan that was approved to provide health and long term care
43 services to enrollees who are eligible under title XIX of the federal
44 social security act prior to the issuance of the request for proposals,
45 shall submit its intention to complete such proposal to the department.

46 (ii) A managed long term care plan that: (A) fails to submit its
47 intent timely, (B) indicates within the sixty days its intent not to
48 complete such a proposal, (C) fails to submit a proposal within the
49 further timeframe specified by the commissioner in the request for
50 proposals, or (D) is not awarded the ability to provide health and long
51 term care services to enrollees who are eligible under title XIX of the
52 federal social security act under paragraph (a) of this subdivision,
53 shall, upon direction from the commissioner, terminate its services and
54 operations in accordance with the contract between the managed long term
55 care plan and the department and shall be additionally required to main-
56 tain coverage of enrollees for such period of time as determined neces-

1 sary by the commissioner to achieve the safe and orderly transfer of
2 enrollees.

3 (c) Addressing needs for additional managed long term care plans to
4 ensure access and choice for enrollees eligible under title XIX of the
5 federal social security act. If necessary to ensure access to sufficient
6 number of managed long term care plans on a geographic or other basis,
7 including a lack of adequate and appropriate care, language and cultural
8 competence, or special needs services, the commissioner may reissue a
9 request for proposals as provided for under paragraph (a) of this subdivi-
10 vision, provided however that such request may be limited to the
11 geographic or other basis of need that the request for proposals seeks
12 to address. Any awards made shall be subject to the requirements of this
13 section, including but not limited to the minimum and maximum number of
14 awards in a region.

15 (d) (i) Effective April first, two thousand twenty, and expiring
16 [~~March thirty first, two thousand twenty two~~] on the date the commis-
17 sioner publishes on its website a request for proposals in accordance
18 with subparagraph (iv) of paragraph (a) of the subdivision, the commis-
19 sioner shall place a moratorium on the processing and approval of appli-
20 cations seeking a certificate of authority as a managed long term care
21 plan pursuant to this section, including applications seeking authori-
22 zation to expand an existing managed long term care plan's approved
23 service area or scope of eligible enrollee populations. Such moratorium
24 shall not apply to:

25 (A) applications submitted to the department prior to January first,
26 two thousand twenty;

27 (B) applications seeking approval to transfer ownership or control of
28 an existing managed long term care plan;

29 (C) applications demonstrating to the commissioner's satisfaction that
30 submission of the application for consideration would be appropriate to
31 address a serious concern with care delivery, such as a lack of adequate
32 access to managed long term care plans in a geographic area or a lack of
33 adequate and appropriate care, language and cultural competence, or
34 special needs services; and

35 (D) applications seeking to operate under the PACE (Program of All-In-
36 clusive Care for the Elderly) model as authorized by federal public law
37 105-33, subtitle I of title IV of the Balanced Budget Act of 1997, or to
38 serve individuals dually eligible for services and benefits under titles
39 XVIII and XIX of the federal social security act in conjunction with an
40 affiliated Medicare Dual Eligible Special Needs Plan, based on the need
41 for such plans and the experience of applicants in serving dually eligi-
42 ble individuals as determined by the commissioner in their discretion.

43 (ii) For the duration of the moratorium, the commissioner shall assess
44 the public need for managed long term care plans that are not integrated
45 with an affiliated Medicare plan, the ability of such plans to provide
46 high quality and cost effective care for their membership, and based on
47 such assessment develop a process and conduct an orderly wind-down and
48 elimination of such plans, which shall coincide with the expiration of
49 the moratorium unless the commissioner determines that a longer wind-
50 down period is needed.

51 (e) [~~For the duration of the moratorium under paragraph (d) of this~~
52 ~~subdivision~~] From April first, two thousand twenty, until March thirty-
53 first, two thousand twenty-two, the commissioner shall establish, and
54 enforce by means of a premium withholding equal to three percent of the
55 base rate, an annual cap on total enrollment (enrollment cap) for each
56 managed long term care plan, subject to subparagraphs (ii) and (iii) of

1 this paragraph, based on a percentage of each plan's reported enrollment
2 as of October first, two thousand twenty.

3 (i) The specific percentage of each plan's enrollment cap shall be
4 established by the commissioner based on: (A) the ability of individuals
5 eligible for such plans to access health and long term care services,
6 (B) plan quality of care scores, (C) historical plan disenrollment, (D)
7 the projected growth of individuals eligible for such plans in different
8 regions of the state, (E) historical plan enrollment of patients with
9 varying levels of need and acuity, and (F) other factors in the commis-
10 sioner's discretion to ensure compliance with federal requirements,
11 appropriate access to plan services, and choice by eligible individuals.

12 (ii) In the event that a plan exceeds its annual enrollment cap, the
13 commissioner is authorized under this paragraph to retain all or a
14 portion of the premium withheld based on the amount over which a plan
15 exceeds its enrollment cap. Penalties assessed pursuant to this subdivi-
16 sion shall be determined by regulation.

17 (iii) The commissioner may not establish an annual cap on total
18 enrollment under this paragraph for plans' lines of business operating
19 under the PACE (Program of All-Inclusive Care for the Elderly) model as
20 authorized by federal public law 105-33, subtitle I of title IV of the
21 Balanced Budget Act of 1997, or that serve individuals dually eligible
22 for services and benefits under titles XVIII and XIX of the federal
23 social security act in conjunction with an affiliated Medicare Dual
24 Eligible Special Needs Plan.

25 ~~[(f) In implementing the provisions of paragraphs (d) and (e) of this
26 subdivision, the commissioner shall, to the extent practicable, consider
27 and select methodologies that seek to maximize continuity of care and
28 minimize disruption to the provider labor workforce, and shall, to the
29 extent practicable and consistent with the ratios set forth herein,
30 continue to support contracts between managed long term care plans and
31 licensed home care services agencies that are based on a commitment to
32 quality and value.]~~

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

36 (v) meets standards specified and determined by the Marketplace,
37 provided that the standards do not conflict with or prevent the applica-
38 tion of federal requirements; ~~and~~

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

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

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

55 (w) A managed care provider shall provide or arrange, directly or
56 indirectly, including by referral, for access to and coverage of

1 services provided by any national cancer institute-designated cancer
2 center licensed by the department of health within the managed care
3 provider's service area that is willing to agree to provide cancer-re-
4 lated inpatient, outpatient and medical services to participants in all
5 managed care providers offering coverage to medical assistance recipi-
6 ents in such cancer center's service area under the prevailing terms and
7 conditions that the managed care provider requires of other similar
8 providers to be included in the managed care provider's network,
9 provided that such terms shall include reimbursement of such center at
10 no less than the fee-for-service medicaid payment rate and methodology
11 applicable to the center's inpatient and outpatient services.

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

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

35 § 10. Severability. If any clause, sentence, paragraph, section or
36 part of this act shall be adjudged by any court of competent jurisdic-
37 tion to be invalid and after exhaustion of all further judicial review,
38 the judgment shall not affect, impair or invalidate the remainder there-
39 of, but shall be confined in its operation to the clause, sentence,
40 paragraph, section or part of this act directly involved in the contro-
41 versy in which the judgment shall have been rendered.

42 § 11. Sections one, two, three, four, five, six and ten of this act
43 shall take effect immediately; sections seven, eight and nine shall take
44 effect on the first of January next succeeding the date on which it
45 shall have become a law and shall apply to all coverage or policies
46 issued or renewed on or after such effective date and shall expire and
47 be deemed repealed five years after such date; provided, however, that
48 the amendments to section 364-j of the social services law made by
49 sections one, two and eight of this act, the amendments to section
50 4403-f of the public health law made by sections four, five and six of
51 this act and the amendments to paragraph (c) of subdivision 1 of section
52 369-gg of the social services law made by section nine of this act shall
53 not affect the repeal of such sections or such paragraph and shall be
54 deemed repealed therewith; provided, further, that this act shall not be
55 construed to prohibit managed care providers participating in the
56 managed care program and managed long term care plans approved to

1 provide health and long term care services to enrollees who are eligible
2 under title XIX of the federal social security act, that were so author-
3 ized as of the date this act becomes effective, from continuing oper-
4 ations as authorized until such time as awards are made in accordance
5 with this act and such additional time subject to direction from the
6 commissioner of health to ensure the safe and orderly transfer of
7 participants.

8 PART Q

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

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

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

30 (d) (i) except as provided by subparagraph (ii) of this paragraph, has
31 household income at or below two hundred percent of the federal poverty
32 line defined and annually revised by the United States department of
33 health and human services for a household of the same size; and [~~(ii)~~]
34 has household income that exceeds one hundred thirty-three percent of
35 the federal poverty line defined and annually revised by the United
36 States department of health and human services for a household of the
37 same size; however, MAGI eligible aliens lawfully present in the United
38 States with household incomes at or below one hundred thirty-three
39 percent of the federal poverty line shall be eligible to receive cover-
40 age for health care services pursuant to the provisions of this title if
41 such alien would be ineligible for medical assistance under title eleven
42 of this article due to [~~his or her~~] their immigration status[~~;~~];

43 (ii) subject to federal approval and the use of state funds, unless
44 the commissioner may use funds under subdivision seven of this section,
45 has household income at or below two hundred fifty percent of the feder-
46 al poverty line defined and annually revised by the United States
47 department of health and human services for a household of the same
48 size; and has household income that exceeds one hundred thirty-three
49 percent of the federal poverty line defined and annually revised by the
50 United States department of health and human services for a household of
51 the same size; however, MAGI eligible aliens lawfully present in the
52 United States with household incomes at or below one hundred thirty-
53 three percent of the federal poverty line shall be eligible to receive
54 coverage for health care services pursuant to the provisions of this

1 title if such alien would be ineligible for medical assistance under
2 title eleven of this article due to their immigration status;

3 (iii) subject to federal approval if required and the use of state
4 funds, unless the commissioner may use funds under subdivision seven of
5 this section, a pregnant individual who is eligible to receive coverage
6 for health care services pursuant to subparagraph (i) or (ii) of this
7 paragraph is eligible to receive and/or to continue to receive health
8 care services pursuant to this title during the pregnancy and for a
9 period of one year following the end of the pregnancy without regard to
10 any change in the income of the household that includes the pregnant
11 individual, even if such change would render the pregnant individual
12 ineligible to receive health care services pursuant to this title; or

13 (iv) subject to federal approval, a child born to an individual eligi-
14 ble for and receiving coverage for health care services pursuant to this
15 title shall be deemed to have applied for medical assistance and to have
16 been found eligible for such assistance on the date of such birth and to
17 remain eligible for such assistance for a period of one year.

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

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

25 (d) (i) except as provided by subparagraph (ii) of this paragraph, has
26 household income at or below two hundred percent of the federal poverty
27 line defined and annually revised by the United States department of
28 health and human services for a household of the same size; and [~~(ii)~~]
29 has household income that exceeds one hundred thirty-three percent of
30 the federal poverty line defined and annually revised by the United
31 States department of health and human services for a household of the
32 same size; however, MAGI eligible aliens lawfully present in the United
33 States with household incomes at or below one hundred thirty-three
34 percent of the federal poverty line shall be eligible to receive cover-
35 age for health care services pursuant to the provisions of this title if
36 such alien would be ineligible for medical assistance under title eleven
37 of this article due to [~~his or her~~] their immigration status[~~;~~];

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

52 (iii) subject to federal approval if required and the use of state
53 funds, unless the commissioner may use funds under subdivision seven of
54 this section, a pregnant individual who is eligible to receive coverage
55 for health care services pursuant to subparagraph (i) or (ii) of this
56 paragraph is eligible to receive and/or to continue to receive health

1 care services pursuant to this title during the pregnancy and for a
2 period of one year following the end of the pregnancy without regard to
3 any change in the income of the household that includes the pregnant
4 individual, even if such change would render the pregnant individual
5 ineligible to receive health care services pursuant to this title; or
6 (iv) subject to federal approval, a child born to an individual eligi-
7 ble for and receiving coverage for health care services pursuant to this
8 title shall be deemed to have applied for medical assistance and to have
9 been found eligible for such assistance on the date of such birth and to
10 remain eligible for such assistance for a period of one year.

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

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

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

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

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

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

54 (c) "Health care services" means (i) the services and supplies as
55 defined by the commissioner in consultation with the superintendent of
56 financial services, and shall be consistent with and subject to the

1 essential health benefits as defined by the commissioner in accordance
2 with the provisions of the patient protection and affordable care act
3 (P.L. 111-148) and consistent with the benefits provided by the refer-
4 ence plan selected by the commissioner for the purposes of defining such
5 benefits, ~~and~~ (ii) dental and vision services as defined by the
6 commissioner, and (iii) as defined by the commissioner and subject to
7 federal approval, certain services and supports provided to enrollees
8 who have functional limitations and/or chronic illnesses that have the
9 primary purpose of supporting the ability of the enrollee to live or
10 work in the setting of their choice, which may include the individual's
11 home, a worksite, or a provider-owned or controlled residential setting;

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

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

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

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

37 (b) section four of this act shall take effect January 1, 2023 and
38 shall expire and be deemed repealed December 31, 2024; provided, howev-
39 er, the amendments to paragraph (c) of subdivision 1 of section 369-gg
40 of the social services law made by such section of this act shall be
41 subject to the expiration and reversion of such paragraph pursuant to
42 section 2 of part H of chapter 57 of the laws of 2021 when upon such
43 date, the provisions of section five of this act shall take effect;
44 provided, however, the amendments to such paragraph made by section five
45 of this act shall expire and be deemed repealed December 31, 2024; and

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 36 to read as follows:

3 (36) Every policy that provides medical, major medical or similar
4 comprehensive type coverage delivered or issued for delivery in this
5 state shall provide coverage for abortions. Coverage for abortions shall
6 not be subject to copayments, or coinsurance, or annual deductibles,
7 unless the policy is a high deductible health plan, as defined in 26
8 U.S.C. § 223(c)(2), in which case coverage for abortions may be subject
9 to the plan's annual deductible.

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

12 (22) (A) Except as provided in subparagraph (B) of this paragraph,
13 every group or blanket policy that provides medical, major medical, or
14 similar comprehensive type coverage delivered or issued for delivery in
15 this state shall provide coverage for abortions. Coverage for abortions
16 shall not be subject to copayments, or coinsurance, or annual deduct-
17 ibles, unless the policy is a high deductible health plan, as defined in
18 26 U.S.C. § 223(c)(2), in which case coverage for abortions may be
19 subject to the plan's annual deductible.

20 (B) A group or blanket policy that provides medical, major medical, or
21 similar comprehensive type coverage to a religious employer may exclude
22 coverage for abortions only if the insurer:

23 (i) obtains an annual certification from the group or blanket policy-
24 holder that the policyholder is a religious employer and that the reli-
25 gious employer requests a policy without coverage for abortions;

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

34 (iii) provides notice of the issuance of the policy and rider to the
35 superintendent in a form and manner acceptable to the superintendent.

36 (C) For the purpose of this paragraph, "religious employer" means an
37 entity:

38 (i) for which the inculcation of religious values is the purpose of
39 the entity;

40 (ii) that primarily employs persons who share the religious tenets of
41 the entity;

42 (iii) that serves primarily persons who share the religious tenets of
43 the entity; and

44 (iv) that is a nonprofit organization as described in 26 U.S.C. §
45 6033(a)(3)(A)(i) or (iii).

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

48 (ss)(1) Except as provided in paragraph two of this subsection, every
49 individual and group contract that provides medical, major medical or
50 similar comprehensive type coverage delivered or issued for delivery in
51 this state shall provide coverage for abortions. Coverage for abortions
52 shall not be subject to copayments, or coinsurance, or annual deduct-
53 ibles, unless the contract is a high deductible health plan, as defined
54 in 26 U.S.C. § 223(c)(2), in which case coverage for abortions may be
55 subject to the plan's annual deductible.

1 (2) A group contract that provides medical, major medical, or similar
2 comprehensive type coverage to a religious employer may exclude coverage
3 for abortions only if the corporation:

4 (A) obtains an annual certification from the group contract holder
5 that the contract holder is a religious employer and that the religious
6 employer requests a contract without coverage for abortions;

7 (B) issues a rider to each certificate holder at no premium to be
8 charged to the certificate holder or religious employer for the rider,
9 that provides coverage for abortions subject to the same rules as would
10 have been applied to the same category of treatment in the contract
11 issued to the religious employer. The rider shall clearly and conspicu-
12 ously specify that the religious employer does not administer abortion
13 benefits, but that the corporation is issuing a rider for coverage of
14 abortions, and shall provide the corporation's contact information for
15 questions; and

16 (iii) provides notice of the issuance of the contract and rider to the
17 superintendent in a form and manner acceptable to the superintendent.

18 (3) For the purpose of this subsection, "religious employer" means an
19 entity:

20 (A) for which the inculcation of religious values is the purpose of
21 the entity;

22 (B) that primarily employs persons who share the religious tenets of
23 the entity;

24 (C) that serves primarily persons who share the religious tenets of
25 the entity; and

26 (D) that is a nonprofit organization as described in 26 U.S.C. §
27 6033(a)(3)(A)(i) or (iii).

28 § 4. This act shall take effect on the first of January next succeed-
29 ing the date on which it shall have become a law and shall apply to all
30 policies and contracts issued, renewed, modified, altered, or amended on
31 or after such date. Effective immediately, the addition, amendment, or
32 repeal of any rule or regulation necessary for the implementation of
33 this act on its effective date are authorized to be made and completed
34 on or before such effective date.

35 PART S

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

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

50 § 2. Subparagraph 3 of paragraph (d) of subdivision 1 of section 366
51 of the social services law, as added by section 1 of part D of chapter
52 56 of the laws of 2013, is amended to read as follows:

53 (3) cooperates with the appropriate social services official or the
54 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 January 1, 2023.

45

PART T

46 Section 1. Subdivision 1 of section 2308 of the public health law is
47 amended to read as follows:

48 1. Every physician or other authorized practitioner attending pregnant
49 [~~women~~] patients in the state shall in the case of every [~~woman~~] patient
50 so attended take or cause to be taken a sample of blood of such [~~woman~~]
51 patient at the time of first examination, and submit such sample to an
52 approved laboratory for a standard serological test for syphilis. In
53 addition to testing at the time of first examination, every such physi-
54 cian or other authorized practitioner shall order a syphilis test during

1 the third trimester of pregnancy consistent with any guidance and regu-
2 lations issued by the commissioner.

3 § 2. This act shall take effect one year after it shall have become a
4 law. Effective immediately, any rules and regulations or guidance neces-
5 sary to implement the provisions of this act on its effective date are
6 authorized to be amended, repealed and/or promulgated on or before such
7 date.

8 PART U

9 Section 1. Subdivision 7 of section 2510 of the public health law, as
10 amended by chapter 436 of the laws of 2021, is amended to read as
11 follows:

12 7. "Covered health care services" means: the services of physicians,
13 optometrists, nurses, nurse practitioners, midwives and other related
14 professional personnel which are provided on an outpatient basis,
15 including routine well-child visits; diagnosis and treatment of illness
16 and injury; inpatient health care services; laboratory tests; diagnostic
17 x-rays; prescription and non-prescription drugs, ostomy and other
18 medical supplies and durable medical equipment; radiation therapy;
19 chemotherapy; hemodialysis; outpatient blood clotting factor products
20 and other treatments and services furnished in connection with the care
21 of hemophilia and other blood clotting protein deficiencies; emergency
22 room services; ambulance services; hospice services; emergency, preven-
23 tive and routine dental care, including [~~medically necessary~~] orthodon-
24 tia but excluding cosmetic surgery; emergency, preventive and routine
25 vision care, including eyeglasses; speech and hearing services; [~~and,~~]
26 inpatient and outpatient mental health, alcohol and substance abuse
27 services, including children and family treatment and support services,
28 children's home and community based services, assertive community treat-
29 ment services and residential rehabilitation for youth services; and
30 health-related services provided by voluntary foster care agency health
31 facilities licensed pursuant to article twenty-nine-I of this chapter;
32 as defined by the commissioner [~~in consultation with the superinten-~~
33 ~~dent~~]. "Covered health care services" shall not include drugs, proce-
34 dures and supplies for the treatment of erectile dysfunction when
35 provided to, or prescribed for use by, a person who is required to
36 register as a sex offender pursuant to article six-C of the correction
37 law, provided that any denial of coverage of such drugs, procedures or
38 supplies shall provide the patient with the means of obtaining addi-
39 tional information concerning both the denial and the means of challeng-
40 ing such denial.

