

STATE OF NEW YORK

S. 4007--A

A. 3007--A

SENATE - ASSEMBLY

February 1, 2023

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

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

AN ACT to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to known and projected department of health state fund medicaid expenditures (Part A); to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law relating to providing enhanced consumer and provider protections, in relation to the effectiveness of certain provisions relating to contracts between plans, insurers, or corporations and hospitals; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to adjustments of rates, in relation to the effectiveness of certain provisions relating to the amount of income to be applied toward the cost of medical care, services and supplies of institutionalized spouses; to amend chapter 906 of the laws of 1984, amending the social services law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, in relation to the effectiveness thereof; to amend the social services law, in relation to the age of eligibility for home and community-based services waivers; to amend chapter 313 of the laws of 2018, amending the public health law relating to body imaging scanning equipment, in relation to the effectiveness thereof; to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings, in relation to the effectiveness of certain provisions thereof; to amend chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to

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

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extending the demonstration period in certain physician committees; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to the effectiveness thereof; to amend the public health law, in relation to reimbursement rate promulgation for residential health care facilities; to amend the public health law, in relation to certified home health agency services payments; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness of certain provisions relating to increasing information available to patients; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to making certain provisions permanent; to amend part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions 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 extending the effectiveness of certain provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to extending the effectiveness of certain provisions thereof; to amend the social services law, in relation to the effectiveness of certain provisions relating to negotiation of supplemental rebates relating to medication assisted treatment; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; to amend part KK of chapter 56 of the laws of 2020, amending the public health law relating to the designation of statewide general hospital quality and sole community pools and the reduction of capital related inpatient expenses, in relation to the effectiveness thereof; to amend part C of chapter 60 of the laws of 2014, amending the social services law relating to fair hearings within the Fully Integrated Duals Advantage program, in relation to the effectiveness thereof; to amend chapter 779 of the laws of 1986, amending the social services law relating to authorizing services for non-residents in adult homes, residences for adults and enriched housing programs, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to extending the provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend part A of chapter 56

of the laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and adding an alternative payment methodology requirement; and to amend the public health law, in relation to residential health care facility assessments; and to amend part MM of chapter 57 of the laws of 2021 amending the public health law relating to aiding in the transition to adulthood for children with medical fragility living in pediatric nursing homes and other settings, in relation to the effectiveness thereof (Part B); to amend part A3 of chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to extending the effectiveness of provisions thereof; to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to extending certain provisions relating to the distribution of pool allocations and graduate medical education; to amend the public health law, in relation to extending certain provisions relating to health care initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; and to amend the public health law, in relation to extending certain provisions relating to the assessments on covered lives (Part C); to amend the social services law, in relation to copayments for drugs; 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 D); to amend the public health law, in relation to amending and extending the voluntary indigent care pool; in relation to establishing the definition of rural emergency hospital; and in relation to expanding eligibility for vital access provider assurance program funding; and to amend Part I of chapter 57 of the laws of 2022 relating to providing a five percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to Medicaid payments made for the operating component of hospital inpatient services (Part E); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the effectiveness of certain provisions thereof; 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, 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 F); to amend the elder law, in relation to programs for the aging (Part G); to amend section 5 of part AAA of chapter 56 of the laws of 2022, amending the social services law relating to expanding Medicaid eligibility requirements for seniors and disabled individuals, in relation to the effectiveness of the basic health plan program; to amend the social services law, in relation to enacting the 1332 state innovation program; and to amend the state finance law, in relation to establishing the 1332 state

innovation program fund (Part H); to amend the public health law, in relation to extending authority to enroll certain recipients in need of more than 120 days of community based-long term care in a managed long term care plan; to amend the public health law, in relation to extending the moratorium on the processing and approval of applications seeking a certificate of authority as a managed long term care plan, setting performance standards for managed long term care plans and granting the commissioner of health the authority to procure in the event the department of health determines that a sufficient number of managed long term care plans have not met the enhanced performance standards; to amend the social services law, in relation to fiscal intermediaries; to amend part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to providing an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of residential health care facilities services and an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of assisted living programs; to amend the public health law, in relation to home care worker wage parity; 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 medical expenditures, in relation to extending the provisions thereof; to repeal certain provisions of the social services law relating to the consumer directed personal assistance program; to amend the public health law, in relation to establishing the state supplemental premium assistance for consumer directed personal assistants; and to amend the state finance law, in relation to creating the CDPAP supplemental premium assistance fund (Part I); to amend the insurance law and the public health law, in relation to insurer, organization, or corporation review of certain documentation for certain claims (Part J); to amend the social services law, in relation to authorizing Medicaid eligibility for certain services provided to individuals who are in a correctional institution, and for certain services provided to individuals who are in an institution for mental disease (Part K); to amend the insurance law, in relation to site of service review and coverage for services provided at hospital-based outpatient clinics (Part L); to amend the public health law, in relation to streamlining and adding criteria to the certificate of need process and to review and oversight of material transactions (Part M); to amend the social services law, in relation to expanding the Medicaid Buy-In program for people with disabilities (Part N); to amend the public health law, in relation to prohibiting the sale or distribution of flavored tobacco products (Part O); to amend the public health law, in relation to establishing a new statewide health care transformative program (Part P); to amend the social services law, in relation to establishing Medicaid reimbursement for community health workers (CHWs) for high-risk populations; and to amend the public health law, in relation to permitting licensed mental health counselors and licensed marriage and family therapists in community health centers to be reimbursed (Part Q); to amend the social services law and the public health law, in relation to expanding Medicaid coverage of preventative health care services (Part R); to amend the public health law and the education law, in relation to modernizing the state of New York's emergency medical system and workforce; and to repeal certain sections of the public health law relating thereto (Part S); to amend the public

health law, in relation to lead testing in certain multiple dwellings; and to amend the executive law, in relation to expanding the powers of the secretary of state with respect to the New York state uniform fire prevention and building code (Part T); to amend the general business law, in relation to safeguarding abortion access through data privacy protection (Part U); to amend the education law, in relation to authorizing licensed pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the board of pharmacy (Part V); to amend the education law, in relation to the provision of HIV pre-exposure prophylaxis; to amend the public health law and the education law, in relation to the administration of COVID-19 and influenza tests; to amend part C of chapter 57 of the laws of 2022 amending the public health law and the education law relating to allowing pharmacists to direct limited service laboratories and order and administer COVID-19 and influenza tests and modernizing nurse practitioners, in relation to the effectiveness thereof; to amend the education law and the social services law, in relation to the scope of practice of nurses and pharmacists; to amend the education law, in relation to authorizing dentists to offer HIV and hepatitis C screening and diagnostic tests; to amend the education law and the public health law, in relation to the scope of practice of physician assistants; to amend chapter 471 of the laws of 2016 amending the education law and the public health law relating to authorizing certain advanced home health aides to perform certain advanced tasks, in relation to the effectiveness thereof; to amend the education law, in relation to the scope of practice of medication aides; to amend the education law, in relation to enacting the interstate medical licensure compact; to amend the education law, in relation to enacting the nurse licensure compact; and providing for the repeal of certain provisions upon the expiration thereof (Part W); to amend the public health law, in relation to providing for the registration of temporary health care services agencies (Part X); to amend the civil practice law and rules and the judiciary law, in relation to affidavits for medical debt actions (Subpart A); to amend the insurance law, in relation to prescription drug price and supply chain transparency; and to amend the state finance law, in relation to funds deposited in the pharmacy benefit manager regulatory fund (Subpart B); to amend the public health law, in relation to requiring hospitals participating in the general hospital indigent care pool to use certain forms for the collection of medical debt (Subpart C); and to amend the insurance law, in relation to guaranty fund coverage for insurers writing health insurance (Subpart D) (Part Y); to amend the public health law and the social services law, in relation to quality improvement and increased consumer transparency in assisted living residences (Part Z); to amend the public health law, in relation to hepatitis C screening and requiring third trimester syphilis testing; and to amend chapter 425 of the laws of 2013 amending the public health law relating to requiring hospitals to offer hepatitis C testing, in relation to making such provisions permanent (Part AA); to amend the public health law, in relation to adding certain fentanyl analogs to the schedules of controlled substances; to amend the public health law, in relation to the definition of "imitation controlled substance"; to amend the penal law and the criminal procedure law, in relation to criminal possession and sale of imitation controlled substances; and to repeal certain provisions of the public health law

relating thereto (Part BB); to amend the public health law, the state finance law, the civil practice law and rules, the limited liability company law, the partnership law, the correction law, the education law, the executive law, the mental hygiene law, the penal law, the surrogate's court procedure act, the social services law, the workers' compensation law, the cannabis law, the county law, the general business law, the insurance law, the labor law, the criminal procedure law, the business corporation law, the vehicle and traffic law, the administrative code of the city of New York, the military law, and the tax law, in relation to repealing articles governing healthcare professions in the education law and adding such provisions to the public health law and transferring all functions, powers, duties and obligations relating thereto; to repeal certain provisions of the education law relating thereto; and to repeal certain provisions of the public health law relating thereto (Part CC); in relation to establishing a cost of living adjustment for designated human services programs (Part DD); to amend part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, in relation to the effectiveness of certain provisions thereof (Part EE); to amend the education law, in relation to expanding the description of certain services which are not prohibited by statutes governing the practice of nursing (Part FF); to amend the mental hygiene law and the education law, in relation to credentialing qualified mental health associates (Part GG); to amend the mental hygiene law, in relation to certified community behavioral health clinics (Part HH); to amend the insurance law and the financial services law, in relation to insurance coverage for behavioral health services (Subpart A); to amend the insurance law and the public health law, in relation to utilization review standards for mental health services (Subpart B); to amend the insurance law and the public health law, in relation to telehealth payment parity (Subpart C); to amend the insurance law, in relation to private rights of action (Subpart D); to amend the insurance law, in relation to substance use disorder treatment (Subpart E); and to amend the insurance law and the public health law, in relation to network adequacy for mental health and substance use disorder services (Subpart F) (Part II); and to amend the mental hygiene law, in relation to the imposition of sanctions by the commissioner of mental health (Part JJ)

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

1 Section 1. This act enacts into law major components of legislation
2 necessary to implement the state health and mental hygiene budget for
3 the 2023-2024 state fiscal year. Each component is wholly contained
4 within a Part identified as Parts A through JJ. 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.