41 § 2. Subdivision 9 of section 2510 of the public health law is amended
42 by adding a new paragraph (e) to read as follows:

43 (e) for periods on or after October first, two thousand twenty-two,
44 amounts as follows:

45 (i) no payments are required for eligible children whose family house-
46 hold income is less than two hundred twenty-three percent of the non-
47 farm federal poverty level and for eligible children who are American
48 Indians or Alaskan Natives, as defined by the United States department
49 of health and human services, whose family household income is less than
50 two hundred fifty-one percent of the non-farm federal poverty level; and
51 (ii) fifteen dollars per month for each eligible child whose family
52 household income is between two hundred twenty-three percent and two
53 hundred fifty percent of the non-farm federal poverty level, but no more
54 than forty-five dollars per month per family; and

1 (iii) thirty dollars per month for each eligible child whose family
2 household income is between two hundred fifty-one percent and three
3 hundred percent of the non-farm federal poverty level, but no more than
4 ninety dollars per month per family; and

5 (iv) forty-five dollars per month for each eligible child whose family
6 household income is between three hundred one percent and three hundred
7 fifty percent of the non-farm federal poverty level, but no more than
8 one hundred thirty-five dollars per month per family; and

9 (v) sixty dollars per month for each eligible child whose family
10 household income is between three hundred fifty-one percent and four
11 hundred percent of the non-farm federal poverty level, but no more than
12 one hundred eighty dollars per month per family.

13 § 3. Subdivision 8 of section 2511 of the public health law is amended
14 by adding a new paragraph (i) to read as follows:

15 (i) Notwithstanding any inconsistent provision of this title, arti-
16 cles thirty-two and forty-three of the insurance law and subsection (e)
17 of section eleven hundred twenty of the insurance law:

18 (i) The commissioner shall, subject to approval of the director of the
19 division of the budget, develop reimbursement methodologies for deter-
20 mining the amount of subsidy payments made to approved organizations for
21 the cost of covered health care services coverage provided pursuant to
22 this title for payments made on and after January first, two thousand
23 twenty-four.

24 (ii) Effective January first, two thousand twenty-three, the commis-
25 sioner shall coordinate with the superintendent of financial services
26 for the transition of the subsidy payment rate setting function to the
27 department and, in conjunction with its independent actuary, review
28 reimbursement methodologies developed in accordance with subparagraph
29 (i) of this paragraph. Notwithstanding section one hundred sixty-three
30 of the state finance law, the commissioner may select and contract with
31 the independent actuary selected pursuant to subdivision eighteen of
32 section three hundred sixty-four-j of the social services law, without a
33 competitive bid or request for proposal process. Such independent actu-
34 ary shall review and make recommendations concerning appropriate actu-
35 arial assumptions relevant to the establishment of reimbursement methodol-
36 ogies, including but not limited to the adequacy of subsidy payment
37 amounts in relation to the population to be served adjusted for case
38 mix, the scope of services approved organizations must provide, the
39 utilization of such services and the network of providers required to
40 meet state standards.

41 § 4. Paragraph b of subdivision 7 of section 2511 of the public health
42 law, as amended by chapter 923 of the laws of 1990, is amended to read
43 as follows:

44 (b) The commissioner, in consultation with the superintendent, shall
45 make a determination whether to approve, disapprove or recommend modifi-
46 cation of the proposal. In order for a proposal to be approved by the
47 commissioner, the proposal must also be approved by the superintendent
48 with respect to the provisions of subparagraphs [~~(viii) through~~] (ix)
49 and (xii) of paragraph (a) of this subdivision.

50 § 5. This act shall take effect immediately; provided, however, that
51 sections one, three and four of this act shall take effect January 1,
52 2023 and section two of this act shall take effect April 1, 2022.

1 Section 1. Subdivision 1 of section 2999-dd of the public health law,
2 as amended by chapter 124 of the laws of 2020, is amended to read as
3 follows:

4 1. Health care services delivered by means of telehealth shall be
5 entitled to reimbursement under section three hundred sixty-seven-u of
6 the social services law on the same basis, at the same rate, and to the
7 same extent the equivalent services, as may be defined in regulations
8 promulgated by the commissioner, are reimbursed when delivered in
9 person; provided, however, that health care services delivered by means
10 of telehealth shall not require reimbursement to a telehealth provider
11 for certain costs, including but not limited to facility fees or costs
12 reimbursed through ambulatory patient groups or other clinic reimburse-
13 ment methodologies set forth in section twenty-eight hundred seven of
14 this chapter, if such costs were not incurred in the provision of tele-
15 health services due to neither the originating site nor the distant site
16 occurring within a facility or other clinic setting; and further
17 provided, however, reimbursement for additional modalities, provider
18 categories and originating sites specified in accordance with section
19 twenty-nine hundred ninety-nine-ee of this article, and audio-only tele-
20 phone communication defined in regulations promulgated pursuant to
21 subdivision four of section twenty-nine hundred ninety-nine-cc of this
22 article, shall be contingent upon federal financial participation.
23 Notwithstanding the provisions of this subdivision, for services
24 licensed, certified or otherwise authorized pursuant to article sixteen,
25 article thirty-one or article thirty-two of the mental hygiene law, such
26 services provided by telehealth, as deemed appropriate by the relevant
27 commissioner, shall be reimbursed at the applicable in person rates or
28 fees established by law, or otherwise established or certified by the
29 office for people with developmental disabilities, office of mental
30 health, or the office of addiction services and supports pursuant to
31 article forty-three of the mental hygiene law.

32 § 2. Subsection (a) of section 3217-h of the insurance law, as added
33 by chapter 6 of the laws of 2015, is amended to read as follows:

34 (a) (1) An insurer shall not exclude from coverage a service that is
35 otherwise covered under a policy that provides comprehensive coverage
36 for hospital, medical or surgical care because the service is delivered
37 via telehealth, as that term is defined in subsection (b) of this
38 section; provided, however, that an insurer may exclude from coverage a
39 service by a health care provider where the provider is not otherwise
40 covered under the policy. An insurer may subject the coverage of a
41 service delivered via telehealth to co-payments, coinsurance or deduct-
42 ibles provided that they are at least as favorable to the insured as
43 those established for the same service when not delivered via tele-
44 health. An insurer may subject the coverage of a service delivered via
45 telehealth to reasonable utilization management and quality assurance
46 requirements that are consistent with those established for the same
47 service when not delivered via telehealth.

48 (2) An insurer that provides comprehensive coverage for hospital,
49 medical or surgical care shall reimburse covered services delivered by
50 means of telehealth on the same basis, at the same rate, and to the same
51 extent that such services are reimbursed when delivered in person;
52 provided that reimbursement of covered services delivered via telehealth
53 shall not require reimbursement of costs not actually incurred in the
54 provision of the telehealth services, including charges related to the
55 use of a clinic or other facility when neither the originating site nor
56 distant site occur within the clinic or other facility.

1 (3) An insurer that provides comprehensive coverage for hospital,
2 medical, or surgical care with a network of health care providers shall
3 ensure that such network is adequate to meet the telehealth needs of
4 insured individuals for services covered under the policy when medically
5 appropriate.

6 § 3. Subsection (a) of section 4306-g of the insurance law, as added
7 by chapter 6 of the laws of 2015, is amended to read as follows:

8 (a) (1) A corporation shall not exclude from coverage a service that
9 is otherwise covered under a contract that provides comprehensive cover-
10 age for hospital, medical or surgical care because the service is deliv-
11 ered via telehealth, as that term is defined in subsection (b) of this
12 section; provided, however, that a corporation may exclude from coverage
13 a service by a health care provider where the provider is not otherwise
14 covered under the contract. A corporation may subject the coverage of a
15 service delivered via telehealth to co-payments, coinsurance or deduct-
16 ibles provided that they are at least as favorable to the insured as
17 those established for the same service when not delivered via tele-
18 health. A corporation may subject the coverage of a service delivered
19 via telehealth to reasonable utilization management and quality assur-
20 ance requirements that are consistent with those established for the
21 same service when not delivered via telehealth.

22 (2) A corporation that provides comprehensive coverage for hospital,
23 medical or surgical care shall reimburse covered services delivered by
24 means of telehealth on the same basis, at the same rate, and to the same
25 extent that such services are reimbursed when delivered in person;
26 provided that reimbursement of covered services delivered via tele-
27 health shall not require reimbursement of costs not actually incurred
28 in the provision of the telehealth services, including charges related
29 to the use of a clinic or other facility when neither the originating
30 site nor the distant site occur within the clinic or other facility. The
31 superintendent may promulgate regulations to implement the provisions
32 of this section.

33 (3) A corporation that provides comprehensive coverage for hospital,
34 medical, or surgical care with a network of health care providers shall
35 ensure that such network is adequate to meet the telehealth needs of
36 insured individuals for services covered under the policy when medically
37 appropriate.

38 § 4. Section 4406-g of the public health law is amended by adding two
39 new subdivisions 3 and 4 to read as follows:

40 3. A health maintenance organization that provides comprehensive
41 coverage for hospital, medical or surgical care shall reimburse covered
42 services delivered via telehealth on the same basis, at the same rate,
43 and to the extent that such services are reimbursed when delivered in
44 person; provided that reimbursement of covered services delivered by
45 means of telehealth shall not require reimbursement of costs not actu-
46 ally incurred in the provision of the telehealth services, including
47 charges related to the use of a clinic or other facility when neither
48 the originating site nor the distant site occur within the clinic or
49 other facility. The commissioner, in consultation with the superinten-
50 dent, may promulgate regulations to implement the provisions of this
51 section.

52 4. A health maintenance organization that provides comprehensive
53 coverage for hospital, medical, or surgical care with a network of
54 health care providers shall ensure that such network is adequate to meet
55 the telehealth needs of insured individuals for services covered under
56 the policy when medically appropriate.

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

3 PART W

4 Section 1. Section 365-g of the social services law, as added by chap-
5 ter 938 of the laws of 1990, subdivisions 1 and 3 as amended by chapter
6 165 of the laws of 1991, subdivisions 2 and 4 as amended by section 31
7 of part C of chapter 58 of the laws of 2008, clause (B) of subparagraph
8 (iii) of paragraph (b) of subdivision 3 as amended by chapter 59 of the
9 laws of 1993, subparagraphs (vi) and (vii) of paragraph (b) of subdivi-
10 sion 3 as amended and subparagraph (viii) as added by section 31-b of
11 part C of chapter 58 of the laws of 2008, subdivision 5 as amended by
12 chapter 41 of the laws of 1992, paragraphs (f) and (g) of subdivision 5
13 as amended by and paragraphs (h) and (i) as added by section 31-a of
14 part C of chapter 58 of the laws of 2008, is amended to read as follows:

15 § 365-g. Utilization [~~thresholds~~] review for certain care, services
16 and supplies. 1. The department may implement a system for utilization
17 [~~controls~~] review, pursuant to this section, for persons eligible for
18 benefits under this title, [~~including annual service limitations or~~
19 ~~utilization thresholds above which the department may not pay for addi-~~
20 ~~tional care, services or supplies, unless such care, services or~~
21 ~~supplies have been previously approved by the department or unless such~~
22 ~~care, services or supplies were provided pursuant to subdivision three,~~
23 ~~four or five of this section] to evaluate the appropriateness and quali-
24 ty of medical assistance, and safeguard against unnecessary utilization
25 of care and services, which shall include a post-payment review process
26 to develop and review beneficiary utilization profiles, provider service
27 profiles, and exceptions criteria to correct misutilization practices of
28 beneficiaries and providers; and for referral to the office of Medicaid
29 inspector general where suspected fraud, waste or abuse are identified
30 in the unnecessary or inappropriate use of care, services or supplies
31 furnished under this title.~~

32 2. The department may [~~implement~~] review utilization [~~thresholds~~] by
33 provider service type, medical procedure and patient, in consultation
34 with the state department of mental hygiene, other appropriate state
35 agencies, and other stakeholders including provider and consumer repre-
36 sentatives. In [~~developing~~] reviewing utilization [~~thresholds~~], the
37 department shall consider historical recipient utilization patterns,
38 patient-specific diagnoses and burdens of illness, and the anticipated
39 recipient needs in order to maintain good health.

40 3. [~~If the department implements a utilization threshold program, at a~~
41 ~~minimum, such program must include:~~

42 (~~a) prior notice to the recipients affected by the utilization thresh-~~
43 ~~old program, which notice must describe:~~

44 (~~i) the nature and extent of the utilization program, the procedures~~
45 ~~for obtaining an exemption from or increase in a utilization threshold,~~
46 ~~the recipients' fair hearing rights, and referral to an informational~~
47 ~~toll-free hot-line operated by the department; and~~

48 (~~ii) alternatives to the utilization threshold program such as enroll-~~
49 ~~ment in managed care programs and referral to preferred primary care~~
50 ~~providers designated pursuant to subdivision twelve of section twenty-~~
51 ~~eight hundred seven of the public health law; and~~

52 (~~b) procedures for:~~

53 (~~i) requesting an increase in amount of authorized services;~~

~~(ii) extending amount of authorized services when an application for an increase in the amount of authorized services is pending;~~

~~(iii) requesting an exemption from utilization thresholds, which procedure must:~~

~~(A) allow the recipient, or a provider on behalf of a recipient, to apply to the department for an exemption from one or more utilization thresholds based upon documentation of the medical necessity for services in excess of the threshold;~~

~~(B) provided for exemptions consistent with department guidelines for approving exemptions, which guidelines must be established by the department in consultation with the department of health and, as appropriate, with the department of mental hygiene, and consistent with the current regulations of the office of mental health governing outpatient treatment.~~

~~(C) provide for an exemption when medical and clinical documentation substantiates a condition of a chronic medical nature which requires ongoing and frequent use of medical care, services or supplies such that an increase in the amount of authorized services is not sufficient to meet the medical needs of the recipient;~~

~~(iv) reimbursing a provider, regardless of the recipient's previous use of services, when care, services or supplies are provided in a case of urgent medical need, as defined by the department, or when provided on an emergency basis, as defined by the department;~~

~~(v) notifying recipients of and referring recipients to appropriate and accessible managed care programs and to preferred primary care providers designated pursuant to subdivision twelve of section twenty-eight hundred seven of the public health law at the same time such recipients are notified that they are nearing or have reached the utilization threshold for each specific provider type;~~

~~(vi) notifying recipients at the same time such recipients are notified that they have received an exemption from a utilization threshold, an increase in the amount of authorized services, or that they are nearing or have reached their utilization threshold, of their possible eligibility for federal disability benefits and directing such recipients to their social services district for information and assistance in securing such benefits;~~

~~(vii) cooperating with social services districts in sharing information collected and developed by the department regarding recipients' medical records; and~~

~~(viii) assuring that no request for an increase in amount of authorized services or for an exemption from utilization thresholds shall be denied unless the request is first reviewed by a health care professional possessing appropriate clinical expertise.~~

~~4.] The utilization [thresholds] review established pursuant to this section shall not apply to [mental retardation and] developmental disabilities services provided in clinics certified under article twenty-eight of the public health law, or article twenty-two or article thirty-one of the mental hygiene law.~~

~~[5.] 4. Utilization [thresholds] review established pursuant to this section shall not apply to services, even though such services might otherwise be subject to utilization [thresholds] review, when provided as follows:~~

- ~~(a) through a managed care program;~~
- ~~(b) subject to prior approval or prior authorization;~~
- ~~(c) as family planning services;~~
- ~~(d) as methadone maintenance services;~~

1 (e) on a fee-for-services basis to in-patients in general hospitals
2 certified under article twenty-eight of the public health law or article
3 thirty-one of the mental hygiene law and residential health care facili-
4 ties, with the exception of podiatrists' services;

5 (f) for hemodialysis;

6 (g) through or by referral from a preferred primary care provider
7 designated pursuant to subdivision twelve of section twenty-eight
8 hundred seven of the public health law;

9 (h) pursuant to a court order; or

10 (i) as a condition of eligibility for any other public program,
11 including but not limited to public assistance.

12 ~~[6-]~~ 5. The department shall consult with representatives of medical
13 assistance providers, social services districts, voluntary organizations
14 that represent or advocate on behalf of recipients, the managed care
15 advisory council and other state agencies regarding the ongoing opera-
16 tion of a utilization [~~threshold~~] review system.

17 ~~[7-]~~ 6. On or before February first, nineteen hundred ninety-two, the
18 commissioner shall submit to the governor, the temporary president of
19 the senate and the speaker of the assembly a report detailing the imple-
20 mentation of the utilization threshold program and evaluating the
21 results of establishing utilization thresholds. Such report shall
22 include, but need not be limited to, a description of the program as
23 implemented; the number of requests for increases in service above the
24 threshold amounts by provider and type of service; the number of exten-
25 sions granted; the number of claims that were submitted for emergency
26 care or urgent care above the threshold level; the number of recipients
27 referred to managed care; an estimate of the fiscal savings to the
28 medical assistance program as a result of the program; recommendations
29 for medical condition that may be more appropriately served through
30 managed care programs; and the costs of implementing the program.

31 § 2. This act shall take effect July 1, 2022; provided, however, that:

32 a. the amendments to subdivision 5 of section 365-g of the social
33 services law made by section one of this act shall not affect the expi-
34 ration and reversion of paragraphs (f) and (g) of such subdivision
35 pursuant to subdivision (i-1) of section 79 of chapter 58 of the laws of
36 2008, as amended; and

37 b. the amendments to subdivision 5 of section 365-g of the social
38 services law made by section one of this act shall not affect the repeal
39 of paragraphs (h) and (i) of such subdivision pursuant to subdivision
40 (i-1) of section 79 of part C of chapter 58 of the laws of 2008, as
41 amended.

42 PART X

43 Section 1. The title heading of title 2-F of article 2 of the public
44 health law, as added by chapter 757 of the laws of 1992 and as relet-
45 tered by chapter 443 of the laws of 1993, is amended to read as follows:

46 OFFICE OF ~~[MINORITY]~~ HEALTH EQUITY

47 § 2. Section 240 of the public health law, as added by chapter 757 of
48 the laws of 1992 and as renumbered by chapter 443 of the laws of 1993,
49 is amended to read as follows:

50 § 240. Definitions. For the purposes of this article:

51 1. "Underserved populations" shall mean those who have experienced
52 injustices and disadvantages as a result of their race, ethnicity, sexu-
53 al orientation, gender identity, gender expression, disability status,

1 age, and/or socioeconomic status, among others as determined by the
2 commissioner of health.

3 2. "[Minority] Racially and ethnically diverse area" shall mean a
4 county with a non-white population of forty percent or more, or the
5 service area of an agency, corporation, facility or individual providing
6 medical and/or health services whose non-white population is forty
7 percent or more.

8 [~~2. "Minority health care provider" or "minority provider"~~] 3.
9 "Provider" shall mean any agency, corporation, facility, or individual
10 providing medical and/or health care services to [~~residents of a minori-~~
11 ~~ty area~~] underserved populations.

12 [~~3.~~] 4. "Office" shall mean the office of [~~minority~~] health equity, as
13 created pursuant to section two hundred [~~thirty-eight-a~~] forty-one of
14 this [~~article~~] title.

15 [~~4.~~] 5. "[~~Minority health~~] Health equity council" shall mean that
16 advisory body to the commissioner, created pursuant to the provisions of
17 section two hundred [~~thirty-eight-e~~] forty-three of this [~~article~~]
18 title.

19 6. "Health disparities" shall mean measurable differences in health
20 status, access to care, and quality of care as determined by race,
21 ethnicity, sexual orientation, gender identity, a preferred language
22 other than English, gender expression, disability status, aging popu-
23 lation, and socioeconomic status.

24 7. "Health equity" shall mean achieving the highest level of health
25 for all people and shall entail focused efforts to address avoidable
26 inequalities by equalizing those conditions for health for those that
27 have experienced injustices, socioeconomic disadvantages, and systemic
28 disadvantages.

29 8. "Social determinants of health" shall mean life-enhancing
30 resources, such as availability of healthful foods, quality housing,
31 economic opportunity, social relationships, transportation, education,
32 and health care, whose distribution across populations effectively
33 determines the length and quality of life.

34 § 3. Section 241 of the public health law, as added by chapter 757 of
35 the laws of 1992 and as renumbered by chapter 443 of the laws of 1993,
36 is amended to read as follows:

37 § 241. Office of [~~minority~~] health equity created. There is hereby
38 created an office of [~~minority~~] health equity within the state depart-
39 ment of health. Such office shall:

40 1. Work collaboratively with other state agencies and affected stake-
41 holders, including providers and representatives of underserved popu-
42 lations, in order to set priorities, collect and disseminate data, and
43 align resources within the department and across other state agencies.
44 The office shall also conduct health promotion and educational outreach,
45 as well as develop and implement interventions aimed at achieving health
46 equity among underserved populations by implementing strategies to
47 address the varying complex causes of health disparities, including the
48 economic, physical, and social environments.

49 2. Integrate and coordinate selected state health care grant and loan
50 programs established specifically for [~~minority~~] promoting health [~~care~~
51 ~~providers and residents~~] equity in New York state. As part of this func-
52 tion, the office shall develop a coordinated application process for use
53 by [~~minority~~] providers, municipalities and others in seeking funds
54 and/or technical assistance on pertinent [~~minority health care~~] programs
55 and services targeted to address health equity among underserved popu-
56 lations.

1 ~~[2-]~~ 3. Apply for grants, and accept gifts from private and public
2 sources for research to improve and enhance [~~minority~~] health [~~care~~
3 ~~services and facilities~~] equity. The office shall also promote [~~minority~~
4 ~~ty~~] health equity research in universities and colleges.

5 ~~[3-]~~ 4. Together with the [~~minority~~] health equity council, serve as
6 liaison and advocate for the department on [~~minority~~] health equity
7 matters. This function shall include the provision of staff support to
8 the [~~minority~~] health equity council and the establishment of appropri-
9 ate program linkages with related federal, state, and local agencies and
10 programs such as the office of [~~minority~~] health equity of the public
11 health service, the agricultural extension service and migrant health
12 services.

13 ~~[4-]~~ 5. Assist medical schools and state agencies to develop compre-
14 hensive programs to improve [~~minority~~] the diversity of health personnel
15 [~~supply~~] workforce by promoting [~~minority~~] health equity clinical train-
16 ing and curriculum improvement, and disseminating [~~minority~~] health
17 career information to high school and college students.

18 ~~[5-]~~ 6. Promote community strategic planning [~~or new or improved~~
19 ~~health care delivery systems and networks in minority areas~~] to address
20 the complex causes of health disparities, including the social determi-
21 nants of health and health care delivery systems and networks, in order
22 to improve health equity. Strategic network planning and development may
23 include such considerations as healthful foods, quality housing, econom-
24 ic opportunity, social relationships, transportation, and education, as
25 well as health care systems, including associated personnel, capital
26 facilities, reimbursement, primary care, long-term care, acute care,
27 rehabilitative, preventive, and related services on the health contin-
28 uum.

29 ~~[6-]~~ 7. Review the impact of programs, regulations, and [~~health care~~
30 ~~reimbursement~~] policies on [~~minority~~] health [~~services delivery and~~
31 ~~access~~] equity.

32 § 4. Section 242 of the public health law, as added by chapter 757 of
33 the laws of 1992 and as renumbered by chapter 443 of the laws of 1993,
34 is amended to read as follows:

35 § 242. Preparation and distribution of reports. The department shall
36 submit a biennial report to the governor and the legislature describing
37 the activities of the office and health status of minority areas. The
38 first such report shall be transmitted on or before September first,
39 nineteen hundred ninety-four. Such report shall contain the following
40 information:

41 1. Activities of the office of [~~minority~~] health equity, expenditures
42 incurred in carrying out such activities, and anticipated activities to
43 be undertaken in the future.

44 2. Progress in carrying out the functions and duties listed in section
45 two hundred [~~thirty-eight-a~~] forty-one of this [~~article~~] title.

46 3. An analysis of the health status of [~~minority citizens~~] underserved
47 populations, including those populations within racially and ethnically
48 diverse areas, and the status of [~~minority~~] health delivery systems
49 serving those communities. Such analysis shall be conducted in cooper-
50 ation with the [~~minority~~] health equity council and other interested
51 agencies.

52 4. Any recommended improvements to programs and/or regulations that
53 would enhance the cost effectiveness of the office, and programs
54 intended to meet the health and health care needs of [~~minority citizens~~]
55 underserved populations.

1 § 5. Section 243 of the public health law, as added by chapter 757 of
2 the laws of 1992 and as renumbered by chapter 443 of the laws of 1993,
3 subdivision 3 as amended by section 55 of part A of chapter 58 of the
4 laws of 2010, is amended to read as follows:

5 § 243. [~~Minority health~~] Health equity council. 1. Appointment of
6 members. There shall be established in the office of [~~minority~~] health
7 equity a [~~minority~~] health equity council to consist of the commissioner
8 and fourteen members to be appointed by the governor with the advice and
9 consent of the senate. Membership on the council shall be reflective of
10 the diversity of the state's population including, but not limited to,
11 the various [~~minority~~] underserved populations throughout the state.

12 2. Terms of office; vacancies. a. [~~The~~] Unless specified otherwise in
13 the bylaws of the health equity council, the terms of office of members
14 of the [~~minority~~] health equity council [~~shall~~] may be up to six years.
15 The members of the health equity council shall continue in office until
16 the expiration of their terms and until their successors are appointed
17 and have qualified. Such appointments shall be made by the governor,
18 with the advice and consent of the senate, within one year following the
19 expiration of such terms.

20 b. Vacancies shall be filled by appointment by the governor for the
21 unexpired terms within one year of the date upon which such vacancies
22 occur. Any vacancy existing on the effective date of paragraph c of this
23 subdivision shall be filled by appointment within one year of such
24 effective date.

25 c. In making appointments to the council, the governor shall seek to
26 ensure that membership on the council reflects the diversity of the
27 state's population including, but not limited to the various [~~minority~~]
28 underserved populations throughout the state.

29 3. Meetings. a. The [~~minority~~] health equity council shall meet as
30 frequently as its business may require, and at least twice in each year.

31 b. The governor shall designate one of the members of the public
32 health and health planning council as its chair.

33 c. A majority of the appointed voting membership of the health equity
34 council shall constitute a quorum.

35 4. Compensation and expenses. The members of the council shall serve
36 without compensation other than reimbursement of actual and necessary
37 expenses.

38 5. Powers and duties. The [~~minority~~] health equity council shall, at
39 the request of the commissioner, consider any matter relating to the
40 preservation and improvement of [~~minority~~] health status among the
41 state's underserved populations, and may advise the commissioner [~~there-~~
42 ~~on, and it may, from time to time, submit to the commissioner,~~] on any
43 recommendations relating to the preservation and improvement of [~~minori-~~
44 ~~ty~~] health equity.

45 § 6. This act shall take effect immediately.

46 PART Y

47 Section 1. The domestic relations law is amended by adding a new
48 section 20-c to read as follows:

49 § 20-c. Certification of marriage; new certificate in case of subse-
50 quent change of name or gender. 1. A new marriage certificate shall be
51 issued by the town or city clerk where the marriage license and certif-
52 icate was issued, upon receipt of proper proof of a change of name or
53 gender designation. Proper proof shall consist of: (a) a judgment, order
54 or decree affirming a change of name or gender designation of either

1 party to a marriage; (b) an amended birth certificate demonstrating a
2 change of name or gender designation; or (c) such other proof as may be
3 established by the commissioner of health.

4 2. On every new marriage certificate made pursuant to this section, a
5 notation that it is filed pursuant to this section shall be entered
6 thereon.

7 3. When a new marriage certificate is made pursuant to this section,
8 the town or city clerk shall substitute such new certificate for the
9 marriage certificate then on file, if any, and shall send the state
10 commissioner of health a digital copy of the new marriage certificate in
11 a format prescribed by the commissioner, with the exception of the city
12 clerk of New York who shall retain their copy. The town or city clerk
13 shall make a copy of the new marriage certificate for the local record
14 and hold the contents of the original marriage certificate confidential
15 along with all supporting documentation, papers and copies pertaining
16 thereto. It shall not be released or otherwise divulged except by order
17 of a court of competent jurisdiction.

18 4. The town or city clerk shall be entitled to a fee of ten dollars
19 for the amendment and certified copy of any marriage certificate in
20 accordance with the provisions of this section.

21 5. The state commissioner of health may, in their discretion, report
22 to the attorney general any town or city clerk that, without cause,
23 fails to issue a new marriage certificate upon receipt of proper proof
24 of a change of name or gender designation in accordance with this
25 section. The attorney general shall thereupon, in the name of the state
26 commissioner of health or the people of the state, institute such action
27 or proceeding as may be necessary to compel the issuance of such new
28 marriage certificate.

29 § 2. This act shall take effect one year after it shall have become a
30 law.

31 PART Z

32 Section 1. Section 18 of chapter 266 of the laws of 1986, amending
33 the civil practice law and rules and other laws relating to malpractice
34 and professional medical conduct, is amended by adding a new subdivision
35 9 to read as follows:

36 (9) This subdivision shall apply only to excess insurance coverage or
37 equivalent excess coverage for physicians or dentists that is eligible
38 to be paid for from funds available in the hospital excess liability
39 pool.

40 (a) Notwithstanding any law to the contrary, for any policy period
41 beginning on or after July 1, 2021, excess coverage shall be purchased
42 by a physician or dentist directly from a provider of excess insurance
43 coverage or equivalent excess coverage. At the conclusion of the policy
44 period the superintendent of financial services and the commissioner of
45 health or their designee shall, from funds available in the hospital
46 excess liability pool created pursuant to subdivision 5 of this section,
47 reimburse fifty percent of the premium to the physician or dentist, and
48 the remaining fifty percent shall be paid one year thereafter. If the
49 funds available in the hospital excess liability pool are insufficient
50 to meet the percent of the costs of the excess coverage, the provisions
51 of subdivision 8 of this section shall apply.

52 (b) No provider of excess insurance coverage or equivalent excess
53 coverage shall issue excess coverage to which this subdivision applies
54 to any physician or dentist unless that physician or dentist meets the

1 eligibility requirements for such coverage set forth in this section.
2 The superintendent of financial services and the commissioner of health
3 or their designee shall not make any payment under this subdivision to a
4 physician or dentist who does not meet the eligibility requirements for
5 participation in the hospital excess liability pool program set forth in
6 this section.

7 (c) The superintendent of financial services in consultation with the
8 commissioner of health may promulgate regulations giving effect to the
9 provisions of this subdivision.

10 § 2. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of
11 the laws of 1986, amending the civil practice law and rules and other
12 laws relating to malpractice and professional medical conduct, as
13 amended by section 1 of part K of chapter 57 of the laws of 2021, is
14 amended to read as follows:

15 (a) The superintendent of financial services and the commissioner of
16 health or their designee shall, from funds available in the hospital
17 excess liability pool created pursuant to subdivision 5 of this section,
18 purchase a policy or policies for excess insurance coverage, as author-
19 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
20 law; or from an insurer, other than an insurer described in section 5502
21 of the insurance law, duly authorized to write such coverage and actual-
22 ly writing medical malpractice insurance in this state; or shall
23 purchase equivalent excess coverage in a form previously approved by the
24 superintendent of financial services for purposes of providing equiv-
25 alent excess coverage in accordance with section 19 of chapter 294 of
26 the laws of 1985, for medical or dental malpractice occurrences between
27 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
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44 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June
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46 and June 30, 2020, between July 1, 2020 and June 30, 2021, [~~and~~] between
47 July 1, 2021 and June 30, 2022, and between July 1, 2022 and June 30,
48 2023 or reimburse the hospital where the hospital purchases equivalent
49 excess coverage as defined in subparagraph (i) of paragraph (a) of
50 subdivision 1-a of this section for medical or dental malpractice occur-
51 rences between July 1, 1987 and June 30, 1988, between July 1, 1988 and
52 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,
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13 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July
14 1, 2020 and June 30, 2021, ~~and~~ between July 1, 2021 and June 30, 2022,
15 and between July 1, 2022 and June 30, 2023 for physicians or dentists
16 certified as eligible for each such period or periods pursuant to subdi-
17 vision 2 of this section by a general hospital licensed pursuant to
18 article 28 of the public health law; provided that no single insurer
19 shall write more than fifty percent of the total excess premium for a
20 given policy year; and provided, however, that such eligible physicians
21 or dentists must have in force an individual policy, from an insurer
22 licensed in this state of primary malpractice insurance coverage in
23 amounts of no less than one million three hundred thousand dollars for
24 each claimant and three million nine hundred thousand dollars for all
25 claimants under that policy during the period of such excess coverage
26 for such occurrences or be endorsed as additional insureds under a
27 hospital professional liability policy which is offered through a volun-
28 tary attending physician ("channeling") program previously permitted by
29 the superintendent of financial services during the period of such
30 excess coverage for such occurrences. During such period, such policy
31 for excess coverage or such equivalent excess coverage shall, when
32 combined with the physician's or dentist's primary malpractice insurance
33 coverage or coverage provided through a voluntary attending physician
34 ("channeling") program, total an aggregate level of two million three
35 hundred thousand dollars for each claimant and six million nine hundred
36 thousand dollars for all claimants from all such policies with respect
37 to occurrences in each of such years provided, however, if the cost of
38 primary malpractice insurance coverage in excess of one million dollars,
39 but below the excess medical malpractice insurance coverage provided
40 pursuant to this act, exceeds the rate of nine percent per annum, then
41 the required level of primary malpractice insurance coverage in excess
42 of one million dollars for each claimant shall be in an amount of not
43 less than the dollar amount of such coverage available at nine percent
44 per annum; the required level of such coverage for all claimants under
45 that policy shall be in an amount not less than three times the dollar
46 amount of coverage for each claimant; and excess coverage, when combined
47 with such primary malpractice insurance coverage, shall increase the
48 aggregate level for each claimant by one million dollars and three
49 million dollars for all claimants; and provided further, that, with
50 respect to policies of primary medical malpractice coverage that include
51 occurrences between April 1, 2002 and June 30, 2002, such requirement
52 that coverage be in amounts no less than one million three hundred thou-
53 sand dollars for each claimant and three million nine hundred thousand
54 dollars for all claimants for such occurrences shall be effective April
55 1, 2002.

1 § 3. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
2 amending the civil practice law and rules and other laws relating to
3 malpractice and professional medical conduct, as amended by section 2 of
4 part K of chapter 57 of the laws of 2021, is amended to read as follows:

5 (3)(a) The superintendent of financial services shall determine and
6 certify to each general hospital and to the commissioner of health the
7 cost of excess malpractice insurance for medical or dental malpractice
8 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
9 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
10 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
11 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
12 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
13 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
14 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
15 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
16 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
17 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
18 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
19 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
20 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
21 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
22 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,
23 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
24 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016
25 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July
26 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,
27 between July 1, 2020 and June 30, 2021, [~~and~~] between July 1, 2021 and
28 June 30, 2022, and between July 1, 2022 and June 30, 2023 allocable to
29 each general hospital for physicians or dentists certified as eligible
30 for purchase of a policy for excess insurance coverage by such general
31 hospital in accordance with subdivision 2 of this section, and may amend
32 such determination and certification as necessary.

33 (b) The superintendent of financial services shall determine and
34 certify to each general hospital and to the commissioner of health the
35 cost of excess malpractice insurance or equivalent excess coverage for
36 medical or dental malpractice occurrences between July 1, 1987 and June
37 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
38 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
39 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
40 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
41 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
42 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
43 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
44 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
45 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
46 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
47 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
48 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
49 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
50 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
51 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
52 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
53 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
54 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
55 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, [~~and~~]
56 between July 1, 2021 and June 30, 2022, and between July 1, 2022 and

1 June 30, 2023 allocable to each general hospital for physicians or
2 dentists certified as eligible for purchase of a policy for excess
3 insurance coverage or equivalent excess coverage by such general hospi-
4 tal in accordance with subdivision 2 of this section, and may amend such
5 determination and certification as necessary. The superintendent of
6 financial services shall determine and certify to each general hospital
7 and to the commissioner of health the ratable share of such cost alloca-
8 ble to the period July 1, 1987 to December 31, 1987, to the period Janu-
9 ary 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31,
10 1988, to the period January 1, 1989 to June 30, 1989, to the period July
11 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30,
12 1990, to the period July 1, 1990 to December 31, 1990, to the period
13 January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December
14 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period
15 July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June
16 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period
17 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
18 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
19 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
20 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
21 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
22 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
23 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
24 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
25 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
26 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
27 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
28 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
29 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
30 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
31 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
32 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
33 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
34 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
35 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
36 period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and
37 June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the peri-
38 od July 1, 2018 to June 30, 2019, to the period July 1, 2019 to June 30,
39 2020, to the period July 1, 2020 to June 30, 2021, [~~and~~] to the period
40 July 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June
41 30, 2023.

42 § 4. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
43 18 of chapter 266 of the laws of 1986, amending the civil practice law
44 and rules and other laws relating to malpractice and professional
45 medical conduct, as amended by section 3 of part K of chapter 57 of the
46 laws of 2021, are amended to read as follows:

47 (a) To the extent funds available to the hospital excess liability
48 pool pursuant to subdivision 5 of this section as amended, and pursuant
49 to section 6 of part J of chapter 63 of the laws of 2001, as may from
50 time to time be amended, which amended this subdivision, are insuffi-
51 cient to meet the costs of excess insurance coverage or equivalent
52 excess coverage for coverage periods during the period July 1, 1992 to
53 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
54 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
55 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
56 during the period July 1, 1997 to June 30, 1998, during the period July

1 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
2 2000, during the period July 1, 2000 to June 30, 2001, during the period
3 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
4 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
5 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
6 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
7 during the period July 1, 2006 to June 30, 2007, during the period July
8 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
9 2009, during the period July 1, 2009 to June 30, 2010, during the period
10 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
11 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
12 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
13 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during
14 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017
15 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,
16 during the period July 1, 2019 to June 30, 2020, during the period July
17 1, 2020 to June 30, 2021, ~~and~~ during the period July 1, 2021 to June
18 30, 2022, and during the period July 1, 2022 to June 30, 2023 allocated
19 or reallocated in accordance with paragraph (a) of subdivision 4-a of
20 this section to rates of payment applicable to state governmental agen-
21 cies, each physician or dentist for whom a policy for excess insurance
22 coverage or equivalent excess coverage is purchased for such period
23 shall be responsible for payment to the provider of excess insurance
24 coverage or equivalent excess coverage of an allocable share of such
25 insufficiency, based on the ratio of the total cost of such coverage for
26 such physician to the sum of the total cost of such coverage for all
27 physicians applied to such insufficiency.

28 (b) Each provider of excess insurance coverage or equivalent excess
29 coverage covering the period July 1, 1992 to June 30, 1993, or covering
30 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
31 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
32 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
33 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
34 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
35 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
36 the period July 1, 2001 to October 29, 2001, or covering the period
37 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
38 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
39 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
40 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
41 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
42 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
43 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
44 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
45 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
46 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
47 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
48 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
49 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
50 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or
51 covering the period July 1, 2020 to June 30, 2021, or covering the peri-
52 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to
53 June 30, 2023 shall notify a covered physician or dentist by mail,
54 mailed to the address shown on the last application for excess insurance
55 coverage or equivalent excess coverage, of the amount due to such
56 provider from such physician or dentist for such coverage period deter-

1 mined in accordance with paragraph (a) of this subdivision. Such amount
2 shall be due from such physician or dentist to such provider of excess
3 insurance coverage or equivalent excess coverage in a time and manner
4 determined by the superintendent of financial services.

5 (c) If a physician or dentist liable for payment of a portion of the
6 costs of excess insurance coverage or equivalent excess coverage cover-
7 ing the period July 1, 1992 to June 30, 1993, or covering the period
8 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
9 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
10 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
11 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
12 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
13 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
14 od July 1, 2001 to October 29, 2001, or covering the period April 1,
15 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
16 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
17 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
18 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
19 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
20 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
21 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
22 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
23 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
24 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
25 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
26 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
27 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
28 2019, or covering the period July 1, 2019 to June 30, 2020, or covering
29 the period July 1, 2020 to June 30, 2021, or covering the period July 1,
30 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,
31 2023 determined in accordance with paragraph (a) of this subdivision
32 fails, refuses or neglects to make payment to the provider of excess
33 insurance coverage or equivalent excess coverage in such time and manner
34 as determined by the superintendent of financial services pursuant to
35 paragraph (b) of this subdivision, excess insurance coverage or equiv-
36 alent excess coverage purchased for such physician or dentist in accord-
37 ance with this section for such coverage period shall be cancelled and
38 shall be null and void as of the first day on or after the commencement
39 of a policy period where the liability for payment pursuant to this
40 subdivision has not been met.