1

PART A

2 Section 1. Paragraph (a) of subdivision 1 of section 92 of part H of
3 chapter 59 of the laws of 2011, amending the public health law and other
4 laws relating to general hospital reimbursement for annual rates, as
5 amended by section 2 of part H of chapter 57 of the laws of 2022, is
6 amended to read as follows:

7 (a) For state fiscal years 2011-12 through [~~2023-24~~] 2024-25, the
8 director of the budget, in consultation with the commissioner of health
9 referenced as "commissioner" for purposes of this section, shall assess
10 on a quarterly basis, as reflected in quarterly reports pursuant to
11 subdivision five of this section known and projected department of
12 health state funds medicaid expenditures by category of service and by
13 geographic regions, as defined by the commissioner.

14 § 2. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after April 1, 2023.

16

PART B

17 Section 1. Subdivision 1 of section 20 of chapter 451 of the laws of
18 2007 amending the public health law, the social services law and the
19 insurance law relating to providing enhanced consumer and provider
20 protections, as amended by chapter 181 of the laws of 2021, is amended
21 to read as follows:

22 1. sections four, eleven and thirteen of this act shall take effect
23 immediately and shall expire and be deemed repealed June 30, [~~2023~~]
24 2025;

25 § 2. Subdivision 6-a of section 93 of part C of chapter 58 of the laws
26 of 2007, amending the social services law and other laws relating to
27 adjustments of rates, as amended by section 2 of part T of chapter 57 of
28 the laws of 2018, is amended to read as follows:

29 6-a. section fifty-seven of this act shall expire and be deemed
30 repealed [~~on March 31, 2023~~] March 31, 2028; provided that the amend-
31 ments made by such section to subdivision 4 of section 366-c of the
32 social services law shall apply with respect to determining initial and
33 continuing eligibility for medical assistance, including the continued
34 eligibility of recipients originally determined eligible prior to the
35 effective date of this act, and provided further that such amendments
36 shall not apply to any person or group of persons if it is subsequently
37 determined by the Centers for Medicare and Medicaid services or by a
38 court of competent jurisdiction that medical assistance with federal
39 financial participation is available for the costs of services provided
40 to such person or persons under the provisions of subdivision 4 of
41 section 366-c of the social services law in effect immediately prior to
42 the effective date of this act.

43 § 3. Section 3 of chapter 906 of the laws of 1984, amending the social
44 services law relating to expanding medical assistance eligibility and
45 the scope of services available to certain persons with disabilities, as
46 amended by section 4 of part T of chapter 57 of the laws of 2018, is
47 amended to read as follows:

48 § 3. This act shall take effect on the thirtieth day after it shall
49 have become a law and shall be of no further force and effect after
50 [~~March 31, 2023~~] March 31, 2028, at which time the provisions of this
51 act shall be deemed to be repealed.

§ 4. Subparagraph (i) of paragraph b of subdivision 6 of section 366 of the social services law, as amended by chapter 389 of the laws of 2008, is amended to read as follows:

(i) be [~~eighteen~~] twenty-one years of age or under;

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

(i) be [~~eighteen~~] twenty-one years of age or under;

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

(i) be under [~~eighteen~~] twenty-one years of age;

§ 7. Section 2 of chapter 313 of the laws of 2018, amending the public health law relating to body imaging scanning equipment, is amended to read as follows:

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that, effective immediately, the addition, amendment, and/or repeal of any rules and regulations necessary to implement the provisions of this act on its effective date are directed to be completed on or before such effective date; and provided further, that this act shall expire and be deemed repealed [~~five years after such effective date~~] January 30, 2029.

§ 8. Section 5 of chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect June 1, 1983 and shall remain in full force and effect until July 1, [~~2023~~] 2033.

§ 9. Section 5 of chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect immediately, provided however that the provisions of this act shall remain in full force and effect until July 1, [~~2023~~] 2033 at which time the provisions of this act shall be deemed to be repealed.

§ 10. Subparagraph (ii) of paragraph (c) of subdivision 11 of section 230 of the public health law, as amended by chapter 106 of the laws of 2018, is amended to read as follows:

(ii) Participation and membership during a three year demonstration period in a physician committee of the Medical Society of the State of New York or the New York State Osteopathic Society whose purpose is to confront and refer to treatment physicians who are thought to be suffering from alcoholism, drug abuse, or mental illness. Such demonstration period shall commence on April first, nineteen hundred eighty and terminate on May thirty-first, nineteen hundred eighty-three. An additional demonstration period shall commence on June first, nineteen hundred eighty-three and terminate on March thirty-first, nineteen hundred eighty-six. An additional demonstration period shall commence on April first, nineteen hundred eighty-six and terminate on March thirty-first, nineteen hundred eighty-nine. An additional demonstration period shall commence April first, nineteen hundred eighty-nine and terminate March thirty-first, nineteen hundred ninety-two. An additional demonstration period shall commence April first, nineteen hundred ninety-two and terminate March thirty-first, nineteen hundred ninety-five. An additional demonstration period shall commence on April first, nineteen hundred ninety-five and terminate on March thirty-first, nineteen hundred ninety-eight. An additional demonstration period shall commence

1 on April first, nineteen hundred ninety-eight and terminate on March
2 thirty-first, two thousand three. An additional demonstration period
3 shall commence on April first, two thousand three and terminate on March
4 thirty-first, two thousand thirteen. An additional demonstration period
5 shall commence April first, two thousand thirteen and terminate on March
6 thirty-first, two thousand eighteen. An additional demonstration period
7 shall commence April first, two thousand eighteen and terminate on July
8 first, two thousand [~~twenty-three~~] thirty-three provided, however, that
9 the commissioner may prescribe requirements for the continuation of such
10 demonstration program, including periodic reviews of such programs and
11 submission of any reports and data necessary to permit such reviews.
12 During these additional periods, the provisions of this subparagraph
13 shall also apply to a physician committee of a county medical society.

14 § 11. Section 4 of chapter 505 of the laws of 1995, amending the
15 public health law relating to the operation of department of health
16 facilities, as amended by section 1 of part E of chapter 57 of the laws
17 of 2019, is amended to read as follows:

18 § 4. This act shall take effect immediately; provided, however, that
19 the provisions of paragraph (b) of subdivision 4 of section 409-c of the
20 public health law, as added by section three of this act, shall take
21 effect January 1, 1996 and shall expire and be deemed repealed [~~twenty-~~
22 ~~eight years from the effective date thereof~~] March 31, 2028.

23 § 12. Paragraph (b) of subdivision 17 of section 2808 of the public
24 health law, as amended by section 15 of part E of chapter 57 of the laws
25 of 2019, is amended to read as follows:

26 (b) Notwithstanding any inconsistent provision of law or regulation to
27 the contrary, for the state fiscal years beginning April first, two
28 thousand ten and ending March thirty-first, two thousand [~~twenty-three~~]
29 twenty-seven, the commissioner shall not be required to revise certified
30 rates of payment established pursuant to this article for rate periods
31 prior to April first, two thousand [~~twenty-three~~] twenty-seven, based on
32 consideration of rate appeals filed by residential health care facili-
33 ties or based upon adjustments to capital cost reimbursement as a result
34 of approval by the commissioner of an application for construction under
35 section twenty-eight hundred two of this article, in excess of an aggre-
36 gate annual amount of eighty million dollars for each such state fiscal
37 year provided, however, that for the period April first, two thousand
38 eleven through March thirty-first, two thousand twelve such aggregate
39 annual amount shall be fifty million dollars. In revising such rates
40 within such fiscal limit, the commissioner shall, in prioritizing such
41 rate appeals, include consideration of which facilities the commissioner
42 determines are facing significant financial hardship as well as such
43 other considerations as the commissioner deems appropriate and, further,
44 the commissioner is authorized to enter into agreements with such facil-
45 ities or any other facility to resolve multiple pending rate appeals
46 based upon a negotiated aggregate amount and may offset such negotiated
47 aggregate amounts against any amounts owed by the facility to the
48 department, including, but not limited to, amounts owed pursuant to
49 section twenty-eight hundred seven-d of this article; provided, however,
50 that the commissioner's authority to negotiate such agreements resolving
51 multiple pending rate appeals as hereinbefore described shall continue
52 on and after April first, two thousand [~~twenty-three~~] twenty-seven. Rate
53 adjustments made pursuant to this paragraph remain fully subject to
54 approval by the director of the budget in accordance with the provisions
55 of subdivision two of section twenty-eight hundred seven of this arti-
56 cle.