41 (d) Each provider of excess insurance coverage or equivalent excess
42 coverage shall notify the superintendent of financial services and the
43 commissioner of health or their designee of each physician and dentist
44 eligible for purchase of a policy for excess insurance coverage or
45 equivalent excess coverage covering the period July 1, 1992 to June 30,
46 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
47 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
48 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
49 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
50 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
51 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
52 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
53 ing the period April 1, 2002 to June 30, 2002, or covering the period
54 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
55 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
56 covering the period July 1, 2005 to June 30, 2006, or covering the peri-

1 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
2 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
3 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
4 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
5 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
6 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
7 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
8 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
9 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
10 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to
11 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or
12 covering the period July 1, 2021 to June 30, 2022, or covering the peri-
13 od July 1, 2022 to June 1, 2023 that has made payment to such provider
14 of excess insurance coverage or equivalent excess coverage in accordance
15 with paragraph (b) of this subdivision and of each physician and dentist
16 who has failed, refused or neglected to make such payment.

17 (e) A provider of excess insurance coverage or equivalent excess
18 coverage shall refund to the hospital excess liability pool any amount
19 allocable to the period July 1, 1992 to June 30, 1993, and to the period
20 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
21 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
22 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
23 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
24 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
25 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
26 and to the period April 1, 2002 to June 30, 2002, and to the period July
27 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
28 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
29 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
30 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
31 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
32 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
33 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
34 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
35 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
36 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
37 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
38 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,
39 and to the period July 1, 2020 to June 30, 2021, and to the period July
40 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,
41 2023 received from the hospital excess liability pool for purchase of
42 excess insurance coverage or equivalent excess coverage covering the
43 period July 1, 1992 to June 30, 1993, and covering the period July 1,
44 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30,
45 1995, and covering the period July 1, 1995 to June 30, 1996, and cover-
46 ing the period July 1, 1996 to June 30, 1997, and covering the period
47 July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to
48 June 30, 1999, and covering the period July 1, 1999 to June 30, 2000,
49 and covering the period July 1, 2000 to June 30, 2001, and covering the
50 period July 1, 2001 to October 29, 2001, and covering the period April
51 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June
52 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and
53 covering the period July 1, 2004 to June 30, 2005, and covering the
54 period July 1, 2005 to June 30, 2006, and covering the period July 1,
55 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30,
56 2008, and covering the period July 1, 2008 to June 30, 2009, and cover-

1 ing the period July 1, 2009 to June 30, 2010, and covering the period
2 July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to
3 June 30, 2012, and covering the period July 1, 2012 to June 30, 2013,
4 and covering the period July 1, 2013 to June 30, 2014, and covering the
5 period July 1, 2014 to June 30, 2015, and covering the period July 1,
6 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30,
7 2017, and covering the period July 1, 2017 to June 30, 2018, and cover-
8 ing the period July 1, 2018 to June 30, 2019, and covering the period
9 July 1, 2019 to June 30, 2020, and covering the period July 1, 2020 to
10 June 30, 2021, and covering the period July 1, 2021 to June 30, 2022,
11 and covering the period July 1, 2022 to June 30, 2023 for a physician or

12 dentist where such excess insurance coverage or equivalent excess cover-
13 age is cancelled in accordance with paragraph (c) of this subdivision.

14 § 5. Section 40 of chapter 266 of the laws of 1986, amending the civil
15 practice law and rules and other laws relating to malpractice and
16 professional medical conduct, as amended by section 4 of part K of chap-
17 ter 57 of the laws of 2021, is amended to read as follows:

18 § 40. The superintendent of financial services shall establish rates
19 for policies providing coverage for physicians and surgeons medical
20 malpractice for the periods commencing July 1, 1985 and ending June 30,
21 [~~2022~~] 2023; provided, however, that notwithstanding any other provision
22 of law, the superintendent shall not establish or approve any increase
23 in rates for the period commencing July 1, 2009 and ending June 30,
24 2010. The superintendent shall direct insurers to establish segregated
25 accounts for premiums, payments, reserves and investment income attrib-
26 utable to such premium periods and shall require periodic reports by the
27 insurers regarding claims and expenses attributable to such periods to
28 monitor whether such accounts will be sufficient to meet incurred claims
29 and expenses. On or after July 1, 1989, the superintendent shall impose
30 a surcharge on premiums to satisfy a projected deficiency that is
31 attributable to the premium levels established pursuant to this section
32 for such periods; provided, however, that such annual surcharge shall
33 not exceed eight percent of the established rate until July 1, [~~2022~~]
34 2023, at which time and thereafter such surcharge shall not exceed twen-
35 ty-five percent of the approved adequate rate, and that such annual
36 surcharges shall continue for such period of time as shall be sufficient
37 to satisfy such deficiency. The superintendent shall not impose such
38 surcharge during the period commencing July 1, 2009 and ending June 30,
39 2010. On and after July 1, 1989, the surcharge prescribed by this
40 section shall be retained by insurers to the extent that they insured
41 physicians and surgeons during the July 1, 1985 through June 30, [~~2022~~]
42 2023 policy periods; in the event and to the extent physicians and
43 surgeons were insured by another insurer during such periods, all or a
44 pro rata share of the surcharge, as the case may be, shall be remitted
45 to such other insurer in accordance with rules and regulations to be
46 promulgated by the superintendent. Surcharges collected from physicians
47 and surgeons who were not insured during such policy periods shall be
48 apportioned among all insurers in proportion to the premium written by
49 each insurer during such policy periods; if a physician or surgeon was
50 insured by an insurer subject to rates established by the superintendent
51 during such policy periods, and at any time thereafter a hospital,
52 health maintenance organization, employer or institution is responsible
53 for responding in damages for liability arising out of such physician's
54 or surgeon's practice of medicine, such responsible entity shall also
55 remit to such prior insurer the equivalent amount that would then be
56 collected as a surcharge if the physician or surgeon had continued to

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

23 § 6. Section 5 and subdivisions (a) and (e) of section 6 of part J of
24 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
25 1986, amending the civil practice law and rules and other laws relating
26 to malpractice and professional medical conduct, as amended by section 5
27 of part K of chapter 57 of the laws of 2021, are amended to read as
28 follows:

29 § 5. The superintendent of financial services and the commissioner of
30 health shall determine, no later than June 15, 2002, June 15, 2003, June
31 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
32 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
33 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June
34 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, ~~and~~ June 15,
35 2022, and June 15, 2023 the amount of funds available in the hospital
36 excess liability pool, created pursuant to section 18 of chapter 266 of
37 the laws of 1986, and whether such funds are sufficient for purposes of
38 purchasing excess insurance coverage for eligible participating physi-
39 cians and dentists during the period July 1, 2001 to June 30, 2002, or
40 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July
41 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,
42 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008
43 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to
44 June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June
45 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
46 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,
47 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30,
48 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30,
49 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023
50 as applicable.

51 (a) This section shall be effective only upon a determination, pursu-
52 ant to section five of this act, by the superintendent of financial
53 services and the commissioner of health, and a certification of such
54 determination to the state director of the budget, the chair of the
55 senate committee on finance and the chair of the assembly committee on
56 ways and means, that the amount of funds in the hospital excess liabil-

1 ity pool, created pursuant to section 18 of chapter 266 of the laws of
2 1986, is insufficient for purposes of purchasing excess insurance cover-
3 age for eligible participating physicians and dentists during the period
4 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
5 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
6 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
7 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
8 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
9 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
10 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
11 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
12 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
13 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
14 2022, or July 1, 2022 to June 30, 2023 as applicable.

15 (e) The commissioner of health shall transfer for deposit to the
16 hospital excess liability pool created pursuant to section 18 of chapter
17 266 of the laws of 1986 such amounts as directed by the superintendent
18 of financial services for the purchase of excess liability insurance
19 coverage for eligible participating physicians and dentists for the
20 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
21 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
22 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
23 2007, as applicable, and the cost of administering the hospital excess
24 liability pool for such applicable policy year, pursuant to the program
25 established in chapter 266 of the laws of 1986, as amended, no later
26 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
27 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
28 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
29 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June
30 15, 2020, June 15, 2021, [~~and~~] June 15, 2022, and June 15, 2023 as
31 applicable.

32 § 7. Section 20 of part H of chapter 57 of the laws of 2017, amending
33 the New York Health Care Reform Act of 1996 and other laws relating to
34 extending certain provisions thereto, as amended by section 6 of part K
35 of chapter 57 of the laws of 2021, is amended to read as follows:

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

1 or equivalent excess coverage was purchased for the coverage period
2 ending the thirtieth of June, two thousand [~~twenty-one~~] twenty-two and
3 the number of such eligible physicians or dentists who have applied for
4 excess coverage or equivalent excess coverage for the coverage period
5 beginning the first of July, two thousand [~~twenty-one~~] twenty-two.

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

8 PART AA

9 Section 1. This act enacts into law major components of legislation
10 relating to the federal no surprises act and administrative simplifi-
11 cation. Each component is wholly contained within a Subpart identified
12 as Subparts A through C. The effective date for each particular
13 provision contained within such Subpart is set forth in the last section
14 of such Subpart. Any provision in any section contained within a
15 Subpart, including the effective date of the Subpart, which makes a
16 reference to a section "of this act", when used in connection with that
17 particular component, shall be deemed to mean and refer to the corre-
18 sponding section of the Subpart in which it is found. Section three of
19 this act sets forth the general effective date of this act.

20 SUBPART A

21 Section 1. Section 601 of the financial services law, as added by
22 section 26 of part H of chapter 60 of the laws of 2014, is amended to
23 read as follows:

24 § 601. Dispute resolution process established. The superintendent
25 shall establish a dispute resolution process by which a dispute for a
26 bill for emergency services or a surprise bill may be resolved. The
27 superintendent shall have the power to grant and revoke certifications
28 of independent dispute resolution entities to conduct the dispute resolu-
29 tion process. The superintendent shall promulgate regulations estab-
30 lishing standards for the dispute resolution process, including a proc-
31 ess for certifying and selecting independent dispute resolution
32 entities. An independent dispute resolution entity shall use licensed
33 physicians in active practice in the same or similar specialty as the
34 physician providing the service that is subject to the dispute resolu-
35 tion process of this article for disputes that involve physician
36 services. To the extent practicable, the physician shall be licensed in
37 this state. Disputes shall be submitted to an independent dispute
38 resolution entity within three years of the date the health care plan
39 made the original payment on the claim that is the subject of the
40 dispute.

41 § 2. Subsection (b) of section 602 of the financial services law is
42 REPEALED.

43 § 3. Subsection (h) of section 603 of the financial services law, as
44 added by section 26 of part H of chapter 60 of the laws of 2014, is
45 amended to read as follows:

46 (h) "Surprise bill" means a bill for health care services, other than
47 emergency services, [~~received by~~] with respect to:

48 (1) an insured for services rendered by a non-participating [~~physi-~~
49 ~~cian~~] provider at a participating hospital or ambulatory surgical
50 center, where a participating [~~physician~~] provider is unavailable or a
51 non-participating [~~physician~~] provider renders services without the
52 insured's knowledge, or unforeseen medical services arise at the time

1 the health care services are rendered; provided, however, that a
2 surprise bill shall not mean a bill received for health care services
3 when a participating [~~physician~~] provider is available and the insured
4 has elected to obtain services from a non-participating [~~physician~~]
5 provider;

6 (2) an insured for services rendered by a non-participating provider,
7 where the services were referred by a participating physician to a non-
8 participating provider without explicit written consent of the insured
9 acknowledging that the participating physician is referring the insured
10 to a non-participating provider and that the referral may result in
11 costs not covered by the health care plan; or

12 (3) a patient who is not an insured for services rendered by a physi-
13 cian at a hospital or ambulatory surgical center, where the patient has
14 not timely received all of the disclosures required pursuant to section
15 twenty-four of the public health law.

16 § 4. Section 604 of the financial services law, as amended by chapter
17 377 of the laws of 2019, is amended to read as follows:

18 § 604. Criteria for determining a reasonable fee. In determining the
19 appropriate amount to pay for a health care service, an independent
20 dispute resolution entity shall consider all relevant factors, includ-
21 ing:

22 (a) whether there is a gross disparity between the fee charged by the
23 [~~physician or hospital~~] provider for services rendered as compared to:

24 (1) fees paid to the involved [~~physician or hospital~~] provider for the
25 same services rendered by the [~~physician or hospital~~] provider to other
26 patients in health care plans in which the [~~physician or hospital~~]
27 provider is not participating, and

28 (2) in the case of a dispute involving a health care plan, fees paid
29 by the health care plan to reimburse similarly qualified [~~physicians or~~
30 ~~hospitals~~] providers for the same services in the same region who are
31 not participating with the health care plan;

32 (b) the level of training, education and experience of the [~~physician~~]
33 health care professional, and in the case of a hospital, the teaching
34 staff, scope of services and case mix;

35 (c) the [~~physician's and hospital's~~] provider's usual charge for
36 comparable services with regard to patients in health care plans in
37 which the [~~physician or hospital~~] provider is not participating;

38 (d) the circumstances and complexity of the particular case, including
39 time and place of the service;

40 (e) individual patient characteristics; [~~and, with regard to physician~~
41 ~~services,~~]

42 (f) the median of the rate recognized by the health care plan to reim-
43 burse similarly qualified providers for the same or similar services in
44 the same region that are participating with the health care plan; and

45 (g) with regard to physician services, the usual and customary cost of
46 the service.

47 § 5. Subsections (a) and (c) of section 605 of the financial services
48 law, as amended by chapter 377 of the laws of 2019, paragraphs 1 and 2
49 of subsection (a) as amended by section 1 of part YY of chapter 56 of
50 the laws of 2020, are amended to read as follows:

51 (a) Emergency services for an insured. (1) When a health care plan
52 receives a bill for emergency services from a non-participating [~~physi-~~
53 ~~cian or hospital~~] provider, including a bill for inpatient services
54 which follow an emergency room visit, the health care plan shall pay an
55 amount that it determines is reasonable for the emergency services,
56 including inpatient services which follow an emergency room visit,

1 rendered by the non-participating [~~physician or hospital~~] provider, in
2 accordance with section three thousand two hundred twenty-four-a of the
3 insurance law, except for the insured's co-payment, coinsurance or
4 deductible, if any, and shall ensure that the insured shall incur no
5 greater out-of-pocket costs for the emergency services, including inpa-
6 tient services which follow an emergency room visit, than the insured
7 would have incurred with a participating [~~physician or hospital~~] provid-
8 er. [~~If an insured assigns benefits to a non-participating physician or~~
9 ~~hospital in relation to emergency services, including inpatient services~~
10 ~~which follow an emergency room visit, provided by such non-participating~~
11 ~~physician or hospital, the~~] The non-participating [~~physician or hospi-~~
12 ~~tal~~] provider may bill the health care plan for the services rendered.
13 Upon receipt of the bill, the health care plan shall pay the non-parti-
14 cipating [~~physician or hospital~~] provider the amount prescribed by this
15 section and any subsequent amount determined to be owed to the [~~physi-~~
16 ~~cian or hospital~~] provider in relation to the emergency services
17 provided, including inpatient services which follow an emergency room
18 visit.

19 (2) A non-participating [~~physician or hospital~~] provider or a health
20 care plan may submit a dispute regarding a fee or payment for emergency
21 services, including inpatient services which follow an emergency room
22 visit, for review to an independent dispute resolution entity.

23 (3) The independent dispute resolution entity shall make a determi-
24 nation within thirty business days of receipt of the dispute for review.

25 (4) In determining a reasonable fee for the services rendered, an
26 independent dispute resolution entity shall select either the health
27 care plan's payment or the non-participating [~~physician's or hospital's~~]
28 provider's fee. The independent dispute resolution entity shall deter-
29 mine which amount to select based upon the conditions and factors set
30 forth in section six hundred four of this article. If an independent
31 dispute resolution entity determines, based on the health care plan's
32 payment and the non-participating [~~physician's or hospital's~~] provider's
33 fee, that a settlement between the health care plan and non-participat-
34 ing [~~physician or hospital~~] provider is reasonably likely, or that both
35 the health care plan's payment and the non-participating [~~physician's or~~
36 ~~hospital's~~] provider's fee represent unreasonable extremes, then the
37 independent dispute resolution entity may direct both parties to attempt
38 a good faith negotiation for settlement. The health care plan and non-
39 participating [~~physician or hospital~~] provider may be granted up to ten
40 business days for this negotiation, which shall run concurrently with
41 the thirty business day period for dispute resolution.

42 (c) The determination of an independent dispute resolution entity
43 shall be binding on the health care plan, [~~physician or hospital~~]
44 provider and patient, and shall be admissible in any court proceeding
45 between the health care plan, [~~physician or hospital~~] provider or
46 patient, or in any administrative proceeding between this state and the
47 [~~physician or hospital~~] provider.

48 § 6. Subsection (d) of section 605 of the financial services law is
49 REPEALED and subsection (e) of section 605 of the financial services law
50 is relettered subsection (d).

51 § 7. Section 606 of the financial services law, as amended by section
52 3 of part YY of chapter 56 of the laws of 2020, is amended to read as
53 follows:

54 § 606. Hold harmless [~~and assignment of benefits~~] for insureds from
55 bills for emergency services and surprise bills. (a) [~~When an insured~~
56 ~~assigns benefits for a surprise bill in writing to a non-participating~~

1 ~~physician that knows the insured is insured under a health care plan,~~
2 ~~the] A non-participating [physician] provider shall not bill [the] an~~
3 insured for a surprise bill except for any applicable copayment, coinsu-
4 rance or deductible that would be owed if the insured utilized a partic-
5 ipating physician] provider.

6 (b) ~~[When an insured assigns benefits for emergency services, includ-~~
7 ~~ing inpatient services which follow an emergency room visit, to a non-~~
8 ~~participating physician or hospital that knows the insured is insured~~
9 ~~under a health care plan, the] A non-participating [physician or hospi-~~
10 ~~tal] provider shall not bill [the] an insured for emergency services,~~
11 ~~including inpatient services which follow an emergency room visit,~~
12 except for any applicable copayment, coinsurance or deductible that
13 would be owed if the insured utilized a participating ~~[physician or~~
14 ~~hospital] provider.~~

15 § 8. Subsections (a), (b) and (c) of section 607 of the financial
16 services law, as added by section 26 of part H of chapter 60 of the laws
17 of 2014, are amended to read as follows:

18 (a) Surprise bill ~~[received by] involving~~ an insured ~~[who assigns~~
19 ~~benefits]. (1) [If] For a surprise bill involving an insured ~~[assigns~~
20 ~~benefits to a non-participating physician],~~ the health care plan shall
21 pay the non-participating physician] provider in accordance with para-
22 graphs two and three of this subsection.~~

23 (2) The non-participating physician] provider may bill the health
24 care plan for the health care services rendered, and the health care
25 plan shall pay the non-participating physician] provider the billed
26 amount or attempt to negotiate reimbursement with the non-participating
27 physician] provider.

28 (3) If the health care plan's attempts to negotiate reimbursement for
29 health care services provided by a non-participating physician] provid-
30 er does not result in a resolution of the payment dispute between the
31 non-participating physician] provider and the health care plan, the
32 health care plan shall pay the non-participating physician] provider an
33 amount the health care plan determines is reasonable for the health care
34 services rendered, except for the insured's copayment, coinsurance or
35 deductible, in accordance with section three thousand two hundred twen-
36 ty-four-a of the insurance law, and shall ensure that the insured shall
37 incur no greater out-of-pocket costs for the surprise bill than the
38 insured would have incurred with a participating provider.

39 (4) Either the health care plan or the non-participating physician]
40 provider may submit the dispute regarding the surprise bill for review
41 to an independent dispute resolution entity, provided however, the
42 health care plan may not submit the dispute unless it has complied with
43 the requirements of paragraphs one, two and three of this subsection.

44 (5) The independent dispute resolution entity shall make a determi-
45 nation within thirty business days of receipt of the dispute for review.

46 (6) When determining a reasonable fee for the services rendered, the
47 independent dispute resolution entity shall select either the health
48 care plan's payment or the non-participating physician's] provider's
49 fee. An independent dispute resolution entity shall determine which
50 amount to select based upon the conditions and factors set forth in
51 section six hundred four of this article. If an independent dispute
52 resolution entity determines, based on the health care plan's payment
53 and the non-participating physician's] provider's fee, that a settle-
54 ment between the health care plan and non-participating physician]
55 provider is reasonably likely, or that both the health care plan's
56 payment and the non-participating physician's] provider's fee represent

1 unreasonable extremes, then the independent dispute resolution entity
2 may direct both parties to attempt a good faith negotiation for settle-
3 ment. The health care plan and non-participating [~~physician~~] provider
4 may be granted up to ten business days for this negotiation, which shall
5 run concurrently with the thirty business day period for dispute resol-
6 ution.

7 (b) Surprise bill received by [~~an insured who does not assign benefits~~
8 ~~or by~~] a patient who is not an insured.

9 (1) [~~An insured who does not assign benefits in accordance with~~
10 ~~subsection (a) of this section or a~~] A patient who is not an insured and
11 who receives a surprise bill may submit a dispute regarding the surprise
12 bill for review to an independent dispute resolution entity.

13 (2) The independent dispute resolution entity shall determine a
14 reasonable fee for the services rendered based upon the conditions and
15 factors set forth in section six hundred four of this article.

16 (3) A patient [~~or insured who does not assign benefits in accordance~~
17 ~~with subsection (a) of this section~~] shall not be required to pay the
18 physician's fee to be eligible to submit the dispute for review to the
19 independent dispute resolution entity.

20 (c) The determination of an independent dispute resolution entity
21 shall be binding on the patient, [~~physician~~] provider and health care
22 plan, and shall be admissible in any court proceeding between the
23 patient or insured, [~~physician~~] provider or health care plan, or in any
24 administrative proceeding between this state and the [~~physician~~] provid-
25 er.

26 § 9. Subsection (a) of section 608 of the financial services law, as
27 amended by chapter 375 of the laws of 2019, is amended to read as
28 follows:

29 (a) For disputes involving an insured, when the independent dispute
30 resolution entity determines the health care plan's payment is reason-
31 able, payment for the dispute resolution process shall be the responsi-
32 bility of the non-participating [~~physician or hospital~~] provider. When
33 the independent dispute resolution entity determines the non-participat-
34 ing [~~physician's or hospital's~~] provider's fee is reasonable, payment
35 for the dispute resolution process shall be the responsibility of the
36 health care plan. When a good faith negotiation directed by the inde-
37 pendent dispute resolution entity pursuant to paragraph four of
38 subsection (a) of section six hundred five of this article, or paragraph
39 six of subsection (a) of section six hundred seven of this article
40 results in a settlement between the health care plan and non-participat-
41 ing [~~physician or hospital~~] provider, the health care plan and the non-
42 participating [~~physician or hospital~~] provider shall evenly divide and
43 share the prorated cost for dispute resolution.

44 § 10. Subparagraph (A) of paragraph 1 of subsection (b) of section
45 4910 of the insurance law, as amended by chapter 219 of the laws of
46 2011, is amended to read as follows:

47 (A) the insured has had coverage of the health care service, which
48 would otherwise be a covered benefit under a subscriber contract or
49 governmental health benefit program, denied on appeal, in whole or in
50 part, pursuant to title one of this article on the grounds that such
51 health care service does not meet the health care plan's requirements
52 for medical necessity, appropriateness, health care setting, level of
53 care, [~~or~~] effectiveness of a covered benefit, or other ground consist-
54 ent with 42 U.S.C. § 300gg-19 as determined by the superintendent, and

1 § 11. Subparagraph (i) of paragraph (a) of subdivision 2 of section
2 4910 of the public health law, as amended by chapter 219 of the laws of
3 2011, is amended to read as follows:

4 (i) the enrollee has had coverage of a health care service, which
5 would otherwise be a covered benefit under a subscriber contract or
6 governmental health benefit program, denied on appeal, in whole or in
7 part, pursuant to title one of this article on the grounds that such
8 health care service does not meet the health care plan's requirements
9 for medical necessity, appropriateness, health care setting, level of
10 care, ~~[or]~~ effectiveness of a covered benefit, or other ground consist-
11 ent with 42 U.S.C. § 300gg-19 as determined by the commissioner in
12 consultation with the superintendent of financial services, and

13 § 12. This act shall take effect immediately.

14 SUBPART B

15 Section 1. Paragraph 1 of subsection (c) of section 109 of the insur-
16 ance law, as amended by section 55 of part A of chapter 62 of the laws
17 of 2011, is amended to read as follows:

18 (1) If the superintendent finds after notice and hearing that any
19 authorized insurer, representative of the insurer, licensed insurance
20 agent, licensed insurance broker, licensed adjuster, or any other person
21 or entity licensed, certified, registered, or authorized pursuant to
22 this chapter, has ~~[wilfully]~~ willfully violated the provisions of this
23 chapter or any regulation promulgated thereunder or with respect to
24 accident and health insurance, any provision of federal law or regu-
25 lation, then the superintendent may order the person or entity to pay to
26 the people of this state a penalty in a sum not exceeding one thousand
27 dollars for each offense.

28 § 2. Paragraph 17 of subsection (a) of section 3217-a of the insur-
29 ance law, as amended by section 9 of subpart A of part BB of chapter 57
30 of the laws of 2019, is amended to read as follows:

31 (17) where applicable, a listing by specialty, which may be in a sepa-
32 rate document that is updated annually, of the name, address, ~~[and]~~
33 telephone number, and digital contact information of all participating
34 providers, including facilities, and: (A) whether the provider is
35 accepting new patients; (B) in the case of mental health or substance
36 use disorder services providers, any affiliations with participating
37 facilities certified or authorized by the office of mental health or the
38 office of ~~[alcoholism]~~ addiction services and ~~[substance-abuse-services]~~
39 supports, and any restrictions regarding the availability of the indi-
40 vidual provider's services; and (C) in the case of physicians, board
41 certification, languages spoken and any affiliations with participating
42 hospitals. The listing shall also be posted on the insurer's website and
43 the insurer shall update the website within fifteen days of the addition
44 or termination of a provider from the insurer's network or a change in a
45 physician's hospital affiliation;

46 § 3. Section 3217-b of the insurance law is amended by adding two new
47 subsections (m) and (n) to read as follows:

48 (m) A contract between an insurer and a health care provider shall
49 include a provision that requires the health care provider to have in
50 place business processes to ensure the timely provision of provider
51 directory information to the insurer. A health care provider shall
52 submit such provider directory information to an insurer, at a minimum,
53 when a provider begins or terminates a network agreement with an insur-
54 er, when there are material changes to the content of the provider

1 directory information of the health care provider, and at any other
2 time, including upon the insurer's request, as the health care provider
3 determines to be appropriate. For purposes of this subsection, "provid-
4 er directory information" shall include the name, address, specialty,
5 telephone number, and digital contact information of such health care
6 provider; whether the provider is accepting new patients; for mental
7 health and substance use disorder services providers, any affiliations
8 with participating facilities certified or authorized by the office of
9 mental health or the office of addiction services and supports, and any
10 restrictions regarding the availability of the individual provider's
11 services; and in the case of physicians, board certification, languages
12 spoken, and any affiliations with participating hospitals.

13 (n) A contract between an insurer and a health care provider shall
14 include a provision that states that the provider shall reimburse the
15 insured for the full amount paid by the insured in excess of the in-net-
16 work cost-sharing amount, plus interest at an interest rate determined
17 by the superintendent in accordance with 42 U.S.C. § 300gg-139(b), for
18 the services involved when the insured is provided with inaccurate
19 network status information by the insurer in a provider directory or in
20 response to a request that stated that the provider was a participating
21 provider when the provider was not a participating provider. Nothing in
22 this subsection shall prohibit a health care provider from requiring in
23 the terms of a contract with an insurer that the insurer remove, at the
24 time of termination of such contract, the provider from the insurer's
25 provider directory or that the insurer bear financial responsibility for
26 providing inaccurate network status information to an insured.

27 § 4. Paragraph 17 of subsection (a) of section 4324 of the insurance
28 law, as amended by section 34 of subpart A of part BB of chapter 57 of
29 the laws of 2019, is amended to read as follows:

30 (17) where applicable, a listing by specialty, which may be in a sepa-
31 rate document that is updated annually, of the name, address, [~~and~~]
32 telephone number, and digital contact information of all participating
33 providers, including facilities, and: (A) whether the provider is
34 accepting new patients; (B) in the case of mental health or substance
35 use disorder services providers, any affiliations with participating
36 facilities certified or authorized by the office of mental health or the
37 office of [~~alcoholism~~] addiction services and [~~substance-abuse services~~]
38 supports, and any restrictions regarding the availability of the indi-
39 vidual provider's services; (C) in the case of physicians, board certif-
40 ication, languages spoken and any affiliations with participating hospi-
41 tals. The listing shall also be posted on the corporation's website and
42 the corporation shall update the website within fifteen days of the
43 addition or termination of a provider from the corporation's network or
44 a change in a physician's hospital affiliation;

45 § 5. Section 4325 of the insurance law is amended by adding two new
46 subsections (n) and (o) to read as follows:

47 (n) A contract between a corporation and a health care provider shall
48 include a provision that requires the health care provider to have in
49 place business processes to ensure the timely provision of provider
50 directory information to the corporation. A health care provider shall
51 submit such provider directory information to a corporation, at a mini-
52 imum, when a provider begins or terminates a network agreement with a
53 corporation, when there are material changes to the content of the
54 provider directory information of the health care provider, and at any
55 other time, including upon the corporation's request, as the health care
56 provider determines to be appropriate. For purposes of this subsection,

1 "provider directory information" shall include the name, address,
2 specialty, telephone number, and digital contact information of such
3 health care provider; whether the provider is accepting new patients;
4 for mental health and substance use disorder services providers, any
5 affiliations with participating facilities certified or authorized by
6 the office of mental health or the office of addiction services and
7 supports, and any restrictions regarding the availability of the indi-
8 vidual provider's services; and in the case of physicians, board certif-
9 ication, languages spoken, and any affiliations with participating
10 hospitals.

11 (o) A contract between a corporation and a health care provider shall
12 include a provision that states that the provider shall reimburse the
13 insured for the full amount paid by the insured in excess of the in-net-
14 work cost-sharing amount, plus interest at an interest rate determined
15 by the superintendent in accordance with 42 U.S.C. § 300gg-139(b), for
16 the services involved when the insured is provided with inaccurate
17 network status information by the corporation in a provider directory or
18 in response to a request that stated that the provider was a participat-
19 ing provider when the provider was not a participating provider. Noth-
20 ing in this subsection shall prohibit a health care provider from
21 requiring in the terms of a contract with a corporation that the corpo-
22 ration remove, at the time of termination of such contract, the provider
23 from the corporation's provider directory or that the corporation bear
24 financial responsibility for providing inaccurate network status infor-
25 mation to an insured.

26 § 6. Section 4406-c of the public health law is amended by adding two
27 new subdivisions 11 and 12 to read as follows:

28 11. A contract between a health care plan and a health care provider
29 shall include a provision that requires the health care provider to have
30 in place business processes to ensure the timely provision of provider
31 directory information to the health care plan. A health care provider
32 shall submit such provider directory information to a health care plan,
33 at a minimum, when a provider begins or terminates a network agreement
34 with a health care plan, when there are material changes to the content
35 of the provider directory information of such health care provider, and
36 at any other time, including upon the health care plan's request, as the
37 health care provider determines to be appropriate. For purposes of this
38 subsection, "provider directory information" shall include the name,
39 address, specialty, telephone number, and digital contact information of
40 such health care provider; whether the provider is accepting new
41 patients; for mental health and substance use disorder services provid-
42 ers, any affiliations with participating facilities certified or author-
43 ized by the office of mental health or the office of addiction services
44 and supports, and any restrictions regarding the availability of the
45 individual provider's services; and in the case of physicians, board
46 certification, languages spoken, and any affiliations with participating
47 hospitals.

48 12. A contract between a health care plan and a health care provider
49 shall include a provision that states that the provider shall reimburse
50 the enrollee for the full amount paid by the enrollee in excess of the
51 in-network cost-sharing amount, plus interest at an interest rate deter-
52 mined by the commissioner in accordance with 42 U.S.C. § 300gg-139(b),
53 for the services involved when the enrollee is provided with inaccurate
54 network status information by the health care plan in a provider direc-
55 tory or in response to a request that stated that the provider was a
56 participating provider when the provider was not a participating provid-

er. Nothing in this subdivision shall prohibit a health care provider from requiring in the terms of a contract with a health care plan that the health care plan remove, at the time of termination of such contract, the provider from the health care plan's provider directory or that the health care plan bear financial responsibility for providing inaccurate network status information to an enrollee.

§ 7. Paragraph (r) of subdivision 1 of section 4408 of the public health law, as amended by section 41 of subpart A of part BB of chapter 57 of the laws of 2019, is amended to read as follows:

(r) a listing by specialty, which may be in a separate document that is updated annually, of the name, address ~~and~~, telephone number, and digital contact information of all participating providers, including facilities, and: (i) whether the provider is accepting new patients; (ii) in the case of mental health or substance use disorder services providers, any affiliations with participating facilities certified or authorized by the office of mental health or the office of ~~alcoholism~~ addiction services and ~~substance-abuse-services~~ supports, and any restrictions regarding the availability of the individual provider's services; and (iii) in the case of physicians, board certification, languages spoken and any affiliations with participating hospitals. The listing shall also be posted on the health maintenance organization's website and the health maintenance organization shall update the website within fifteen days of the addition or termination of a provider from the health maintenance organization's network or a change in a physician's hospital affiliation;

§ 8. Subdivision 8 of section 24 of the public health law is renumbered subdivision 9 and a new subdivision 8 is added to read as follows:

8. A health care professional, or a group practice of health care professionals, a diagnostic and treatment center or a health center defined under 42 U.S.C. § 254b on behalf of health care professionals rendering services at the group practice, diagnostic and treatment center or health center, and a hospital shall make publicly available, and if applicable, post on their public websites, and provide to individuals who are enrollees of health care plans, a one-page written notice, in clear and understandable language, containing information on the requirements and prohibitions under 42 U.S.C. §§ 300gg-131 and 300gg-132 and article six of the financial services law relating to prohibitions on balance billing for emergency services and surprise bills, and information on contacting appropriate state and federal agencies if an individual believes a health care provider has violated any requirement described in 42 U.S.C. §§ 300gg-131 and 300gg-132 or article six of the financial services law.

§ 9. Subsection (e) of section 4804 of the insurance law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(e) (1) If an insured's health care provider leaves the insurer's in-network benefits portion of its network of providers for a managed care product for reasons other than those for which the provider would not be eligible to receive a hearing pursuant to paragraph one of subsection (b) of section forty-eight hundred three of this chapter, the insurer shall provide written notice to the insured of the provider's disaffiliation and permit the insured to continue an ongoing course of treatment with the insured's current health care provider during a transitional period of ~~(i) up to~~: (A) ninety days from the later of the date of the notice to the insured of the provider's disaffiliation from the insurer's network or the effective date of the provider's disaffiliation from the insurer's network; or ~~(ii)~~ (B) if the insured ~~has~~

1 ~~entered the second trimester of pregnancy~~ is pregnant at the time of
2 the provider's disaffiliation, ~~[for a transitional period that includes]~~
3 the ~~[provision of]~~ duration of the pregnancy and post-partum care
4 directly related to the delivery.

5 (2) ~~[Notwithstanding the provisions of paragraph one of this~~
6 ~~subsection, such care shall be authorized by the insurer during]~~ During
7 the transitional period ~~[only if]~~ the health care provider ~~[agrees (i)~~
8 ~~to]~~ shall: (A) continue to accept reimbursement from the insurer at the
9 rates applicable prior to the start of the transitional period, and
10 continue to accept the in-network cost-sharing from the insured, if any,
11 as payment in full; ~~[(ii) to]~~ (B) adhere to the insurer's quality assur-
12 ance requirements and ~~[to]~~ provide to the insurer necessary medical
13 information related to such care; and ~~[(iii) to]~~ (C) otherwise adhere to
14 the insurer's policies and procedures including, but not limited to,
15 procedures regarding referrals and obtaining pre-authorization and a
16 treatment plan approved by the insurer.

17 § 10. Paragraph (e) of subdivision 6 of section 4403 of the public
18 health law, as added by chapter 705 of the laws of 1996, is amended to
19 read as follows:

20 (e) (1) If an enrollee's health care provider leaves the health main-
21 tenance organization's network of providers for reasons other than those
22 for which the provider would not be eligible to receive a hearing pursu-
23 ant to paragraph a of subdivision two of section forty-four hundred
24 six-d of this chapter, the health maintenance organization shall provide
25 written notice to the enrollee of the provider's disaffiliation and
26 permit the enrollee to continue an ongoing course of treatment with the
27 enrollee's current health care provider during a transitional period of:
28 (i) ~~[up to]~~ ninety days from the later of the date of the notice to the
29 enrollee of the provider's disaffiliation from the organization's
30 network or the effective date of the provider's disaffiliation from the
31 organization's network; or (ii) if the enrollee ~~[has entered the second~~
32 ~~trimester of pregnancy]~~ is pregnant at the time of the provider's disaf-
33 filiation, ~~[for a transitional period that includes]~~ the ~~[provision of]~~
34 duration of the pregnancy and post-partum care directly related to the
35 delivery.

36 (2) ~~[Notwithstanding the provisions of subparagraph one of this para-~~
37 ~~graph, such care shall be authorized by the health maintenance organiza-~~
38 ~~tion during]~~ During the transitional period ~~[only if]~~ the health care
39 provider ~~[agrees]~~ shall: (i) ~~[to]~~ continue to accept reimbursement from
40 the health maintenance organization at the rates applicable prior to the
41 start of the transitional period, and continue to accept the in-network
42 cost-sharing from the enrollee, if any, as payment in full; (ii) ~~[to]~~
43 adhere to the organization's quality assurance requirements and to
44 provide to the organization necessary medical information related to
45 such care; and (iii) ~~[to]~~ otherwise adhere to the organization's poli-
46 cies and procedures, including but not limited to procedures regarding
47 referrals and obtaining pre-authorization and a treatment plan approved
48 by the organization.

49 § 11. This act shall take effect immediately.

50 SUBPART C

51 Section 1. Section 3217-d of the insurance law is amended by adding a
52 new subsection (e) to read as follows:

53 (e) An insurer that issues a comprehensive policy that uses a network
54 of providers and is not a managed care health insurance contract, as

1 defined in subsection (c) of section four thousand eight hundred one of
2 this chapter, shall establish and maintain procedures for health care
3 professional applications and terminations consistent with the require-
4 ments of section four thousand eight hundred three of this chapter and
5 procedures for health care facility applications consistent with section
6 four thousand eight hundred six of this chapter.

7 § 2. Section 4306-c of the insurance law is amended by adding a new
8 subsection (e) to read as follows:

9 (e) A corporation, including a municipal cooperative health benefit
10 plan certified pursuant to article forty-seven of this chapter and a
11 student health plan established or maintained pursuant to section one
12 thousand one hundred twenty-four of this chapter as added by chapter 246
13 of the laws of 2012, that issues a comprehensive policy that uses a
14 network of providers and is not a managed care health insurance
15 contract, as defined in subsection (c) of section four thousand eight
16 hundred one of this chapter, shall establish and maintain procedures for
17 health care professional applications and terminations consistent with
18 the requirements of section four thousand eight hundred three of this
19 chapter and procedures for health care facility applications consistent
20 with section four thousand eight hundred six of this chapter.