1 § 13. Paragraph (a) of subdivision 13 of section 3614 of the public
2 health law, as amended by section 16 of part E of chapter 57 of the laws
3 of 2019, is amended to read as follows:

4 (a) Notwithstanding any inconsistent provision of law or regulation
5 and subject to the availability of federal financial participation,
6 effective April first, two thousand twelve through March thirty-first,
7 two thousand [~~twenty-three~~] twenty-seven, payments by government agen-
8 cies for services provided by certified home health agencies, except for
9 such services provided to children under eighteen years of age and other
10 discreet groups as may be determined by the commissioner pursuant to
11 regulations, shall be based on episodic payments. In establishing such
12 payments, a statewide base price shall be established for each sixty day
13 episode of care and adjusted by a regional wage index factor and an
14 individual patient case mix index. Such episodic payments may be further
15 adjusted for low utilization cases and to reflect a percentage limita-
16 tion of the cost for high-utilization cases that exceed outlier thresh-
17 olds of such payments.

18 § 14. Section 4 of chapter 19 of the laws of 1998, amending the social
19 services law relating to limiting the method of payment for prescription
20 drugs under the medical assistance program, as amended by section 2 of
21 part BB of chapter 56 of the laws of 2020, is amended to read as
22 follows:

23 § 4. This act shall take effect 120 days after it shall have become a
24 law and shall expire and be deemed repealed March 31, [~~2023~~] 2026.

25 § 15. Paragraph (e-1) of subdivision 12 of section 2808 of the public
26 health law, as amended by section 3 of part BB of chapter 56 of the laws
27 of 2020, is amended to read as follows:

28 (e-1) Notwithstanding any inconsistent provision of law or regulation,
29 the commissioner shall provide, in addition to payments established
30 pursuant to this article prior to application of this section, addi-
31 tional payments under the medical assistance program pursuant to title
32 eleven of article five of the social services law for non-state operated
33 public residential health care facilities, including public residential
34 health care facilities located in the county of Nassau, the county of
35 Westchester and the county of Erie, but excluding public residential
36 health care facilities operated by a town or city within a county, in
37 aggregate annual amounts of up to one hundred fifty million dollars in
38 additional payments for the state fiscal year beginning April first, two
39 thousand six and for the state fiscal year beginning April first, two
40 thousand seven and for the state fiscal year beginning April first, two
41 thousand eight and of up to three hundred million dollars in such aggre-
42 gate annual additional payments for the state fiscal year beginning
43 April first, two thousand nine, and for the state fiscal year beginning
44 April first, two thousand ten and for the state fiscal year beginning
45 April first, two thousand eleven, and for the state fiscal years begin-
46 ning April first, two thousand twelve and April first, two thousand
47 thirteen, and of up to five hundred million dollars in such aggregate
48 annual additional payments for the state fiscal years beginning April
49 first, two thousand fourteen, April first, two thousand fifteen and
50 April first, two thousand sixteen and of up to five hundred million
51 dollars in such aggregate annual additional payments for the state
52 fiscal years beginning April first, two thousand seventeen, April first,
53 two thousand eighteen, and April first, two thousand nineteen, and of up
54 to five hundred million dollars in such aggregate annual additional
55 payments for the state fiscal years beginning April first, two thousand
56 twenty, April first, two thousand twenty-one, and April first, two thou-

1 sand twenty-two, and of up to five hundred million dollars in such
2 aggregate annual additional payments for the state fiscal years begin-
3 ning April first, two thousand twenty-three, April first, two thousand
4 twenty-four, and April first, two thousand twenty-five. The amount allo-
5 cated to each eligible public residential health care facility for this
6 period shall be computed in accordance with the provisions of paragraph
7 (f) of this subdivision, provided, however, that patient days shall be
8 utilized for such computation reflecting actual reported data for two
9 thousand three and each representative succeeding year as applicable,
10 and provided further, however, that, in consultation with impacted
11 providers, of the funds allocated for distribution in the state fiscal
12 year beginning April first, two thousand thirteen, up to thirty-two
13 million dollars may be allocated in accordance with paragraph (f-1) of
14 this subdivision.

15 § 16. Section 18 of chapter 904 of the laws of 1984, amending the
16 public health law and the social services law relating to encouraging
17 comprehensive health services, as amended by section 4 of part BB of
18 chapter 56 of the laws of 2020, is amended to read as follows:

19 § 18. This act shall take effect immediately, except that sections
20 six, nine, ten and eleven of this act shall take effect on the sixtieth
21 day after it shall have become a law, sections two, three, four and nine
22 of this act shall expire and be of no further force or effect on or
23 after March 31, ~~2023~~ 2026, section two of this act shall take effect
24 on April 1, 1985 or seventy-five days following the submission of the
25 report required by section one of this act, whichever is later, and
26 sections eleven and thirteen of this act shall expire and be of no
27 further force or effect on or after March 31, 1988.

28 § 17. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
29 the public health law relating to allowing for the use of funds of the
30 office of professional medical conduct for activities of the patient
31 health information and quality improvement act of 2000, as amended by
32 section 5 of part BB of chapter 56 of the laws of 2020, is amended to
33 read as follows:

34 § 4. This act shall take effect immediately~~[, provided that the~~
35 ~~provisions of section one of this act shall be deemed to have been in~~
36 ~~full force and effect on and after April 1, 2003, and shall expire March~~
37 ~~31, 2023 when upon such date the provisions of such section shall be~~
38 ~~deemed repealed].~~

39 § 18. Subdivision (o) of section 111 of part H of chapter 59 of the
40 laws of 2011, amending the public health law relating to the statewide
41 health information network of New York and the statewide planning and
42 research cooperative system and general powers and duties, as amended by
43 section 6 of part BB of chapter 56 of the laws of 2020, is amended to
44 read as follows:

45 ~~[(o) sections thirty-eight and thirty-eight-a of this act shall expire~~
46 ~~and be deemed repealed March 31, 2023,]~~

47 § 19. Section 32 of part A of chapter 58 of the laws of 2008, amending
48 the elder law and other laws relating to reimbursement to participating
49 provider pharmacies and prescription drug coverage, as amended by
50 section 7 of part BB of chapter 56 of the laws of 2020, is amended to
51 read as follows:

52 § 32. This act shall take effect immediately and shall be deemed to
53 have been in full force and effect on and after April 1, 2008; provided
54 however, that sections one, six-a, nineteen, twenty, twenty-four, and
55 twenty-five of this act shall take effect July 1, 2008; provided however
56 that sections sixteen, seventeen and eighteen of this act shall expire

1 April 1, [~~2023~~] 2026; provided, however, that the amendments made by
2 section twenty-eight of this act shall take effect on the same date as
3 section 1 of chapter 281 of the laws of 2007 takes effect; provided
4 further, that sections twenty-nine, thirty, and thirty-one of this act
5 shall take effect October 1, 2008; provided further, that section twenty-seven
6 of this act shall take effect January 1, 2009; and provided
7 further, that section twenty-seven of this act shall expire and be
8 deemed repealed March 31, [~~2023~~] 2026; and provided, further, however,
9 that the amendments to subdivision 1 of section 241 of the education law
10 made by section twenty-nine of this act shall not affect the expiration
11 of such subdivision and shall be deemed to expire therewith and provided
12 that the amendments to section 272 of the public health law made by
13 section thirty of this act shall not affect the repeal of such section
14 and shall be deemed repealed therewith.

15 § 20. Section 228 of chapter 474 of the laws of 1996, amending the
16 education law and other laws relating to rates for residential health
17 care facilities, as amended by section 12 of part BB of chapter 56 of
18 the laws of 2020, is amended to read as follows:

19 § 228. 1. Definitions. (a) Regions, for purposes of this section,
20 shall mean a downstate region to consist of Kings, New York, Richmond,
21 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
22 consist of all other New York state counties. A certified home health
23 agency or long term home health care program shall be located in the
24 same county utilized by the commissioner of health for the establishment
25 of rates pursuant to article 36 of the public health law.

26 (b) Certified home health agency (CHHA) shall mean such term as
27 defined in section 3602 of the public health law.

28 (c) Long term home health care program (LTHHCP) shall mean such term
29 as defined in subdivision 8 of section 3602 of the public health law.

30 (d) Regional group shall mean all those CHHAs and LTHHCPs, respectively,
31 located within a region.

32 (e) Medicaid revenue percentage, for purposes of this section, shall
33 mean CHHA and LTHHCP revenues attributable to services provided to
34 persons eligible for payments pursuant to title 11 of article 5 of the
35 social services law divided by such revenues plus CHHA and LTHHCP revenues
36 attributable to services provided to beneficiaries of Title XVIII of
37 the federal social security act (medicare).

38 (f) Base period, for purposes of this section, shall mean calendar
39 year 1995.