21 § 3. The insurance law is amended by adding a new section 4806 to read
22 as follows:

23 § 4806. Health care facility applications. (a) An insurer that offers
24 a managed care product shall, upon request, make available and disclose
25 to facilities written application procedures and minimum qualification
26 requirements that a facility must meet in order to be considered by the
27 insurer for participation in the in-network benefits portion of the
28 insurer's network for the managed care product. The insurer shall
29 consult with appropriately qualified facilities in developing its quali-
30 fication requirements for participation in the in-network benefits
31 portion of the insurer's network for the managed care product. An
32 insurer shall complete review of the facility's application to partic-
33 ipate in the in-network portion of the insurer's network and, within
34 sixty days of receiving a facility's completed application to partic-
35 ipate in the insurer's network, shall notify the facility as to: (1)
36 whether the facility is credentialed; or (2) whether additional time is
37 necessary to make a determination because of a failure of a third party
38 to provide necessary documentation. In such instances where additional
39 time is necessary because of a lack of necessary documentation, an
40 insurer shall make every effort to obtain such information as soon as
41 possible and shall make a final determination within twenty-one days of
42 receiving the necessary documentation.

43 (b) For the purposes of this section, "facility" shall mean a health
44 care provider that is licensed or certified pursuant to article five,
45 twenty-eight, thirty-six, forty, forty-four, or forty-seven of the
46 public health law or article sixteen, nineteen, thirty-one, thirty-two,
47 or thirty-six of the mental hygiene law.

48 § 4. The public health law is amended by adding a new section 4406-h
49 to read as follows:

50 § 4406-h. Health care facility applications. 1. A health care plan
51 shall, upon request, make available and disclose to facilities written
52 application procedures and minimum qualification requirements that a
53 facility must meet in order to be considered by the health care plan for
54 participation in the in-network benefits portion of the health care
55 plan's network. The health care plan shall consult with appropriately
56 qualified facilities in developing its qualification requirements. A

1 health care plan shall complete review of the facility's application to
2 participate in the in-network portion of the health care plan's network
3 and shall, within sixty days of receiving a facility's completed appli-
4 cation to participate in the health care plan's network, notify the
5 facility as to: (a) whether the facility is credentialed; or (b) wheth-
6 er additional time is necessary to make a determination because of a
7 failure of a third party to provide necessary documentation. In such
8 instances where additional time is necessary because of a lack of neces-
9 sary documentation, a health care plan shall make every effort to obtain
10 such information as soon as possible and shall make a final determi-
11 nation within twenty-one days of receiving the necessary documentation.

12 2. For the purposes of this section, "facility" shall mean a health
13 care provider entity or organization that is licensed or certified
14 pursuant to article five, twenty-eight, thirty-six, forty, forty-four,
15 or forty-seven of this chapter or article sixteen, nineteen, thirty-one,
16 thirty-two, or thirty-six of the mental hygiene law.

17 § 5. Subsection (g) of section 4905 of the insurance law, as added by
18 chapter 705 of the laws of 1996, is amended to read as follows:

19 (g) When making prospective, concurrent and retrospective determi-
20 nations, utilization review agents shall collect only such information
21 as is necessary to make such determination and shall not routinely
22 require health care providers to numerically code diagnoses or proce-
23 dures to be considered for certification or routinely request copies of
24 medical records of all patients reviewed. During prospective or concur-
25 rent review, copies of medical records shall only be required when
26 necessary to verify that the health care services subject to such review
27 are medically necessary. In such cases, only the necessary or relevant
28 sections of the medical record shall be required. A utilization review
29 agent may request copies of partial or complete medical records retros-
30 pectively. [~~This subsection shall not apply to health maintenance organ-~~
31 ~~izations licensed pursuant to article forty three of this chapter or~~
32 ~~certified pursuant to article forty four of the public health law.]~~

33 § 6. Subdivision 7 of section 4905 of the public health law, as added
34 by chapter 705 of the laws of 1996, is amended to read as follows:

35 7. When making prospective, concurrent and retrospective determi-
36 nations, utilization review agents shall collect only such information
37 as is necessary to make such determination and shall not routinely
38 require health care providers to numerically code diagnoses or proce-
39 dures to be considered for certification or routinely request copies of
40 medical records of all patients reviewed. During prospective or concur-
41 rent review, copies of medical records shall only be required when
42 necessary to verify that the health care services subject to such review
43 are medically necessary. In such cases, only the necessary or relevant
44 sections of the medical record shall be required. A utilization review
45 agent may request copies of partial or complete medical records retros-
46 pectively. [~~This subdivision shall not apply to health maintenance~~
47 ~~organizations licensed pursuant to article forty three of the insurance~~
48 ~~law or certified pursuant to article forty four of this chapter.]~~

49 § 7. This act shall take effect immediately; provided, however, that
50 sections one through four of this act shall apply to credentialing
51 applications received on or after the ninetieth day after this act shall
52 have become a law; and provided further, that sections five and six of
53 this act shall apply to health care services performed on or after the
54 ninetieth day after this act shall have become a law.

55 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
56 sion, section or subpart of this act shall be adjudged by any court of

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

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

11 PART BB

12 Section 1. Paragraph (b) of subdivision 3 of section 273 of the public
13 health law, as added by section 10 of part C of chapter 58 of the laws
14 of 2005, is amended to read as follows:

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

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

28 § 3. This act shall take effect June 1, 2022.

29 PART CC

30 Section 1. Paragraph (m) of subdivision 3 of section 461-1 of the
31 social services law, as added by section 2 of part B of chapter 57 of
32 the laws of 2018, is amended to read as follows:

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

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

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

1 § 2. Subdivision (f) of section 129 of part C of chapter 58 of the
2 laws of 2009, amending the public health law relating to payment by
3 governmental agencies for general hospital inpatient services, as
4 amended by section 6 of part E of chapter 57 of the laws of 2019, is
5 amended to read as follows:

6 (f) section twenty-five of this act shall expire and be deemed
7 repealed April 1, [~~2022~~] 2025;

8 § 3. Subdivision (c) of section 122 of part E of chapter 56 of the
9 laws of 2013 amending the public health law relating to the general
10 public health work program, as amended by section 7 of part E of chapter
11 57 of the laws of 2019, is amended to read as follows:

12 (c) section fifty of this act shall take effect immediately [~~and shall~~
13 ~~expire nine years after it becomes law~~];

14 § 4. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
15 the laws of 1996, amending the education law and other laws relating to
16 rates for residential healthcare facilities, as amended by section 22 of
17 part E of chapter 57 of the laws of 2019, is amended to read as follows:

18 (a) Notwithstanding any inconsistent provision of law or regulation to
19 the contrary, effective beginning August 1, 1996, for the period April
20 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
21 1998 through March 31, 1999, August 1, 1999, for the period April 1,
22 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
23 through March 31, 2001, April 1, 2001, for the period April 1, 2001
24 through March 31, 2002, April 1, 2002, for the period April 1, 2002
25 through March 31, 2003, and for the state fiscal year beginning April 1,
26 2005 through March 31, 2006, and for the state fiscal year beginning
27 April 1, 2006 through March 31, 2007, and for the state fiscal year
28 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
29 year beginning April 1, 2008 through March 31, 2009, and for the state
30 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
31 state fiscal year beginning April 1, 2010 through March 31, 2016, and
32 for the state fiscal year beginning April 1, 2016 through March 31,
33 2019, and for the state fiscal year beginning April 1, 2019 through
34 March 31, 2022, and for the state fiscal year beginning April 1, 2022
35 through March 31, 2025, the department of health is authorized to pay
36 public general hospitals, as defined in subdivision 10 of section 2801
37 of the public health law, operated by the state of New York or by the
38 state university of New York or by a county, which shall not include a
39 city with a population of over one million, of the state of New York,
40 and those public general hospitals located in the county of Westchester,
41 the county of Erie or the county of Nassau, additional payments for
42 inpatient hospital services as medical assistance payments pursuant to
43 title 11 of article 5 of the social services law for patients eligible
44 for federal financial participation under title XIX of the federal
45 social security act in medical assistance pursuant to the federal laws
46 and regulations governing disproportionate share payments to hospitals
47 up to one hundred percent of each such public general hospital's medical
48 assistance and uninsured patient losses after all other medical assist-
49 ance, including disproportionate share payments to such public general
50 hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on
51 reported 1994 reconciled data as further reconciled to actual reported
52 1996 reconciled data, and for 1997 based initially on reported 1995
53 reconciled data as further reconciled to actual reported 1997 reconciled
54 data, for 1998 based initially on reported 1995 reconciled data as
55 further reconciled to actual reported 1998 reconciled data, for 1999
56 based initially on reported 1995 reconciled data as further reconciled

1 to actual reported 1999 reconciled data, for 2000 based initially on
2 reported 1995 reconciled data as further reconciled to actual reported
3 2000 data, for 2001 based initially on reported 1995 reconciled data as
4 further reconciled to actual reported 2001 data, for 2002 based initial-
5 ly on reported 2000 reconciled data as further reconciled to actual
6 reported 2002 data, and for state fiscal years beginning on April 1,
7 2005, based initially on reported 2000 reconciled data as further recon-
8 ciled to actual reported data for 2005, and for state fiscal years
9 beginning on April 1, 2006, based initially on reported 2000 reconciled
10 data as further reconciled to actual reported data for 2006, for state
11 fiscal years beginning on and after April 1, 2007 through March 31,
12 2009, based initially on reported 2000 reconciled data as further recon-
13 ciled to actual reported data for 2007 and 2008, respectively, for state
14 fiscal years beginning on and after April 1, 2009, based initially on
15 reported 2007 reconciled data, adjusted for authorized Medicaid rate
16 changes applicable to the state fiscal year, and as further reconciled
17 to actual reported data for 2009, for state fiscal years beginning on
18 and after April 1, 2010, based initially on reported reconciled data
19 from the base year two years prior to the payment year, adjusted for
20 authorized Medicaid rate changes applicable to the state fiscal year,
21 and further reconciled to actual reported data from such payment year,
22 and to actual reported data for each respective succeeding year. The
23 payments may be added to rates of payment or made as aggregate payments
24 to an eligible public general hospital.

25 § 5. Section 5 of chapter 21 of the laws of 2011, amending the educa-
26 tion law relating to authorizing pharmacists to perform collaborative
27 drug therapy management with physicians in certain settings, as amended
28 by section 20 of part BB of chapter 56 of the laws of 2020, is amended
29 to read as follows:

30 § 5. This act shall take effect on the one hundred twentieth day after
31 it shall have become a law[~~, provided, however, that the provisions of~~
32 ~~sections two, three, and four of this act shall expire and be deemed~~
33 ~~repealed July 1, 2022, provided, however, that the amendments to subdi-~~
34 ~~vision 1 of section 6801 of the education law made by section one of~~
35 ~~this act shall be subject to the expiration and reversion of such subdi-~~
36 ~~vision pursuant to section 8 of chapter 563 of the laws of 2008, when~~
37 ~~upon such date the provisions of section one a of this act shall take~~
38 ~~effect, provided, further, that effective]. Effective immediately, the
39 addition, amendment and/or repeal of any rule or regulation necessary
40 for the implementation of this act on its effective date are authorized
41 and directed to be made and completed on or before such effective date.~~

42 § 6. Section 2 of part II of chapter 54 of the laws of 2016, amending
43 part C of chapter 58 of the laws of 2005 relating to authorizing
44 reimbursements for expenditures made by or on behalf of social services
45 districts for medical assistance for needy persons and administration
46 thereof, as amended by section 1 of item C of subpart H of part XXX of
47 chapter 58 of the laws of 2020, is amended to read as follows:

48 § 2. This act shall take effect immediately and shall expire and be
49 deemed repealed March 31, [~~2022~~] 2024.

50 § 7. Section 5 of part ZZ of chapter 56 of the laws of 2020 amending
51 the tax law and the social services law relating to certain Medicaid
52 management, is amended to read as follows:

53 § 5. This act shall take effect immediately [~~and shall be deemed~~
54 ~~repealed two years after such effective date~~].

1 § 8. Paragraph (c) of subdivision 6 of section 958 of the executive
2 law, as added by chapter 337 of the laws of 2018, is amended to read as
3 follows:

4 (c) prepare and issue a report on the working group's findings and
5 recommendations by May first, two thousand [~~nineteen~~] twenty-three to
6 the governor, the temporary president of the senate and the speaker of
7 the assembly.

8 § 9. Subdivision 2 of section 207-a of the public health law, as added
9 by chapter 364 of the laws of 2018, is amended to read as follows:

10 2. Such report shall be submitted to the temporary president of the
11 senate and the speaker of the assembly no later than October first, two
12 thousand [~~nineteen~~] twenty-two. The department and the commissioner of
13 mental health may engage stakeholders in the compilation of the report,
14 including but not limited to, medical research institutions, health care
15 practitioners, mental health providers, county and local government, and
16 advocates.

17 § 10. Sections 2 and 3 of chapter 74 of the laws of 2020 relating to
18 directing the department of health to convene a work group on rare
19 diseases, as amended by chapter 199 of the laws of 2021, are amended to
20 read as follows:

21 § 2. The department of health, in collaboration with the department of
22 financial services, shall convene a workgroup of individuals with exper-
23 tise in rare diseases, including physicians, nurses and other health
24 care professionals with experience researching, diagnosing or treating
25 rare diseases; members of the scientific community engaged in rare
26 disease research; representatives from the health insurance industry;
27 individuals who have a rare disease or caregivers of a person with a
28 rare disease; and representatives of rare disease patient organizations.
29 The workgroup's focus shall include, but not be limited to: identifying
30 best practices that could improve the awareness of rare diseases and
31 referral of people with potential rare diseases to specialists and eval-
32 uating barriers to treatment, including financial barriers on access to
33 care. The department of health shall prepare a written report summariz-
34 ing opinions and recommendations from the workgroup which includes a
35 list of existing, publicly accessible resources on research, diagnosis,
36 treatment, coverage options and education relating to rare diseases. The
37 workgroup shall convene no later than December twentieth, two thousand
38 twenty-one and this report shall be submitted to the governor, speaker
39 of the assembly and temporary president of the senate no later than
40 [~~three~~] four years following the effective date of this act and shall be
41 posted on the department of health's website.

42 § 3. This act shall take effect on the same date and in the same
43 manner as a chapter of the laws of 2019, amending the public health law
44 relating to establishing the rare disease advisory council, as proposed
45 in legislative bills numbers S. 4497 and A. 5762; provided, however,
46 that the provisions of section two of this act shall expire and be
47 deemed repealed [~~three~~] four years after such effective date.

48 § 11. Sections 5 and 6 of chapter 414 of the laws of 2018, creating
49 the radon task force, as amended by section 1 of item M of subpart B of
50 part XXX of chapter 58 of the laws of 2020, are amended to read as
51 follows:

52 § 5. A report of the findings and recommendations of the task force
53 and any proposed legislation necessary to implement such findings shall
54 be filed with the governor, the temporary president of the senate, the
55 speaker of the assembly, the minority leader of the senate, and the

1 minority leader of the assembly on or before November first, two thou-
2 sand [~~twenty-one~~] ~~twenty-two~~.

3 § 6. This act shall take effect immediately and shall expire and be
4 deemed repealed December 31, [~~2021~~] ~~2022~~.

5 § 12. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2022; provided,
7 however, that the amendments to section 2 of chapter 74 of the laws of
8 2020 made by section ten of this section and the amendments to section 5
9 of chapter 414 of the laws of 2018 made by section eleven of this act,
10 shall not affect the expiration of such section and be deemed to expire
11 therewith.

12

PART DD

13 Section 1. 1. Subject to available appropriations and approval of the
14 director of the budget, the commissioners of the office of mental
15 health, office for people with developmental disabilities, office of
16 addiction services and supports, office of temporary and disability
17 assistance, office of children and family services, and the state office
18 for the aging shall establish a state fiscal year 2022-23 cost of living
19 adjustment (COLA), effective April 1, 2022, for projecting for the
20 effects of inflation upon rates of payments, contracts, or any other
21 form of reimbursement for the programs and services listed in paragraphs
22 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this
23 section. The COLA established herein shall be applied to the appropri-
24 ate portion of reimbursable costs or contract amounts. Where appropri-
25 ate, transfers to the department of health (DOH) shall be made as
26 reimbursement for the state share of medical assistance.

27 2. Notwithstanding any inconsistent provision of law, subject to the
28 approval of the director of the budget and available appropriations
29 therefore, for the period of April 1, 2022 through March 31, 2023, the
30 commissioners shall provide funding to support a five and four-tenths
31 percent (5.4%) cost of living adjustment under this section for all
32 eligible programs and services as determined pursuant to subdivision
33 four of this section.

34 3. Notwithstanding any inconsistent provision of law, and as approved
35 by the director of the budget, the 5.4 percent cost of living adjustment
36 (COLA) established herein shall be inclusive of all other cost of living
37 type increases, inflation factors, or trend factors that are newly
38 applied effective April 1, 2022. Except for the 5.4 percent cost of
39 living adjustment (COLA) established herein, for the period commencing
40 on April 1, 2022 and ending March 31, 2023 the commissioners shall not
41 apply any other new cost of living adjustments for the purpose of estab-
42 lishing rates of payments, contracts or any other form of reimbursement.
43 The phrase "all other cost of living type increases, inflation factors,
44 or trend factors" as defined in this subdivision shall not include
45 payments made pursuant to the American Rescue Plan Act or other federal
46 relief programs related to the Coronavirus Disease 2019 (COVID-19)
47 pandemic Public Health Emergency.

48 4. Eligible programs and services. (i) Programs and services funded,
49 licensed, or certified by the office of mental health (OMH) eligible for
50 the cost of living adjustment established herein, pending federal
51 approval where applicable, include: office of mental health licensed
52 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
53 the office of mental health regulations including clinic, continuing day
54 treatment, day treatment, intensive outpatient programs and partial

1 hospitalization; outreach; crisis residence; crisis stabilization,
2 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
3 emergency program services; crisis intervention; home based crisis
4 intervention; family care; supported single room occupancy; supported
5 housing; supported housing community services; treatment congregate;
6 supported congregate; community residence - children and youth;
7 treatment/apartment; supported apartment; community residence single
8 room occupancy; on-site rehabilitation; employment programs; recreation;
9 respite care; transportation; psychosocial club; assertive community
10 treatment; case management; care coordination, including health home
11 plus services; local government unit administration; monitoring and
12 evaluation; children and youth vocational services; single point of
13 access; school-based mental health program; family support children and
14 youth; advocacy/support services; drop in centers; recovery centers;
15 transition management services; bridger; home and community based waiver
16 services; behavioral health waiver services authorized pursuant to the
17 section 1115 MRT waiver; self-help programs; consumer service dollars;
18 conference of local mental hygiene directors; multicultural initiative;
19 ongoing integrated supported employment services; supported education;
20 mentally ill/chemical abuse (MICA) network; personalized recovery
21 oriented services; children and family treatment and support services;
22 residential treatment facilities operating pursuant to part 584 of title
23 14-NYCRR; geriatric demonstration programs; community-based mental
24 health family treatment and support; coordinated children's service
25 initiative; homeless services; and promises zone.

26 (ii) Programs and services funded, licensed, or certified by the
27 office for people with developmental disabilities (OPWDD) eligible for
28 the cost of living adjustment established herein, pending federal
29 approval where applicable, include: local/unified services; chapter 620
30 services; voluntary operated community residential services; article 16
31 clinics; day treatment services; family support services; 100% day
32 training; epilepsy services; traumatic brain injury services; hepatitis
33 B services; independent practitioner services for individuals with
34 intellectual and/or developmental disabilities; crisis services for
35 individuals with intellectual and/or developmental disabilities; family
36 care residential habilitation; supervised residential habilitation;
37 supportive residential habilitation; respite; day habilitation; prevoca-
38 tional services; supported employment; community habilitation; interme-
39 diate care facility day and residential services; specialty hospital;
40 pathways to employment; intensive behavioral services; basic home and
41 community based services (HCBS) plan support; health home services
42 provided by care coordination organizations; community transition
43 services; family education and training; fiscal intermediary; support
44 broker; and personal resource accounts.

45 (iii) Programs and services funded, licensed, or certified by the
46 office of addiction services and supports (OASAS) eligible for the cost
47 of living adjustment established herein, pending federal approval where
48 applicable, include: medically supervised withdrawal services - residen-
49 tial; medically supervised withdrawal services - outpatient; medically
50 managed detoxification; medically monitored withdrawal; inpatient reha-
51 bilitation services; outpatient opioid treatment; residential opioid
52 treatment; KEEP units outpatient; residential opioid treatment to absti-
53 nence; problem gambling treatment; medically supervised outpatient;
54 outpatient rehabilitation; specialized services substance abuse
55 programs; home and community based waiver services pursuant to subdivi-
56 sion 9 of section 366 of the social services law; children and family

1 treatment and support services; continuum of care rental assistance case
2 management; NY/NY III post-treatment housing; NY/NY III housing for
3 persons at risk for homelessness; permanent supported housing; youth
4 clubhouse; recovery community centers; recovery community organizing
5 initiative; residential rehabilitation services for youth (RRSY); inten-
6 sive residential; community residential; supportive living; residential
7 services; job placement initiative; case management; family support
8 navigator; local government unit administration; peer engagement; voca-
9 tional rehabilitation; support services; HIV early intervention
10 services; dual diagnosis coordinator; problem gambling resource centers;
11 problem gambling prevention; prevention resource centers; primary
12 prevention services; other prevention services; and community services.

13 (iv) Programs and services funded, licensed, or certified by the
14 office of temporary and disability assistance (OTDA) eligible for the
15 cost of living adjustment established herein, pending federal approval
16 where applicable, include: nutrition outreach and education program
17 (NOEP).

18 (v) Programs and services funded, licensed, or certified by the office
19 of children and family services (OCFS) eligible for the cost of living
20 adjustment established herein, pending federal approval where applica-
21 ble, include: programs for which the office of children and family
22 services establishes maximum state aid rates pursuant to section 398-a
23 of the social services law and section 4003 of the education law; emer-
24 gency foster homes; foster family boarding homes and therapeutic foster
25 homes as defined by the regulations of the office of children and family
26 services; supervised settings as defined by subdivision twenty-two of
27 section 371 of the social services law; adoptive parents receiving
28 adoption subsidy pursuant to section 453 of the social services law; and
29 congregate and scattered supportive housing programs and supportive
30 services provided under the NY/NY III supportive housing agreement to
31 young adults leaving or having recently left foster care.

32 (vi) Programs and services funded, licensed, or certified by the state
33 office for the aging (SOFA) eligible for the cost of living adjustment
34 established herein, pending federal approval where applicable, include:
35 community services for the elderly; expanded in-home services for the
36 elderly; and supplemental nutrition assistance program.

37 5. Each local government unit or direct contract provider receiving
38 funding for the cost of living adjustment established herein shall
39 submit a written certification, in such form and at such time as each
40 commissioner shall prescribe, attesting how such funding will be or was
41 used to first promote the recruitment and retention of non-executive
42 direct care staff, non-executive direct support professionals, non-exe-
43 cutive clinical staff, or respond to other critical non-personal service
44 costs prior to supporting any salary increases or other compensation for
45 executive level job titles.

46 6. Notwithstanding any inconsistent provision of law to the contrary,
47 agency commissioners shall be authorized to recoup funding from a local
48 governmental unit or direct contract provider for the cost of living
49 adjustment established herein determined to have been used in a manner
50 inconsistent with the appropriation, or any other provision of this
51 section. Such agency commissioners shall be authorized to employ any
52 legal mechanism to recoup such funds, including an offset of other funds
53 that are owed to such local governmental unit or direct contract provid-
54 er.

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 EE

2 Section 1. Short title. This act shall be known and may be cited as
3 the "9-8-8 suicide prevention and behavioral health crisis hotline act".

4 § 2. The mental hygiene law is amended by adding a new section 36.03
5 to read as follows:

6 § 36.03 9-8-8 suicide prevention and behavioral health crisis hotline
7 system.

8 (a) Definitions. When used in this article, the following words and
9 phrases shall have the following meanings unless the specific context
10 clearly indicates otherwise:

11 (1) "9-8-8" means the three digit phone number designated by the
12 federal communications commission for the purpose of connecting individ-
13 uals experiencing a behavioral health crisis with suicide prevention and
14 behavioral health crisis counselors, mobile crisis teams, and crisis
15 stabilization services and other behavioral health crises services
16 through the national suicide prevention lifeline.

17 (2) "9-8-8 crisis hotline center" means a state-identified and funded
18 center participating in the National Suicide Prevention Lifeline Network
19 to respond to statewide or regional 9-8-8 calls.

20 (3) "Crisis stabilization centers" means facilities providing short-
21 term observation and crisis stabilization services jointly licensed by
22 the office of mental health and the office of addiction services and
23 supports under section 36.01 of this article.

24 (4) "Crisis residential services" means a short-term residential
25 program designed to provide residential and support services to persons
26 with symptoms of mental illness who are at risk of or experiencing a
27 psychiatric crisis.

28 (5) "Crisis intervention services" means the continuum to address
29 crisis intervention, crisis stabilization, and crisis residential treat-
30 ment needs that are wellness, resiliency, and recovery oriented. Crisis
31 intervention services include but not limited to: crisis stabilization
32 centers, mobile crisis teams, and crisis residential services.

33 (6) "Mobile crisis teams" means a team licensed, certified, or author-
34 ized by the office of mental health and the office of addiction services
35 and supports to provide community-based mental health or substance use
36 disorder interventions for individuals who are experiencing a mental
37 health or substance use disorder crisis.

38 (7) "National suicide prevention lifeline" or "NSPL" means the
39 national network of local crisis centers that provide free and confiden-
40 tial emotional support to people in suicidal crisis or emotional
41 distress twenty-four hours a day, seven days a week via a toll-free
42 hotline number, which receives calls made through the 9-8-8 system. The
43 toll-free number is maintained by the Assistant Secretary for Mental
44 Health and Substance Use under Section 50-E-3 of the Public Health
45 Service Act, Section 290bb-36c of Title 42 of the United States Code.

46 (b) The commissioner of the office of mental health, in conjunction
47 with the commissioner of the office of addiction services and supports,
48 shall have joint oversight of the 9-8-8 suicide prevention and behav-
49 ioral health crisis hotline and shall work in concert with NSPL for the
50 purposes of ensuring consistency of public messaging.

51 (c) The commissioner of the office of mental health, in conjunction
52 with the commissioner of the office of addiction services and supports,
53 shall, on or before July sixteenth, two thousand twenty-two, designate a
54 crisis hotline center or centers to provide or arrange for crisis inter-
55 vention services to individuals accessing the 9-8-8 suicide prevention

1 and behavioral health crisis hotline from anywhere within the state
2 twenty-four hours a day, seven days a week. Each 9-8-8 crisis hotline
3 center shall do all of the following:

4 (1) A designated hotline center shall have an active agreement with
5 the administrator of the National Suicide Prevention Lifeline for
6 participation within the network.

7 (2) A designated hotline center shall meet NSPL requirements and best
8 practices guidelines for operation and clinical standards.

9 (3) A designated hotline center may utilize technology, including but
10 not limited to, chat and text that is interoperable between and across
11 the 9-8-8 suicide prevention and behavioral health crisis hotline system
12 and the administrator of the National Suicide Prevention Lifeline.

13 (4) A designated hotline center shall accept transfers of any call
14 from 9-1-1 pertaining to a behavioral health crisis.

15 (5) A designated hotline center shall ensure coordination between the
16 9-8-8 crisis hotline centers, 9-1-1, behavioral health crisis services,
17 and, when appropriate, other specialty behavioral health warm lines and
18 hotlines and other emergency services. If a law enforcement, medical,
19 or fire response is also needed, 9-8-8 and 9-1-1 operators shall coordi-
20 nate the simultaneous deployment of those services with mobile crisis
21 services.

22 (6) A designated hotline center shall have the authority to deploy
23 crisis intervention services, including but not limited to mobile crisis
24 teams, and coordinate access to crisis stabilization centers, and other
25 mental health crisis services, as appropriate, and according to guide-
26 lines and best practices established by New York State and the NSPL.

27 (7) A designated hotline center shall meet the requirements set forth
28 by New York State and the NSPL for serving high risk and specialized
29 populations including but not limited to: Black, African American,
30 Hispanic, Latino, Asian, Pacific Islander, Native American, Alaskan
31 Native; lesbian, gay, bisexual, transgender, nonbinary, queer, and ques-
32 tioning individuals; individuals with intellectual and developmental
33 disabilities; individuals experiencing homelessness or housing instabil-
34 ity; immigrants and refugees; children and youth; older adults; and
35 religious communities as identified by the federal Substance Abuse and
36 Mental Health Services Administration, including training requirements
37 and policies for providing linguistically and culturally competent care.

38 (8) A designated hotline center shall provide follow-up services as
39 needed to individuals accessing the 9-8-8 suicide prevention and behav-
40 ioral health crisis hotline consistent with guidance and policies estab-
41 lished by New York State and the NSPL.

42 (9) A designated hotline center shall provide data, and reports, and
43 participate in evaluations and quality improvement activities as
44 required by the office of mental health and the office of addiction
45 services and supports.

46 (d) The commissioner of the office of mental health, in conjunction
47 with the commissioner of the office of addiction services and supports,
48 shall establish a comprehensive list of reporting metrics regarding the
49 9-8-8 suicide prevention and behavioral health crisis hotline's usage,
50 services and impact which shall include, at a minimum:

51 (1) The volume of requests for assistance that the 9-8-8 suicide
52 prevention and behavioral health crisis hotline received;

53 (2) The average length of time taken to respond to each request for
54 assistance, and the aggregate rates of call abandonment;

55 (3) The types of requests for assistance that the 9-8-8 suicide
56 prevention and behavioral health crisis hotline received; and

1 (4) The number of mobile crisis teams dispatched.

2 (e) The commissioner of the office of mental health, in conjunction
 3 with the commissioner of the office of addiction services and supports,
 4 shall submit an annual report on or by December thirty-first, two thou-
 5 sand twenty-three and annually thereafter, regarding the comprehensive
 6 list of reporting metrics to the governor, the temporary president of
 7 the senate, the speaker of the assembly, the minority leader of the
 8 senate and the minority leader of the assembly.

9 (f) Moneys allocated for the payment of costs determined in consulta-
 10 tion with the commissioners of mental health and the office of addiction
 11 services and supports associated with the administration, design,
 12 installation, construction, operation, or maintenance of a 9-8-8 suicide
 13 prevention and behavioral health crisis hotline system serving the
 14 state, including, but not limited to: staffing, hardware, software,
 15 consultants, financing and other administrative costs to operate crisis
 16 call-centers throughout the state and the provision of acute and crisis
 17 services for mental health and substance use disorder by directly
 18 responding to the 9-8-8 hotline established pursuant to the National
 19 Suicide Hotline Designation Act of 2020 (47 U.S.C. § 251a) and rules
 20 adopted by the Federal Communications Commission, including such costs
 21 incurred by the state, shall not supplant any separate existing, future
 22 appropriations, or future funding sources dedicated to the 9-8-8 crisis
 23 response system.

24 § 3. This act shall take effect immediately.

25 PART FF

26 Section 1. Subdivision 5 of section 365-m of the social services law,
 27 as added by section 11 of part C of chapter 60 of the laws of 2014, is
 28 amended to read as follows:

29 Pursuant to appropriations within the offices of mental health or
 30 addiction services and supports, the department of health shall reinvest
 31 [~~funds allocated for behavioral health services, which are general fund~~
 32 ~~savings directly related to~~] savings realized through the transition of
 33 populations covered by this section from the applicable Medicaid fee-
 34 for-service system to a managed care model, including savings [~~resulting~~
 35 ~~from the reduction of inpatient and outpatient behavioral health~~
 36 ~~services provided under the Medicaid programs licensed or certified~~
 37 ~~pursuant to article thirty-one or thirty-two of the mental hygiene law,~~
 38 ~~or programs that are licensed pursuant to both article thirty-one of the~~
 39 ~~mental hygiene law and article twenty-eight of the public health law, or~~
 40 ~~certified under both article thirty-two of the mental hygiene law and~~
 41 ~~article twenty-eight of the public health law] realized through the
 42 recovery of premiums from managed care providers which represent a
 43 reduction of spending on qualifying behavioral health services against
 44 established premium targets for behavioral health services and the
 45 medical loss ratio applicable to special needs managed care plans, for
 46 the purpose of increasing investment in community based behavioral
 47 health services, including residential services certified by the office
 48 of [~~alcoholism and substance abuse~~] addiction services and supports.
 49 The methodologies used to calculate the savings shall be developed by
 50 the commissioner of health and the director of the budget in consulta-
 51 tion with the commissioners of the office of mental health and the
 52 office of [~~alcoholism and substance abuse~~] addiction services and
 53 supports. In no event shall the full annual value of the [~~community~~
 54 ~~based behavioral health service~~] reinvestment [~~savings attributable to~~~~

1 ~~the transition to managed care~~ pursuant to this subdivision exceed the
2 ~~[twelve month value of the department of health general fund reductions~~
3 ~~resulting from such transition]~~ value of the premiums recovered from
4 managed care providers which represent a reduction of spending on quali-
5 fying behavioral health services. Within any fiscal year where appropri-
6 ation increases are recommended for reinvestment, insofar as managed
7 care transition savings do not occur as estimated, ~~[and general fund~~
8 ~~savings do not result,~~] then spending for such reinvestment may be
9 reduced in the next year's annual budget itemization. ~~[The commissioner~~
10 ~~of health shall promulgate regulations, and prior to October first, two~~
11 ~~thousand fifteen, may promulgate emergency regulations as required to~~
12 ~~distribute funds pursuant to this subdivision; provided, however, that~~
13 ~~any emergency regulations promulgated pursuant to this section shall~~
14 ~~expire no later than December thirty-first, two thousand fifteen.]~~ The
15 commissioner shall include ~~[detailed descriptions of the methodology~~
16 ~~used to calculate savings]~~ information regarding the funds available for
17 reinvestment~~[, the results of applying such methodologies, the details~~
18 ~~regarding implementation of such reinvestment]~~ pursuant to this
19 section~~[, and any regulations promulgated under this subdivision,]~~ in
20 the annual report required under section forty-five-c of part A of chap-
21 ter fifty-six of the laws of two thousand thirteen.

22 § 2. This act shall take effect immediately.

23 PART GG

24 Section 1. Section 7 of part H of chapter 57 of the laws of 2019,
25 amending the public health law relating to waiver of certain regu-
26 lations, as amended by section 7 of part S of chapter 57 of the laws of
27 2021, is amended to read as follows:

28 § 7. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after April 1, 2019, provided,
30 however, that section two of this act shall expire on April 1, ~~2022~~
31 2025.

32 § 2. 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 HH

35 Section 1. Section 3309 of the public health law is amended by adding
36 a new subdivision 8 to read as follows:

37 8. Any pharmacy registered by the New York state department of educa-
38 tion and the federal Drug Enforcement Administration (DEA) or its
39 successor agency that maintains a stock of and directly dispenses
40 controlled substance medications pursuant to prescriptions for humans in
41 the state of New York, shall maintain a minimum stock of a thirty day
42 supply of both an opioid antagonist medication and separately an opioid
43 partial agonist medication for the treatment of an opioid use disorder,
44 to the extent permitted pursuant to federal wholesaler threshold limits.
45 For purposes of this subdivision, a thirty day supply of opioid partial
46 agonist medication shall mean any combination of dosages sufficient to
47 fill a prescription of sixteen milligrams per day for a period of thirty
48 days. Where the food and drug administration has defined and approved
49 one or more therapeutic and pharmaceutical equivalents of these medica-
50 tions a pharmacy is not required to maintain a stock of all such
51 versions, so long as at least one version of an opioid antagonist and
52 one version of an opioid partial agonist medication for the treatment of

1 an opioid use disorder is available to dispense. Where federal and
2 state laws and regulations permit dispensing of opioid full agonist
3 medication for the treatment of an opioid use disorder, such pharmacy
4 may also maintain a stock of opioid full agonist medication consistent
5 with this subdivision.

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

8

PART II

9 Section 1. Paragraph 38 of section 1.03 of the mental hygiene law, as
10 amended by chapter 281 of the laws of 2019, is amended to read as
11 follows:

12 38. "Residential services facility" or "~~Alcoholism community~~ Commu-
13 nity residence for addiction" means any facility licensed or operated
14 pursuant to article thirty-two of this chapter which provides residen-
15 tial services for the treatment of an addiction disorder and a homelike
16 environment, including room, board and responsible supervision as part
17 of an overall service delivery system.

18 § 2. Paragraph 1 of subdivision (a) of section 32.05 of the mental
19 hygiene law, as added by chapter 558 of the laws of 1999, is amended to
20 read as follows:

21 1. operation of a residential program, including a community residence
22 for the care, custody, or treatment of persons suffering from [~~chemical~~
23 ~~abuse or dependence~~] an addictive disorder; provided, however, that
24 giving domestic care and comfort to a person in the home shall not
25 constitute such an operation; provided further that the certification of
26 a recovery residence, developed and administered by the commissioner
27 directly or pursuant to a contract with a designated entity, shall have
28 the following structure and meaning for purposes of this section:

29 (i)(A) "Recovery residence" means a shared living environment free
30 from alcohol and illicit drug use which utilizes peer supports and
31 connection to services to promote sustained recovery from substance use
32 disorder.

33 (B) "Certified recovery residence" means a recovery residence which
34 complies with standards for the operation of a certified recovery resi-
35 dence which are issued by the office.

36 (ii) The commissioner shall regulate and assure the consistent high
37 quality of certified recovery residences for individuals in recovery
38 from a substance use disorder. The commissioner, directly or pursuant to
39 contract with a designated entity, shall implement standards for the
40 operation of a certified recovery residence, a voluntary certification
41 process, and conduct ongoing monitoring of recovery residences.

42 (iii) The commissioner shall maintain on the office website a list of
43 certified recovery residences.

44 § 3. Section 41.52 of the mental hygiene law, as amended by chapter
45 223 of the laws of 1992, is amended to read as follows:

46 § 41.52 Community residential services for [~~alcoholism~~] addiction.

47 (a) The commissioner of [~~alcoholism and substance abuse services~~]
48 addiction services and supports is authorized, within appropriations
49 made therefor, to establish a continuum of community residential
50 services for [~~alcoholism~~] addictive disorder services.

51 (b) The commissioner shall establish standards for the operation and
52 funding of community residential services, including but not limited to:

53 (1) criteria for admission to and continued residence in each type of
54 community residence;

1 (2) periodic evaluation of services provided by community residences;
 2 (3) staffing patterns for each type of community residence; and
 3 (4) guidelines for determining state aid to community residences, as
 4 described in [~~subdivision (c) of this section~~] article twenty-five of
 5 this chapter.

6 (c) Within amounts available therefor and subject to regulations
 7 established by the commissioner and notwithstanding any other provisions
 8 of this article, the commissioner may provide state aid to local govern-
 9 ments and to voluntary agencies in an amount up to one hundred percent
 10 of net operating costs of community residences for alcoholism services.
 11 The commissioner shall establish guidelines for determining the amount
 12 of state aid provided pursuant to this section. The guidelines shall be
 13 designed to enable the effective and efficient operation of such resi-
 14 dences and shall include, but need not be limited to, standards for
 15 determining anticipated revenue, for retention and use of income exceed-
 16 ing the anticipated amount and for determining reasonable levels of
 17 uncollectible income. Such state aid to voluntary agencies shall not be
 18 granted unless the proposed community residence is consistent with the
 19 relevant local services plan adopted pursuant to section 41.18 of this
 20 article.

21 § 4. This act shall take effect immediately.

22 PART JJ

23 Section 1. The section heading and subdivisions (a) and (d) of section
 24 19.25 of the mental hygiene law, as added by chapter 223 of the laws of
 25 1992, are amended to read as follows:

26 [~~Alcohol~~] Substance use awareness program.

27 (a) The office shall establish [~~an alcohol~~] a substance use awareness
 28 program within the office which shall focus upon, but not be limited to,
 29 the health effects and social costs of [~~alcoholism and alcohol abuse~~]
 30 alcohol and cannabis use.

31 (d) A certificate of completion shall be sent to the court by the
 32 [~~office~~] program upon completion of the program by all participants.

33 § 2. This act shall take effect immediately.

34 PART KK

35 Section 1. Section 9 of section 1 of chapter 359 of the laws of 1968,
 36 constituting the facilities development corporation act is amended by
 37 adding a new subdivision 7 to read as follows:

38 7. Expedited process for mental hygiene facilities dedicated for the
 39 treatment of addiction. To more swiftly combat addiction issues and
 40 consistent with the policies of the state of New York as expressed in
 41 section 19.01 of the mental hygiene law, the provisions of this subdi-
 42 vision shall apply to mental hygiene facilities created, or to be
 43 created, to offer treatment programs, rehabilitation services, and
 44 related and attendant services, for addiction that are licensed, certi-
 45 fied or otherwise authorized by the office of addiction services and
 46 supports.