40 (g) Target period. For purposes of this section, the 1996 target period
41 shall mean August 1, 1996 through March 31, 1997, the 1997 target
42 period shall mean January 1, 1997 through November 30, 1997, the 1998
43 target period shall mean January 1, 1998 through November 30, 1998, the
44 1999 target period shall mean January 1, 1999 through November 30, 1999,
45 the 2000 target period shall mean January 1, 2000 through November 30,
46 2000, the 2001 target period shall mean January 1, 2001 through November
47 30, 2001, the 2002 target period shall mean January 1, 2002 through
48 November 30, 2002, the 2003 target period shall mean January 1, 2003
49 through November 30, 2003, the 2004 target period shall mean January 1,
50 2004 through November 30, 2004, and the 2005 target period shall mean
51 January 1, 2005 through November 30, 2005, the 2006 target period shall
52 mean January 1, 2006 through November 30, 2006, and the 2007 target
53 period shall mean January 1, 2007 through November 30, 2007 and the 2008
54 target period shall mean January 1, 2008 through November 30, 2008, and
55 the 2009 target period shall mean January 1, 2009 through November 30,
56 2009 and the 2010 target period shall mean January 1, 2010 through

1 November 30, 2010 and the 2011 target period shall mean January 1, 2011
2 through November 30, 2011 and the 2012 target period shall mean January
3 1, 2012 through November 30, 2012 and the 2013 target period shall mean
4 January 1, 2013 through November 30, 2013, and the 2014 target period
5 shall mean January 1, 2014 through November 30, 2014 and the 2015 target
6 period shall mean January 1, 2015 through November 30, 2015 and the 2016
7 target period shall mean January 1, 2016 through November 30, 2016 and
8 the 2017 target period shall mean January 1, 2017 through November 30,
9 2017 and the 2018 target period shall mean January 1, 2018 through
10 November 30, 2018 and the 2019 target period shall mean January 1, 2019
11 through November 30, 2019 and the 2020 target period shall mean January
12 1, 2020 through November 30, 2020[7] and the 2021 target period shall
13 mean January 1, 2021 through November 30, 2021 and the 2022 target peri-
14 od shall mean January 1, 2022 through November 30, 2022 and the 2023
15 target period shall mean January 1, 2023 through November 30, 2023 and
16 the 2024 target period shall mean January 1, 2024 through November 30,
17 2024 and the 2025 target period shall mean January 1, 2025 through
18 November 30, 2025 and the 2026 target period shall mean January 1, 2026
19 through November 30, 2026 and the 2027 target period shall mean January
20 1, 2027 through November 30, 2027.

21 2. (a) Prior to February 1, 1997, for each regional group the commis-
22 sioner of health shall calculate the 1996 medicaid revenue percentages
23 for the period commencing August 1, 1996 to the last date for which such
24 data is available and reasonably accurate.

25 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
26 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
27 prior to February 1, 2003, prior to February 1, 2004, prior to February
28 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
29 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
30 prior to February 1, 2011, prior to February 1, 2012, prior to February
31 1, 2013, prior to February 1, 2014, prior to February 1, 2015, prior to
32 February 1, 2016, prior to February 1, 2017, prior to February 1, 2018,
33 prior to February 1, 2019, prior to February 1, 2020, prior to February
34 1, 2021, prior to February 1, 2022, [and] prior to February 1, 2023,
35 prior to February 1, 2024, prior to February 1, 2025, prior to February
36 1, 2026 and prior to February 1, 2027 for each regional group the
37 commissioner of health shall calculate the prior year's medicaid revenue
38 percentages for the period commencing January 1 through November 30 of
39 such prior year.

40 3. By September 15, 1996, for each regional group the commissioner of
41 health shall calculate the base period medicaid revenue percentage.

42 4. (a) For each regional group, the 1996 target medicaid revenue
43 percentage shall be calculated by subtracting the 1996 medicaid revenue
44 reduction percentages from the base period medicaid revenue percentages.
45 The 1996 medicaid revenue reduction percentage, taking into account
46 regional and program differences in utilization of medicaid and medicare
47 services, for the following regional groups shall be equal to:

48 (i) one and one-tenth percentage points for CHHAs located within the
49 downstate region;

50 (ii) six-tenths of one percentage point for CHHAs located within the
51 upstate region;

52 (iii) one and eight-tenths percentage points for LTHHCPs located with-
53 in the downstate region; and

54 (iv) one and seven-tenths percentage points for LTHHCPs located within
55 the upstate region.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 ~~[and]~~, 2023, 2024, 2025, 2026 and 2027 for each regional group, the target medicaid revenue percentage for the respective year shall be calculated by subtracting the respective year's medicaid revenue reduction percentage from the base period medicaid revenue percentage. The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 ~~[and]~~, 2023, 2024, 2025, 2026 and 2027, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

(i) one and one-tenth percentage points for CHHAs located within the downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPs located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPs located within the upstate region.

(c) For each regional group, the 1999 target medicaid revenue percentage shall be calculated by subtracting the 1999 medicaid revenue reduction percentage from the base period medicaid revenue percentage. The 1999 medicaid revenue reduction percentages, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) eight hundred twenty-five thousandths (.825) of one percentage point for CHHAs located within the downstate region;

(ii) forty-five hundredths (.45) of one percentage point for CHHAs located within the upstate region;

(iii) one and thirty-five hundredths percentage points (1.35) for LTHHCPs located within the downstate region; and

(iv) one and two hundred seventy-five thousandths percentage points (1.275) for LTHHCPs located within the upstate region.

5. (a) For each regional group, if the 1996 medicaid revenue percentage is not equal to or less than the 1996 target medicaid revenue percentage, the commissioner of health shall compare the 1996 medicaid revenue percentage to the 1996 target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the 1996 medicaid revenue reduction percentage, shall be called the 1996 reduction factor. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the 1996 medicaid revenue percentage is equal to or less than the 1996 target medicaid revenue percentage, the 1996 reduction factor shall be zero.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 ~~[and]~~, 2023, 2024, 2025, 2026 and 2027, for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a

1 particular year is equal to or less than the target medicaid revenue
2 percentage for that year, the reduction factor for that year shall be
3 zero.

4 6. (a) For each regional group, the 1996 reduction factor shall be
5 multiplied by the following amounts to determine each regional group's
6 applicable 1996 state share reduction amount:

7 (i) two million three hundred ninety thousand dollars (\$2,390,000) for
8 CHHAs located within the downstate region;

9 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located
10 within the upstate region;

11 (iii) one million two hundred seventy thousand dollars (\$1,270,000)
12 for LTHHCPs located within the downstate region; and

13 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs
14 located within the upstate region.

15 For each regional group reduction, if the 1996 reduction factor shall
16 be zero, there shall be no 1996 state share reduction amount.

17 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
18 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019,
19 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025, 2026 and 2027, for each
20 regional group, the reduction factor for the respective year shall be
21 multiplied by the following amounts to determine each regional group's
22 applicable state share reduction amount for such respective year:

23 (i) two million three hundred ninety thousand dollars (\$2,390,000) for
24 CHHAs located within the downstate region;

25 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located
26 within the upstate region;

27 (iii) one million two hundred seventy thousand dollars (\$1,270,000)
28 for LTHHCPs located within the downstate region; and

29 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs
30 located within the upstate region.

31 For each regional group reduction, if the reduction factor for a
32 particular year shall be zero, there shall be no state share reduction
33 amount for such year.

34 (c) For each regional group, the 1999 reduction factor shall be multi-
35 plied by the following amounts to determine each regional group's appli-
36 cable 1999 state share reduction amount:

37 (i) one million seven hundred ninety-two thousand five hundred dollars
38 (\$1,792,500) for CHHAs located within the downstate region;

39 (ii) five hundred sixty-two thousand five hundred dollars (\$562,500)
40 for CHHAs located within the upstate region;

41 (iii) nine hundred fifty-two thousand five hundred dollars (\$952,500)
42 for LTHHCPs located within the downstate region; and

43 (iv) four hundred forty-two thousand five hundred dollars (\$442,500)
44 for LTHHCPs located within the upstate region.

45 For each regional group reduction, if the 1999 reduction factor shall
46 be zero, there shall be no 1999 state share reduction amount.

47 7. (a) For each regional group, the 1996 state share reduction amount
48 shall be allocated by the commissioner of health among CHHAs and LTHHCPs
49 on the basis of the extent of each CHHA's and LTHHCP's failure to
50 achieve the 1996 target medicaid revenue percentage, calculated on a
51 provider specific basis utilizing revenues for this purpose, expressed
52 as a proportion of the total of each CHHA's and LTHHCP's failure to
53 achieve the 1996 target medicaid revenue percentage within the applica-
54 ble regional group. This proportion shall be multiplied by the applica-
55 ble 1996 state share reduction amount calculation pursuant to paragraph

1 (a) of subdivision 6 of this section. This amount shall be called the
2 1996 provider specific state share reduction amount.

3 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
4 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,
5 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025, 2026 and 2027 for each
6 regional group, the state share reduction amount for the respective year
7 shall be allocated by the commissioner of health among CHHAs and LTHHCPs
8 on the basis of the extent of each CHHA's and LTHHCP's failure to
9 achieve the target medicaid revenue percentage for the applicable year,
10 calculated on a provider specific basis utilizing revenues for this
11 purpose, expressed as a proportion of the total of each CHHA's and
12 LTHHCP's failure to achieve the target medicaid revenue percentage for
13 the applicable year within the applicable regional group. This propor-
14 tion shall be multiplied by the applicable year's state share reduction
15 amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of
16 this section. This amount shall be called the provider specific state
17 share reduction amount for the applicable year.