47 a. Notwithstanding any other provision of law, the corporation shall
 48 have the authority to:

49 (i) acquire by lease, purchase, condemnation, gift or otherwise any
 50 real property it deems necessary or convenient for use as a mental
 51 hygiene facility dedicated to providing addiction programs, rehabili-
 52 tation services, and related and attendant services; and such lease,

1 purchase or acquisition shall be in the name of the state, acting by and
2 through the corporation or the dormitory authority, and on behalf of the
3 office of addiction services and supports; and

4 (ii) design, construct, reconstruct, rehabilitate and improve such
5 mental hygiene facilities on behalf of the office of addiction services
6 and supports, or cause such facilities to be designed, constructed,
7 reconstructed, rehabilitated and improved; and

8 (iii) in connection with such design, construction, reconstruction,
9 rehabilitation and improvement, to install or cause to be installed
10 water, sewer, gas, electrical, telephone, heating, air conditioning and
11 other utility services, including appropriate connections; and

12 (iv) make such mental hygiene facility available under lease,
13 sublease, license or permit to a voluntary agency upon such terms and
14 conditions as determined by the office of addiction services and
15 supports; or, notwithstanding the provisions of the public lands law or
16 any other general or special law to the contrary, to convey the right,
17 title and interest of the people of the state of New York in and to such
18 facility and the land appurtenant thereto to such voluntary agency to
19 operate as a mental hygiene facility upon such terms and conditions and
20 for such consideration, if any, as shall be provided in an agreement
21 among the office of addiction services and supports, the corporation and
22 such voluntary agency subject to the attorney general passing upon the
23 form and sufficiency of any deed of conveyance and any lease of real
24 property authorized to be given under this subdivision, which shall only
25 be effective once the deed, lease, sublease or agreement shall have been
26 so approved. Notwithstanding sections one hundred twelve and one
27 hundred sixty-three of the state finance law and section one hundred
28 forty-two of the economic development law, or any other inconsistent
29 provision of law, such voluntary agency may be selected by the office of
30 addiction services and supports, without a competitive bid or request
31 for proposal process.

32 b. All contracts which are to be awarded pursuant to this subdivision
33 shall be publicly advertised pursuant to article four-C of the economic
34 development law.

35 § 2. This act shall take effect immediately.

36 PART LL

37 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
38 amending the public health law and other laws relating to general hospi-
39 tal reimbursement for annual rates, as amended by section 18 of part E
40 of chapter 57 of the laws of 2019, is amended to read as follows:

41 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
42 sioners of the office of [~~alcoholism and substance abuse~~] addiction
43 services and supports and the office of mental health are authorized,
44 subject to the approval of the director of the budget, to transfer to
45 the commissioner of health state funds to be utilized as the state share
46 for the purpose of increasing payments under the medicaid program to
47 managed care organizations licensed under article 44 of the public
48 health law or under article 43 of the insurance law. Such managed care
49 organizations shall utilize such funds for the purpose of reimbursing
50 providers licensed pursuant to article 28 of the public health law or
51 article 36, 31 or 32 of the mental hygiene law for ambulatory behavioral
52 health services, as determined by the commissioner of health, in consul-
53 tation with the commissioner of [~~alcoholism and substance abuse~~]
54 addiction services and supports and the commissioner of the office of

1 mental health, provided to medicaid enrolled outpatients and for all
2 other behavioral health services except inpatient included in New York
3 state's Medicaid redesign waiver approved by the centers for medicare
4 and Medicaid services (CMS). Such reimbursement shall be in the form of
5 fees for such services which are equivalent to the payments established
6 for such services under the ambulatory patient group (APG) rate-setting
7 methodology as utilized by the department of health, the office of
8 [~~alcoholism and substance abuse~~] addiction services and supports, or the
9 office of mental health for rate-setting purposes or any such other fees
10 pursuant to the Medicaid state plan or otherwise approved by CMS in the
11 Medicaid redesign waiver; provided, however, that the increase to such
12 fees that shall result from the provisions of this section shall not, in
13 the aggregate and as determined by the commissioner of health, in
14 consultation with the commissioner of [~~alcoholism and substance abuse~~]
15 addiction services and supports and the commissioner of the office of
16 mental health, be greater than the increased funds made available pursu-
17 ant to this section. The increase of such ambulatory behavioral health
18 fees to providers available under this section shall be for all rate
19 periods on and after the effective date of section [~~1~~] 18 of part [~~P~~] E
20 of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027
21 for patients in the city of New York, for all rate periods on and after
22 the effective date of section [~~1~~] 18 of part [~~P~~] E of chapter 57 of the
23 laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside
24 the city of New York, and for all rate periods on and after the effec-
25 tive date of such chapter through March 31, [~~2023~~] 2027 for all services
26 provided to persons under the age of twenty-one; provided, however, the
27 commissioner of health, in consultation with the commissioner of [~~aleo-~~
28 ~~holism and substance abuse~~] addiction services and supports and the
29 commissioner of mental health, may require, as a condition of approval
30 of such ambulatory behavioral health fees, that aggregate managed care
31 expenditures to eligible providers meet the alternative payment method-
32 ology requirements as set forth in attachment I of the New York state
33 medicaid section one thousand one hundred fifteen medicaid redesign team
34 waiver as approved by the centers for medicare and medicaid services.
35 The commissioner of health shall, in consultation with the commissioner
36 of [~~alcoholism and substance abuse~~] addiction services and supports and
37 the commissioner of mental health, waive such conditions if a sufficient
38 number of providers, as determined by the commissioner, suffer a finan-
39 cial hardship as a consequence of such alternative payment methodology
40 requirements, or if he or she shall determine that such alternative
41 payment methodologies significantly threaten individuals access to ambu-
42 latory behavioral health services. Such waiver may be applied on a
43 provider specific or industry wide basis. Further, such conditions may
44 be waived, as the commissioner determines necessary, to comply with
45 federal rules or regulations governing these payment methodologies.
46 Nothing in this section shall prohibit managed care organizations and
47 providers from negotiating different rates and methods of payment during
48 such periods described above, subject to the approval of the department
49 of health. The department of health shall consult with the office of
50 [~~alcoholism and substance abuse~~] addiction services and supports and the
51 office of mental health in determining whether such alternative rates
52 shall be approved. The commissioner of health may, in consultation with
53 the commissioner of [~~alcoholism and substance abuse~~] addiction services
54 and supports and the commissioner of the office of mental health,
55 promulgate regulations, including emergency regulations promulgated
56 prior to October 1, 2015 to establish rates for ambulatory behavioral

1 health services, as are necessary to implement the provisions of this
2 section. Rates promulgated under this section shall be included in the
3 report required under section 45-c of part A of this chapter.

4 2. Notwithstanding any contrary provision of law, the fees paid by
5 managed care organizations licensed under article 44 of the public
6 health law or under article 43 of the insurance law, to providers
7 licensed pursuant to article 28 of the public health law or article 36,
8 31 or 32 of the mental hygiene law, for ambulatory behavioral health
9 services provided to patients enrolled in the child health insurance
10 program pursuant to title 1-A of article 25 of the public health law,
11 shall be in the form of fees for such services which are equivalent to
12 the payments established for such services under the ambulatory patient
13 group (APG) rate-setting methodology or any such other fees established
14 pursuant to the Medicaid state plan. The commissioner of health shall
15 consult with the commissioner of [~~alcoholism and substance abuse~~]
16 addiction services and supports and the commissioner of the office of
17 mental health in determining such services and establishing such fees.
18 Such ambulatory behavioral health fees to providers available under this
19 section shall be for all rate periods on and after the effective date of
20 this chapter through March 31, [~~2023~~] 2027, provided, however, that
21 managed care organizations and providers may negotiate different rates
22 and methods of payment during such periods described above, subject to
23 the approval of the department of health. The department of health
24 shall consult with the office of [~~alcoholism and substance abuse~~]
25 addiction services and supports and the office of mental health in
26 determining whether such alternative rates shall be approved. The
27 report required under section 16-a of part C of chapter 60 of the laws
28 of 2014 shall also include the population of patients enrolled in the
29 child health insurance program pursuant to title 1-A of article 25 of
30 the public health law in its examination on the transition of behavioral
31 health services into managed care.

32 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
33 to increasing Medicaid payments to providers through managed care organ-
34 izations and providing equivalent fees through an ambulatory patient
35 group methodology, as amended by section 19 of part E of chapter 57 of
36 the laws of 2019, is amended to read as follows:

37 Section 1. a. Notwithstanding any contrary provision of law, the
38 commissioners of mental health and [~~alcoholism and substance abuse~~]
39 addiction services and supports are authorized, subject to the approval
40 of the director of the budget, to transfer to the commissioner of health
41 state funds to be utilized as the state share for the purpose of
42 increasing payments under the Medicaid program to managed care organiza-
43 tions licensed under article 44 of the public health law or under arti-
44 cle 43 of the insurance law. Such managed care organizations shall
45 utilize such funds for the purpose of reimbursing providers licensed
46 pursuant to article 28 of the public health law, or pursuant to article
47 36, 31 or article 32 of the mental hygiene law for ambulatory behavioral
48 health services, as determined by the commissioner of health in consul-
49 tation with the commissioner of mental health and commissioner of [~~aleo-~~
50 ~~holism and substance abuse~~] addiction services and supports, provided to
51 Medicaid enrolled outpatients and for all other behavioral health
52 services except inpatient included in New York state's Medicaid redesign
53 waiver approved by the centers for Medicare and Medicaid services (CMS).
54 Such reimbursement shall be in the form of fees for such services which
55 are equivalent to the payments established for such services under the
56 ambulatory patient group (APG) rate-setting methodology as utilized by

1 the department of health or by the office of mental health or office of
2 [~~alcoholism and substance abuse~~] addiction services and supports for
3 rate-setting purposes or any such other fees pursuant to the Medicaid
4 state plan or otherwise approved by CMS in the Medicaid redesign waiver;
5 provided, however, that the increase to such fees that shall result from
6 the provisions of this section shall not, in the aggregate and as deter-
7 mined by the commissioner of health in consultation with the commis-
8 sioners of mental health and [~~alcoholism and substance abuse~~] addiction
9 services and supports, be greater than the increased funds made avail-
10 able pursuant to this section. The increase of such behavioral health
11 fees to providers available under this section shall be for all rate
12 periods on and after the effective date of section [~~2~~] 19 of part [~~P~~] E
13 of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027
14 for patients in the city of New York, for all rate periods on and after
15 the effective date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the
16 laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside
17 the city of New York, and for all rate periods on and after the effec-
18 tive date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the laws of
19 [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for all services provided to
20 persons under the age of twenty-one; provided, however, the commissioner
21 of health, in consultation with the commissioner of [~~alcoholism and~~
22 ~~substance abuse~~] addiction services and supports and the commissioner of
23 mental health, may require, as a condition of approval of such ambu-
24 latory behavioral health fees, that aggregate managed care expenditures to
25 eligible providers meet the alternative payment methodology requirements
26 as set forth in attachment I of the New York state medicaid section one
27 thousand one hundred fifteen medicaid redesign team waiver as approved
28 by the centers for medicare and medicaid services. The commissioner of
29 health shall, in consultation with the commissioner of [~~alcoholism and~~
30 ~~substance abuse~~] addiction services and supports and the commissioner of
31 mental health, waive such conditions if a sufficient number of provid-
32 ers, as determined by the commissioner, suffer a financial hardship as a
33 consequence of such alternative payment methodology requirements, or if
34 he or she shall determine that such alternative payment methodologies
35 significantly threaten individuals access to ambulatory behavioral
36 health services. Such waiver may be applied on a provider specific or
37 industry wide basis. Further, such conditions may be waived, as the
38 commissioner determines necessary, to comply with federal rules or regu-
39 lations governing these payment methodologies. Nothing in this section
40 shall prohibit managed care organizations and providers from negotiating
41 different rates and methods of payment during such periods described,
42 subject to the approval of the department of health. The department of
43 health shall consult with the office of [~~alcoholism and substance abuse~~]
44 addiction services and supports and the office of mental health in
45 determining whether such alternative rates shall be approved. The
46 commissioner of health may, in consultation with the commissioners of
47 mental health and [~~alcoholism and substance abuse~~] addiction services
48 and supports, promulgate regulations, including emergency regulations
49 promulgated prior to October 1, 2013 that establish rates for behavioral
50 health services, as are necessary to implement the provisions of this
51 section. Rates promulgated under this section shall be included in the
52 report required under section 45-c of part A of chapter 56 of the laws
53 of 2013.

54 b. Notwithstanding any contrary provision of law, the fees paid by
55 managed care organizations licensed under article 44 of the public
56 health law or under article 43 of the insurance law, to providers

1 licensed pursuant to article 28 of the public health law or article 36,
2 31 or 32 of the mental hygiene law, for ambulatory behavioral health
3 services provided to patients enrolled in the child health insurance
4 program pursuant to title 1-A of article 25 of the public health law,
5 shall be in the form of fees for such services which are equivalent to
6 the payments established for such services under the ambulatory patient
7 group (APG) rate-setting methodology. The commissioner of health shall
8 consult with the commissioner of [~~alcoholism and substance abuse~~]
9 addiction services and supports and the commissioner of the office of
10 mental health in determining such services and establishing such fees.
11 Such ambulatory behavioral health fees to providers available under this
12 section shall be for all rate periods on and after the effective date of
13 this chapter through March 31, [~~2023~~] 2027, provided, however, that
14 managed care organizations and providers may negotiate different rates
15 and methods of payment during such periods described above, subject to
16 the approval of the department of health. The department of health shall
17 consult with the office of [~~alcoholism and substance abuse~~] addiction
18 services and supports and the office of mental health in determining
19 whether such alternative rates shall be approved. The report required
20 under section 16-a of part C of chapter 60 of the laws of 2014 shall
21 also include the population of patients enrolled in the child health
22 insurance program pursuant to title 1-A of article 25 of the public
23 health law in its examination on the transition of behavioral health
24 services into managed care.

25 § 3. Section 2 of part H of chapter 111 of the laws of 2010, relating
26 to increasing Medicaid payments to providers through managed care organ-
27 izations and providing equivalent fees through an ambulatory patient
28 group methodology, as amended by section 20 of part E of chapter 57 of
29 the laws of 2019, is amended to read as follows:

30 § 2. This act shall take effect immediately and shall be deemed to
31 have been in full force and effect on and after April 1, 2010, and shall
32 expire on March 31, [~~2023~~] 2027.

33 § 4. This act shall take effect immediately; provided, however that
34 the amendments to section 1 of part H of chapter 111 of the laws of
35 2010, relating to increasing Medicaid payments to providers through
36 managed care organizations and providing equivalent fees through an
37 ambulatory patient group methodology, made by section two of this act
38 shall not affect the expiration of such section and shall expire there-
39 with.

40

PART MM

41 Section 1. Section 18 of chapter 408 of the laws of 1999, constituting
42 Kendra's law, as amended by chapter 67 of the laws of 2017, is amended
43 to read as follows:

44 § 18. This act shall take effect immediately, provided that section
45 fifteen of this act shall take effect April 1, 2000, provided, further,
46 that subdivision (e) of section 9.60 of the mental hygiene law as added
47 by section six of this act shall be effective 90 days after this act
48 shall become law; and that this act shall expire and be deemed repealed
49 June 30, [~~2022~~] 2027.

50 § 2. Paragraph 4 of subdivision (c) and paragraph 2 of subdivision (h)
51 of section 9.60 of the mental hygiene law, as amended by chapter 158 of
52 the laws of 2005, are amended and a new subdivision (s) is added to read
53 as follows:

1 (4) has a history of lack of compliance with treatment for mental
2 illness that has:

3 (i) except as otherwise provided in subparagraph (iii) of this para-
4 graph, prior to the filing of the petition, at least twice within the
5 last thirty-six months been a significant factor in necessitating hospi-
6 talization in a hospital, or receipt of services in a forensic or other
7 mental health unit of a correctional facility or a local correctional
8 facility, not including any current period, or period ending within the
9 last six months, during which the person was or is hospitalized or
10 incarcerated; or

11 (ii) except as otherwise provided in subparagraph (iii) of this para-
12 graph, prior to the filing of the petition, resulted in one or more acts
13 of serious violent behavior toward self or others or threats of, or
14 attempts at, serious physical harm to self or others within the last
15 forty-eight months, not including any current period, or period ending
16 within the last six months, in which the person was or is hospitalized
17 or incarcerated; [~~and~~] or

18 (iii) notwithstanding subparagraphs (i) and (ii) of this paragraph,
19 resulted in the issuance of a court order for assisted outpatient treat-
20 ment which has expired within the last six months, and since the expira-
21 tion of the order, the person has experienced a substantial increase in
22 symptoms of mental illness.

23 (2) The court shall not order assisted outpatient treatment unless an
24 examining physician, who recommends assisted outpatient treatment and
25 has personally examined the subject of the petition no more than ten
26 days before the filing of the petition, testifies in person or by video-
27 conference at the hearing. Such physician shall state the facts and
28 clinical determinations which support the allegation that the subject of
29 the petition meets each of the criteria for assisted outpatient treat-
30 ment.

31 (s) A director of community services or his or her designee may
32 require a provider of services operated or licensed by the office of
33 mental health to provide information, including but not limited to clin-
34 ical records and other information concerning persons receiving assisted
35 outpatient treatment pursuant to an active assisted outpatient treatment
36 order, that is deemed necessary by such director or designee to appro-
37 priately discharge their duties pursuant to section 9.47 of this arti-
38 cle, and where such provider is required to disclose such information
39 pursuant to paragraph twelve of subdivision (c) of section 33.13 of this
40 chapter.

41 § 3. This act shall take effect immediately, provided, however that
42 the amendments to section 9.60 of the mental hygiene law made by section
43 two of this act shall not affect the repeal of such section and shall be
44 deemed repealed therewith.

45 PART NN

46 Section 1. Section 41.38 of the mental hygiene law, as amended by
47 chapter 218 of the laws of 1988, is amended to read as follows:

48 § 41.38 Rental and mortgage payments of community residential facilities
49 for the mentally ill.

50 (a) "Supportive housing" shall mean, for the purpose of this section
51 only, the method by which the commissioner contracts to provide rental
52 support and funding for non-clinical support services in order to main-
53 tain recipient stability.

1 (b) Notwithstanding any inconsistent provision of this article, the
 2 commissioner may reimburse voluntary agencies for the reasonable cost of
 3 rental of or the reasonable mortgage payment or the reasonable principal
 4 and interest payment on a loan for the purpose of financing an ownership
 5 interest in, and proprietary lease from, an organization formed for the
 6 purpose of the cooperative ownership of real estate, together with other
 7 necessary costs associated with rental or ownership of property, for a
 8 community residence ~~[or]~~, a residential care center for adults, or
 9 supportive housing, under ~~[his]~~ their jurisdiction less any income
 10 received from a state or federal agency or third party insurer which is
 11 specifically intended to offset the cost of rental of the facility or
 12 housing a client at the facility, subject to the availability of appro-
 13 priations therefor and such commissioner's certification of the reason-
 14 ableness of the rental cost, mortgage payment, principal and interest
 15 payment on a loan as provided in this section or other necessary costs
 16 associated with rental or ownership of property, with the approval of
 17 the director of the budget.

18 § 2. This act shall take effect April 1, 2022.

19 PART 00

20 Section 1. Section 4 of part L of chapter 59 of the laws of 2016,
 21 amending the mental hygiene law relating to the appointment of temporary
 22 operators for the continued operation of programs and the provision of
 23 services for persons with serious mental illness and/or developmental
 24 disabilities and/or chemical dependence, as amended by section 1 of part
 25 U of chapter 57 of the laws of 2021, is amended to read as follows:

26 § 4. This act shall take effect immediately and shall be deemed to
 27 have been in full force and effect on and after April 1, 2016[~~+~~
 28 ~~provided, however, that sections one and two of this act shall expire~~
 29 ~~and be deemed repealed on March 31, 2022~~].

30 § 2. This act shall take effect immediately.

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

40 § 3. This act shall take effect immediately provided, however, that
 41 the applicable effective date of Parts A through 00 of this act shall be
 42 as specifically set forth in the last section of such Parts.