18 8. (a) The 1996 provider specific state share reduction amount shall
19 be due to the state from each CHHA and LTHHCP and may be recouped by the
20 state by March 31, 1997 in a lump sum amount or amounts from payments
21 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the
22 social services law.

23 (b) The provider specific state share reduction amount for 1997, 1998,
24 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,
25 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022
26 [~~and~~], 2023, 2024, 2025, 2026 and 2027 respectively, shall be due to the
27 state from each CHHA and LTHHCP and each year the amount due for such
28 year may be recouped by the state by March 31 of the following year in a
29 lump sum amount or amounts from payments due to the CHHA and LTHHCP
30 pursuant to title 11 of article 5 of the social services law.

31 9. CHHAs and LTHHCPs shall submit such data and information at such
32 times as the commissioner of health may require for purposes of this
33 section. The commissioner of health may use data available from third-
34 party payors.

35 10. On or about June 1, 1997, for each regional group the commissioner
36 of health shall calculate for the period August 1, 1996 through March
37 31, 1997 a medicaid revenue percentage, a reduction factor, a state
38 share reduction amount, and a provider specific state share reduction
39 amount in accordance with the methodology provided in paragraph (a) of
40 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-
41 sion 6 and paragraph (a) of subdivision 7 of this section. The provider
42 specific state share reduction amount calculated in accordance with this
43 subdivision shall be compared to the 1996 provider specific state share
44 reduction amount calculated in accordance with paragraph (a) of subdivi-
45 sion 7 of this section. Any amount in excess of the amount determined in
46 accordance with paragraph (a) of subdivision 7 of this section shall be
47 due to the state from each CHHA and LTHHCP and may be recouped in
48 accordance with paragraph (a) of subdivision 8 of this section. If the
49 amount is less than the amount determined in accordance with paragraph
50 (a) of subdivision 7 of this section, the difference shall be refunded
51 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs
52 and LTHHCPs shall submit data for the period August 1, 1996 through
53 March 31, 1997 to the commissioner of health by April 15, 1997.

54 11. If a CHHA or LTHHCP fails to submit data and information as
55 required for purposes of this section:

1 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-
2 caid revenue percentage between the applicable base period and the
3 applicable target period for purposes of the calculations pursuant to
4 this section; and

5 (b) the commissioner of health shall reduce the current rate paid to
6 such CHHA and such LTHHCP by state governmental agencies pursuant to
7 article 36 of the public health law by one percent for a period begin-
8 ning on the first day of the calendar month following the applicable due
9 date as established by the commissioner of health and continuing until
10 the last day of the calendar month in which the required data and infor-
11 mation are submitted.

12 12. The commissioner of health shall inform in writing the director of
13 the budget and the chair of the senate finance committee and the chair
14 of the assembly ways and means committee of the results of the calcu-
15 lations pursuant to this section.

16 § 21. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of
17 the laws of 1995, amending the public health law and other laws relating
18 to medical reimbursement and welfare reform, as amended by section 13 of
19 part BB of chapter 56 of the laws of 2020, is amended to read as
20 follows:

21 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,
22 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
23 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,
24 February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015,
25 February 1, 2016, February 1, 2017, February 1, 2018, February 1, 2019,
26 February 1, 2020, February 1, 2021, February 1, 2022 [and], February 1,
27 2023, February 1, 2024, February 1, 2025 and February 1, 2026, the
28 commissioner of health shall calculate the result of the statewide total
29 of residential health care facility days of care provided to benefici-
30 aries of title XVIII of the federal social security act (medicare),
31 divided by the sum of such days of care plus days of care provided to
32 residents eligible for payments pursuant to title 11 of article 5 of the
33 social services law minus the number of days provided to residents
34 receiving hospice care, expressed as a percentage, for the period
35 commencing January 1, through November 30, of the prior year respective-
36 ly, based on such data for such period. This value shall be called the
37 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011,
38 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and],
39 2023, 2024, 2025 and 2026 statewide target percentage respectively.

40 § 22. Subparagraph (ii) of paragraph (b) of subdivision 3 of section
41 64 of chapter 81 of the laws of 1995, amending the public health law and
42 other laws relating to medical reimbursement and welfare reform, as
43 amended by section 14 of part BB of chapter 56 of the laws of 2020, is
44 amended to read as follows:

45 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
46 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,
47 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide target
48 percentages are not for each year at least three percentage points high-
49 er than the statewide base percentage, the commissioner of health shall
50 determine the percentage by which the statewide target percentage for
51 each year is not at least three percentage points higher than the state-
52 wide base percentage. The percentage calculated pursuant to this para-
53 graph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004,
54 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016,
55 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026
56 statewide reduction percentage respectively. If the 1997, 1998, 2000,

2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide target percentage for the respective year is at least three percentage points higher than the statewide base percentage, the statewide reduction percentage for the respective year shall be zero.

§ 23. Subparagraph (iii) of paragraph (b) of subdivision 4 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 15 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide reduction percentage shall be multiplied by one hundred two million dollars respectively to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide aggregate reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 statewide reduction percentage shall be zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 2020, 2021, 2022 [~~and~~], 2023, 2024, 2025 and 2026 reduction amount.

§ 24. The opening paragraph of paragraph (e) of subdivision 7 of section 367-a of the social services law, as amended by section 1 of part GG of chapter 56 of the laws of 2020, is amended to read as follows:

During the period from April first, two thousand fifteen through March thirty-first, two thousand [~~twenty-three~~] ~~twenty-six~~, the commissioner may, in lieu of a managed care provider or pharmacy benefit manager, negotiate directly and enter into an arrangement with a pharmaceutical manufacturer for the provision of supplemental rebates relating to pharmaceutical utilization by enrollees of managed care providers pursuant to section three hundred sixty-four-j of this title and may also negotiate directly and enter into such an agreement relating to pharmaceutical utilization by medical assistance recipients not so enrolled. Such rebate arrangements shall be limited to the following: antiretrovirals approved by the FDA for the treatment of HIV/AIDS, opioid dependence agents and opioid antagonists listed in a statewide formulary established pursuant to subparagraph (vii) of this paragraph, hepatitis C agents, high cost drugs as provided for in subparagraph (viii) of this paragraph, gene therapies as provided for in subparagraph (ix) of this paragraph, and any other class or drug designated by the commissioner for which the pharmaceutical manufacturer has in effect a rebate arrangement with the federal secretary of health and human services pursuant to 42 U.S.C. § 1396r-8, and for which the state has established standard clinical criteria. No agreement entered into pursuant to this paragraph shall have an initial term or be extended beyond the expiration or repeal of this paragraph.

§ 25. Subdivision 1 of section 60 of part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, as amended by section 8 of part GG of chapter 56 of the laws of 2020, is amended to read as follows:

1 1. section one of this act shall expire and be deemed repealed March
2 31, [~~2026~~] 2029;

3 § 26. Section 8 of part KK of chapter 56 of the laws of 2020, amending
4 the public health law relating to the designation of statewide general
5 hospital quality and sole community pools and the reduction of capital
6 related inpatient expenses, is amended to read as follows:

7 § 8. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2020, provided,
9 further that sections [~~three~~] four through [~~nine~~] seven of this act
10 shall expire and be deemed repealed March 31, [~~2023~~] 2026; provided
11 further, however, that the director of the budget may, in consultation
12 with the commissioner of health, delay the effective dates prescribed
13 herein for a period of time which shall not exceed ninety days following
14 the conclusion or termination of an executive order issued pursuant to
15 section 28 of the executive law declaring a state disaster emergency for
16 the entire state of New York, upon such delay the director of budget
17 shall notify the chairs of the assembly ways and means committee and
18 senate finance committee and the chairs of the assembly and senate
19 health committee; provided further, however, that the director of the
20 budget shall notify the legislative bill drafting commission upon the
21 occurrence of a delay in the effective date of this act in order that
22 the commission may maintain an accurate and timely effective data base
23 of the official text of the laws of the state of New York in furtherance
24 of effectuating the provisions of section 44 of the legislative law and
25 section 70-b of the public officers law.

26 § 27. Subdivision 4-a of section 71 of part C of chapter 60 of the
27 laws of 2014, amending the social services law relating to fair hearings
28 within the Fully Integrated Duals Advantage program, as amended by
29 section 7 of part MM of chapter 56 of the laws of 2020, is amended to
30 read as follows:

31 4-a. section twenty-two of this act shall take effect April 1, 2014,
32 and shall be deemed expired January 1, [~~2024~~] 2027;

33 § 28. Section 4 of chapter 779 of the laws of 1986, amending the
34 social services law relating to authorizing services for non-residents
35 in adult homes, residences for adults and enriched housing programs, as
36 amended by section 1 of item PP of subpart B of part XXX of chapter 58
37 of the laws of 2020, is amended to read as follows:

38 § 4. This act shall take effect on the one hundred twentieth day after
39 it shall have become a law and shall remain in full force and effect
40 until July 1, [~~2023~~] 2027, provided however, that effective immediately,
41 the addition, amendment and/or repeal of any rules or regulations neces-
42 sary for the implementation of the foregoing sections of this act on its
43 effective date are authorized and directed to be made and completed on
44 or before such effective date.

45 § 29. Section 11 of chapter 884 of the laws of 1990, amending the
46 public health law relating to authorizing bad debt and charity care
47 allowances for certified home health agencies, as amended by section 1
48 of part S of chapter 57 of the laws of 2021, is amended to read as
49 follows:

50 § 11. This act shall take effect immediately and:

51 (a) sections one and three shall expire on December 31, 1996,

52 (b) sections four through ten shall expire on June 30, [~~2023~~] 2025,
53 and

54 (c) provided that the amendment to section 2807-b of the public health
55 law by section two of this act shall not affect the expiration of such

1 section 2807-b as otherwise provided by law and shall be deemed to
2 expire therewith.

3 § 30. Subdivision 5-a of section 246 of chapter 81 of the laws of
4 1995, amending the public health law and other laws relating to medical
5 reimbursement and welfare reform, as amended by section 3 of part S of
6 chapter 57 of the laws of 2021, is amended to read as follows:

7 5-a. Section sixty-four-a of this act shall be deemed to have been in
8 full force and effect on and after April 1, 1995 through March 31, 1999
9 and on and after July 1, 1999 through March 31, 2000 and on and after
10 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
11 through March 31, 2007, and on and after April 1, 2007 through March 31,
12 2009, and on and after April 1, 2009 through March 31, 2011, and on and
13 after April 1, 2011 through March 31, 2013, and on and after April 1,
14 2013 through March 31, 2015, and on and after April 1, 2015 through
15 March 31, 2017 and on and after April 1, 2017 through March 31, 2019,
16 and on and after April 1, 2019 through March 31, 2021, and on and after
17 April 1, 2021 through March 31, 2023, and on and after April 1, 2023
18 through March 31, 2027;

19 § 31. Section 64-b of chapter 81 of the laws of 1995, amending the
20 public health law and other laws relating to medical reimbursement and
21 welfare reform, as amended by section 4 of part S of chapter 57 of the
22 laws of 2021, is amended to read as follows:

23 § 64-b. Notwithstanding any inconsistent provision of law, the
24 provisions of subdivision 7 of section 3614 of the public health law, as
25 amended, shall remain and be in full force and effect on April 1, 1995
26 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
27 and after April 1, 2000 through March 31, 2003 and on and after April 1,
28 2003 through March 31, 2007, and on and after April 1, 2007 through
29 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
30 and on and after April 1, 2011 through March 31, 2013, and on and after
31 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
32 through March 31, 2017 and on and after April 1, 2017 through March 31,
33 2019, and on and after April 1, 2019 through March 31, 2021, and on
34 after April 1, 2021 through March 31, 2023, and on and after April 1,
35 2023 through March 31, 2027.

36 § 32. Section 4-a of part A of chapter 56 of the laws of 2013, amend-
37 ing chapter 59 of the laws of 2011 amending the public health law and
38 other laws relating to general hospital reimbursement for annual rates,
39 as amended by section 5 of part S of chapter 57 of the laws of 2021, is
40 amended to read as follows:

41 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
42 2807-c of the public health law, section 21 of chapter 1 of the laws of
43 1999, or any other contrary provision of law, in determining rates of
44 payments by state governmental agencies effective for services provided
45 on and after January 1, 2017 through March 31, ~~2023~~ 2025, for inpa-
46 tient and outpatient services provided by general hospitals, for inpa-
47 tient services and adult day health care outpatient services provided by
48 residential health care facilities pursuant to article 28 of the public
49 health law, except for residential health care facilities or units of
50 such facilities providing services primarily to children under twenty-
51 one years of age, for home health care services provided pursuant to
52 article 36 of the public health law by certified home health agencies,
53 long term home health care programs and AIDS home care programs, and for
54 personal care services provided pursuant to section 365-a of the social
55 services law, the commissioner of health shall apply no greater than
56 zero trend factors attributable to the 2017, 2018, 2019, 2020, 2021,

2022 [~~and~~], 2023, 2024 and 2025 calendar years in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such no greater than zero trend factors attributable to such 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024 and 2025 calendar years shall also be applied to rates of payment provided on and after January 1, 2017 through March 31, [~~2023~~] 2025 for personal care services provided in those local social services districts, including New York city, whose rates of payment for such services are established by such local social services districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations; and provided further, however, that for rates of payment for assisted living program services provided on and after January 1, 2017 through March 31, [~~2023~~] 2025, such trend factors attributable to the 2017, 2018, 2019, 2020, 2021, 2022 [~~and~~], 2023, 2024 and 2025 calendar years shall be established at no greater than zero percent.

§ 33. Subdivision 2 of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 6 of part S of chapter 57 of the laws of 2021, is amended to read as follows:

2. Sections five, seven through nine, twelve through fourteen, and eighteen of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2006 and on and after April 1, 2006 through March 31, 2007 and on and after April 1, 2007 through March 31, 2009 and on and after April 1, 2009 through March 31, 2011 and sections twelve, thirteen and fourteen of this act shall be deemed to be in full force and effect on and after April 1, 2011 through March 31, 2015 and on and after April 1, 2015 through March 31, 2017 and on and after April 1, 2017 through March 31, 2019, and on and after April 1, 2019 through March 31, 2021, and on and after April 1, 2021 through March 31, 2023, and on and after April 1, 2023 through March 31, 2025;

§ 34. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 2807-d of the public health law, as amended by section 11 of part S of chapter 57 of the laws of 2021, is amended to read as follows:

(vi) Notwithstanding any contrary provision of this paragraph or any other provision of law or regulation to the contrary, for residential health care facilities the assessment shall be six percent of each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for the period April first, two thousand two through March thirty-first, two thousand three for hospital or health-related services, including adult day services; provided, however, that residential health care facilities' gross receipts attributable to payments received pursuant to title XVIII of the federal social security act (medicare) shall be excluded from the assessment; provided, however, that for all such gross receipts received on or after April first, two thousand three through March thirty-first, two thousand five, such assessment shall be five percent, and further provided that for all such gross receipts received on or after April first, two thousand five through March thirty-first, two thousand nine, and on or after April first, two thousand nine through March thirty-first, two thousand eleven such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand eleven through March thirty-first, two thou-

1 sand thirteen such assessment shall be six percent, and further provided
2 that for all such gross receipts received on or after April first, two
3 thousand thirteen through March thirty-first, two thousand fifteen such
4 assessment shall be six percent, and further provided that for all such
5 gross receipts received on or after April first, two thousand fifteen
6 through March thirty-first, two thousand seventeen such assessment shall
7 be six percent, and further provided that for all such gross receipts
8 received on or after April first, two thousand seventeen through March
9 thirty-first, two thousand nineteen such assessment shall be six
10 percent, and further provided that for all such gross receipts received
11 on or after April first, two thousand nineteen through March thirty-
12 first, two thousand twenty-one such assessment shall be six percent, and
13 further provided that for all such gross receipts received on or after
14 April first, two thousand twenty-one through March thirty-first, two
15 thousand twenty-three such assessment shall be six percent, and further
16 provided that for all such gross receipts received on or after April
17 first, two thousand twenty-three through March thirty-first, two thou-
18 sand twenty-five such assessment shall be six percent.

19 § 35. Section 3 of part MM of chapter 57 of the laws of 2021 amending
20 the public health law relating to aiding in the transition to adulthood
21 for children with medical fragility living in pediatric nursing homes
22 and other settings is amended to read as follows:

23 § 3. This act shall take effect on the one hundred twentieth day after
24 it shall have become a law; provided however, that section one of this
25 act shall expire and be deemed repealed [~~two~~] four years after such
26 effective date; and provided further, that section two of this act shall
27 expire and be deemed repealed [~~three~~] five years after such effective
28 date.

29 § 36. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after April 1, 2023; provided,
31 however, that the amendments to subdivision 6 of section 366 of the
32 social services law made by section four of this act shall not affect
33 the repeal of such subdivision and shall be deemed repealed therewith;
34 provided further, however, that the amendments to subparagraph (ii) of
35 paragraph (c) of subdivision 11 of section 230 of the public health law
36 made by section ten of this act shall not affect the expiration of such
37 subparagraph and shall be deemed to expire therewith; and provided
38 further, however, that the amendments to the opening paragraph of para-
39 graph (e) of subdivision 7 of section 367-a of the social services law
40 made by section twenty-four of this act shall not affect the repeal of
41 such paragraph and shall be deemed repealed therewith.

42 PART C

43 Section 1. Section 34 of part A3 of chapter 62 of the laws of 2003
44 amending the general business law and other laws relating to enacting
45 major components necessary to implement the state fiscal plan for the
46 2003-04 state fiscal year, as amended by section 1 of part Y of chapter
47 56 of the laws of 2020, is amended to read as follows:

48 § 34. (1) Notwithstanding any inconsistent provision of law, rule or
49 regulation and effective April 1, 2008 through March 31, [~~2023~~] 2026,
50 the commissioner of health is authorized to transfer and the state comp-
51 troller is authorized and directed to receive for deposit to the credit
52 of the department of health's special revenue fund - other, health care
53 reform act (HCRA) resources fund - 061, provider collection monitoring
54 account, within amounts appropriated each year, those funds collected

1 and accumulated pursuant to section 2807-v of the public health law,
2 including income from invested funds, for the purpose of payment for
3 administrative costs of the department of health related to adminis-
4 tration of statutory duties for the collections and distributions
5 authorized by section 2807-v of the public health law.

6 (2) Notwithstanding any inconsistent provision of law, rule or regu-
7 lation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the
8 commissioner of health is authorized to transfer and the state comp-
9 troller is authorized and directed to receive for deposit to the credit
10 of the department of health's special revenue fund - other, health care
11 reform act (HCRA) resources fund - 061, provider collection monitoring
12 account, within amounts appropriated each year, those funds collected
13 and accumulated and interest earned through surcharges on payments for
14 health care services pursuant to section 2807-s of the public health law
15 and from assessments pursuant to section 2807-t of the public health law
16 for the purpose of payment for administrative costs of the department of
17 health related to administration of statutory duties for the collections
18 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of
19 the public health law.

20 (3) Notwithstanding any inconsistent provision of law, rule or regu-
21 lation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the
22 commissioner of health is authorized to transfer and the comptroller is
23 authorized to deposit, within amounts appropriated each year, those
24 funds authorized for distribution in accordance with the provisions of
25 paragraph (a) of subdivision 1 of section 2807-l of the public health
26 law for the purposes of payment for administrative costs of the depart-
27 ment of health related to the child health insurance plan program
28 authorized pursuant to title 1-A of article 25 of the public health law
29 into the special revenue funds - other, health care reform act (HCRA)
30 resources fund - 061, child health insurance account, established within
31 the department of health.

32 (5) Notwithstanding any inconsistent provision of law, rule or regu-
33 lation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the
34 commissioner of health is authorized to transfer and the comptroller is
35 authorized to deposit, within amounts appropriated each year, those
36 funds allocated pursuant to paragraph (j) of subdivision 1 of section
37 2807-v of the public health law for the purpose of payment for adminis-
38 trative costs of the department of health related to administration of
39 the state's tobacco control programs and cancer services provided pursu-
40 ant to sections 2807-r and 1399-ii of the public health law into such
41 accounts established within the department of health for such purposes.

42 (6) Notwithstanding any inconsistent provision of law, rule or regu-
43 lation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the
44 commissioner of health is authorized to transfer and the comptroller is
45 authorized to deposit, within amounts appropriated each year, the funds
46 authorized for distribution in accordance with the provisions of section
47 2807-l of the public health law for the purposes of payment for adminis-
48 trative costs of the department of health related to the programs funded
49 pursuant to section 2807-l of the public health law into the special
50 revenue funds - other, health care reform act (HCRA) resources fund -
51 061, pilot health insurance account, established within the department
52 of health.

53 (7) Notwithstanding any inconsistent provision of law, rule or regu-
54 lation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the
55 commissioner of health is authorized to transfer and the comptroller is
56 authorized to deposit, within amounts appropriated each year, those

1 funds authorized for distribution in accordance with the provisions of
2 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c
3 of the public health law from monies accumulated and interest earned in
4 the bad debt and charity care and capital statewide pools through an
5 assessment charged to general hospitals pursuant to the provisions of
6 subdivision 18 of section 2807-c of the public health law and those
7 funds authorized for distribution in accordance with the provisions of
8 section 2807-1 of the public health law for the purposes of payment for
9 administrative costs of the department of health related to programs
10 funded under section 2807-1 of the public health law into the special
11 revenue funds - other, health care reform act (HCRA) resources fund -
12 061, primary care initiatives account, established within the department
13 of health.

14 (8) Notwithstanding any inconsistent provision of law, rule or regu-
15 lation and effective April 1, 2008 through March 31, ~~2023~~ 2026, the
16 commissioner of health is authorized to transfer and the comptroller is
17 authorized to deposit, within amounts appropriated each year, those
18 funds authorized for distribution in accordance with section 2807-1 of
19 the public health law for the purposes of payment for administrative
20 costs of the department of health related to programs funded under
21 section 2807-1 of the public health law into the special revenue funds -
22 other, health care reform act (HCRA) resources fund - 061, health care
23 delivery administration account, established within the department of
24 health.

25 (9) Notwithstanding any inconsistent provision of law, rule or regu-
26 lation and effective April 1, 2008 through March 31, ~~2023~~ 2026, the
27 commissioner of health is authorized to transfer and the comptroller is
28 authorized to deposit, within amounts appropriated each year, those
29 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the
30 public health law and section 367-i of the social services law and for
31 distribution in accordance with the provisions of subdivision 9 of
32 section 2807-j of the public health law for the purpose of payment for
33 administration of statutory duties for the collections and distributions
34 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a
35 and 3614-b of the public health law and section 367-i of the social
36 services law into the special revenue funds - other, health care reform
37 act (HCRA) resources fund - 061, provider collection monitoring account,
38 established within the department of health.

39 § 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of
40 section 2807-j of the public health law, as amended by section 2 of part
41 Y of chapter 56 of the laws of 2020, are amended to read as follows:

42 (iv) seven hundred sixty-five million dollars annually of the funds
43 accumulated for the periods January first, two thousand through December
44 thirty-first, two thousand ~~twenty-two~~ twenty five, and

45 (v) one hundred ninety-one million two hundred fifty thousand dollars
46 of the funds accumulated for the period January first, two thousand
47 ~~twenty-three~~ twenty-six through March thirty-first, two thousand
48 ~~twenty-three~~ twenty-six.

49 § 3. Subdivision 5 of section 168 of chapter 639 of the laws of 1996,
50 constituting the New York Health Care Reform Act of 1996, as amended by
51 section 3 of part Y of chapter 56 of the laws of 2020, is amended to
52 read as follows:

53 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
54 law, as amended or as added by this act, shall expire on December 31,
55 ~~2023~~ 2026, and shall be thereafter effective only in respect to any
56 act done on or before such date or action or proceeding arising out of

1 such act including continued collections of funds from assessments and
2 allowances and surcharges established pursuant to sections 2807-c,
3 2807-j, 2807-s and 2807-t of the public health law, and administration
4 and distributions of funds from pools established pursuant to sections
5 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
6 health law related to patient services provided before December 31,
7 [~~2023~~] 2026, and continued expenditure of funds authorized for programs
8 and grants until the exhaustion of funds therefor;

9 § 4. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
10 constituting the New York Health Care Reform Act of 2000, as amended by
11 section 4 of part Y of chapter 56 of the laws of 2020, is amended to
12 read as follows:

13 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
14 law, as amended by this act, shall expire on December 31, [~~2023~~] 2026,
15 and shall be thereafter effective only in respect to any act done before
16 such date or action or proceeding arising out of such act including
17 continued collections of funds from assessments and allowances and
18 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
19 2807-t of the public health law, and administration and distributions of
20 funds from pools established pursuant to sections 2807-c, 2807-j,
21 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
22 health law, as amended or added by this act, related to patient services
23 provided before December 31, [~~2023~~] 2026, and continued expenditure of
24 funds authorized for programs and grants until the exhaustion of funds
25 therefor;

26 § 5. Section 2807-l of the public health law, as amended by section 5
27 of part Y of chapter 56 of the laws of 2020, is amended to read as
28 follows:

29 § 2807-l. Health care initiatives pool distributions. 1. Funds accumu-
30 lated in the health care initiatives pools pursuant to paragraph (b) of
31 subdivision nine of section twenty-eight hundred seven-j of this arti-
32 cle, or the health care reform act (HCRA) resources fund established
33 pursuant to section ninety-two-dd of the state finance law, whichever is
34 applicable, including income from invested funds, shall be distributed
35 or retained by the commissioner or by the state comptroller, as applica-
36 ble, in accordance with the following.

37 (a) Funds shall be reserved and accumulated from year to year and
38 shall be available, including income from invested funds, for purposes
39 of distributions to programs to provide health care coverage for unin-
40 sured or underinsured children pursuant to sections twenty-five hundred
41 ten and twenty-five hundred eleven of this chapter from the respective
42 health care initiatives pools established for the following periods in
43 the following amounts:

44 (i) from the pool for the period January first, nineteen hundred nine-
45 ty-seven through December thirty-first, nineteen hundred ninety-seven,
46 up to one hundred twenty million six hundred thousand dollars;

47 (ii) from the pool for the period January first, nineteen hundred
48 ninety-eight through December thirty-first, nineteen hundred ninety-
49 eight, up to one hundred sixty-four million five hundred thousand
50 dollars;

51 (iii) from the pool for the period January first, nineteen hundred
52 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
53 up to one hundred eighty-one million dollars;

54 (iv) from the pool for the period January first, two thousand through
55 December thirty-first, two thousand, two hundred seven million dollars;

1 (v) from the pool for the period January first, two thousand one
2 through December thirty-first, two thousand one, two hundred thirty-five
3 million dollars;

4 (vi) from the pool for the period January first, two thousand two
5 through December thirty-first, two thousand two, three hundred twenty-
6 four million dollars;

7 (vii) from the pool for the period January first, two thousand three
8 through December thirty-first, two thousand three, up to four hundred
9 fifty million three hundred thousand dollars;

10 (viii) from the pool for the period January first, two thousand four
11 through December thirty-first, two thousand four, up to four hundred
12 sixty million nine hundred thousand dollars;

13 (ix) from the pool or the health care reform act (HCRA) resources
14 fund, whichever is applicable, for the period January first, two thou-
15 sand five through December thirty-first, two thousand five, up to one
16 hundred fifty-three million eight hundred thousand dollars;

17 (x) from the health care reform act (HCRA) resources fund for the
18 period January first, two thousand six through December thirty-first,
19 two thousand six, up to three hundred twenty-five million four hundred
20 thousand dollars;

21 (xi) from the health care reform act (HCRA) resources fund for the
22 period January first, two thousand seven through December thirty-first,
23 two thousand seven, up to four hundred twenty-eight million fifty-nine
24 thousand dollars;

25 (xii) from the health care reform act (HCRA) resources fund for the
26 period January first, two thousand eight through December thirty-first,
27 two thousand ten, up to four hundred fifty-three million six hundred
28 seventy-four thousand dollars annually;

29 (xiii) from the health care reform act (HCRA) resources fund for the
30 period January first, two thousand eleven, through March thirty-first,
31 two thousand eleven, up to one hundred thirteen million four hundred
32 eighteen thousand dollars;

33 (xiv) from the health care reform act (HCRA) resources fund for the
34 period April first, two thousand eleven, through March thirty-first, two
35 thousand twelve, up to three hundred twenty-four million seven hundred
36 forty-four thousand dollars;

37 (xv) from the health care reform act (HCRA) resources fund for the
38 period April first, two thousand twelve, through March thirty-first, two
39 thousand thirteen, up to three hundred forty-six million four hundred
40 forty-four thousand dollars;

41 (xvi) from the health care reform act (HCRA) resources fund for the
42 period April first, two thousand thirteen, through March thirty-first,
43 two thousand fourteen, up to three hundred seventy million six hundred
44 ninety-five thousand dollars; and

45 (xvii) from the health care reform act (HCRA) resources fund for each
46 state fiscal year for periods on and after April first, two thousand
47 fourteen, within amounts appropriated.

48 (b) Funds shall be reserved and accumulated from year to year and
49 shall be available, including income from invested funds, for purposes
50 of distributions for health insurance programs under the individual
51 subsidy programs established pursuant to the expanded health care cover-
52 age act of nineteen hundred eighty-eight as amended, and for evaluation
53 of such programs from the respective health care initiatives pools or
54 the health care reform act (HCRA) resources fund, whichever is applica-
55 ble, established for the following periods in the following amounts:

(i) (A) an amount not to exceed six million dollars on an annualized basis for the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine; up to six million dollars for the period January first, two thousand through December thirty-first, two thousand; up to five million dollars for the period January first, two thousand one through December thirty-first, two thousand one; up to four million dollars for the period January first, two thousand two through December thirty-first, two thousand two; up to two million six hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three; up to one million three hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four; up to six hundred seventy thousand dollars for the period January first, two thousand five through June thirtieth, two thousand five; up to one million three hundred thousand dollars for the period April first, two thousand six through March thirty-first, two thousand seven; and up to one million three hundred thousand dollars annually for the period April first, two thousand seven through March thirty-first, two thousand nine, shall be allocated to individual subsidy programs; and

(B) an amount not to exceed seven million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and four million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, and three million dollars for the period January first, two thousand three through December thirty-first, two thousand three, and two million dollars for the period January first, two thousand four through December thirty-first, two thousand four, and two million dollars for the period January first, two thousand five through June thirtieth, two thousand five shall be allocated to the catastrophic health care expense program.

(ii) Notwithstanding any law to the contrary, the characterizations of the New York state small business health insurance partnership program as in effect prior to June thirtieth, two thousand three, voucher program as in effect prior to December thirty-first, two thousand one, individual subsidy program as in effect prior to June thirtieth, two thousand five, and catastrophic health care expense program, as in effect prior to June thirtieth, two thousand five, may, for the purposes of identifying matching funds for the community health care conversion demonstration project described in a waiver of the provisions of title XIX of the federal social security act granted to the state of New York and dated July fifteenth, nineteen hundred ninety-seven, may continue to be used to characterize the insurance programs in sections four thousand three hundred twenty-one-a, four thousand three hundred twenty-two-a, four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law, which are successor programs to these programs.

(c) Up to seventy-eight million dollars shall be reserved and accumulated from year to year from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, for purposes of public health programs, up to seventy-six million dollars shall be reserved and accumulated from year to year from the pools for the periods January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight and January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, up to eighty-four million

1 dollars shall be reserved and accumulated from year to year from the
2 pools for the period January first, two thousand through December thir-
3 ty-first, two thousand, up to eighty-five million dollars shall be
4 reserved and accumulated from year to year from the pools for the period
5 January first, two thousand one through December thirty-first, two thou-
6 sand one, up to eighty-six million dollars shall be reserved and accumu-
7 lated from year to year from the pools for the period January first, two
8 thousand two through December thirty-first, two thousand two, up to
9 eighty-six million one hundred fifty thousand dollars shall be reserved
10 and accumulated from year to year from the pools for the period January
11 first, two thousand three through December thirty-first, two thousand
12 three, up to fifty-eight million seven hundred eighty thousand dollars
13 shall be reserved and accumulated from year to year from the pools for
14 the period January first, two thousand four through December thirty-
15 first, two thousand four, up to sixty-eight million seven hundred thirty
16 thousand dollars shall be reserved and accumulated from year to year
17 from the pools or the health care reform act (HCRA) resources fund,
18 whichever is applicable, for the period January first, two thousand five
19 through December thirty-first, two thousand five, up to ninety-four
20 million three hundred fifty thousand dollars shall be reserved and accu-
21 mulated from year to year from the health care reform act (HCRA)
22 resources fund for the period January first, two thousand six through
23 December thirty-first, two thousand six, up to seventy million nine
24 hundred thirty-nine thousand dollars shall be reserved and accumulated
25 from year to year from the health care reform act (HCRA) resources fund
26 for the period January first, two thousand seven through December thir-
27 ty-first, two thousand seven, up to fifty-five million six hundred
28 eighty-nine thousand dollars annually shall be reserved and accumulated
29 from year to year from the health care reform act (HCRA) resources fund
30 for the period January first, two thousand eight through December thir-
31 ty-first, two thousand ten, up to thirteen million nine hundred twenty-
32 two thousand dollars shall be reserved and accumulated from year to year
33 from the health care reform act (HCRA) resources fund for the period
34 January first, two thousand eleven through March thirty-first, two thou-
35 sand eleven, and for periods on and after April first, two thousand
36 eleven, up to funding amounts specified below and shall be available,
37 including income from invested funds, for:

38 (i) deposit by the commissioner, within amounts appropriated, and the
39 state comptroller is hereby authorized and directed to receive for
40 deposit to, to the credit of the department of health's special revenue
41 fund - other, hospital based grants program account or the health care
42 reform act (HCRA) resources fund, whichever is applicable, for purposes
43 of services and expenses related to general hospital based grant
44 programs, up to twenty-two million dollars annually from the nineteen
45 hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen
46 hundred ninety-nine pool, two thousand pool, two thousand one pool and
47 two thousand two pool, respectively, up to twenty-two million dollars
48 from the two thousand three pool, up to ten million dollars for the
49 period January first, two thousand four through December thirty-first,
50 two thousand four, up to eleven million dollars for the period January
51 first, two thousand five through December thirty-first, two thousand
52 five, up to twenty-two million dollars for the period January first, two
53 thousand six through December thirty-first, two thousand six, up to
54 twenty-two million ninety-seven thousand dollars annually for the period
55 January first, two thousand seven through December thirty-first, two
56 thousand ten, up to five million five hundred twenty-four thousand

1 dollars for the period January first, two thousand eleven through March
2 thirty-first, two thousand eleven, up to thirteen million four hundred
3 forty-five thousand dollars for the period April first, two thousand
4 eleven through March thirty-first, two thousand twelve, and up to thir-
5 teen million three hundred seventy-five thousand dollars each state
6 fiscal year for the period April first, two thousand twelve through
7 March thirty-first, two thousand fourteen;

8 (ii) deposit by the commissioner, within amounts appropriated, and the
9 state comptroller is hereby authorized and directed to receive for
10 deposit to, to the credit of the emergency medical services training
11 account established in section ninety-seven-q of the state finance law
12 or the health care reform act (HCRA) resources fund, whichever is appli-
13 cable, up to sixteen million dollars on an annualized basis for the
14 periods January first, nineteen hundred ninety-seven through December
15 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars
16 for the period January first, two thousand through December thirty-
17 first, two thousand, up to twenty-one million dollars for the period
18 January first, two thousand one through December thirty-first, two thou-
19 sand one, up to twenty-two million dollars for the period January first,
20 two thousand two through December thirty-first, two thousand two, up to
21 twenty-two million five hundred fifty thousand dollars for the period
22 January first, two thousand three through December thirty-first, two
23 thousand three, up to nine million six hundred eighty thousand dollars
24 for the period January first, two thousand four through December thir-
25 ty-first, two thousand four, up to twelve million one hundred thirty
26 thousand dollars for the period January first, two thousand five through
27 December thirty-first, two thousand five, up to twenty-four million two
28 hundred fifty thousand dollars for the period January first, two thou-
29 sand six through December thirty-first, two thousand six, up to twenty
30 million four hundred ninety-two thousand dollars annually for the period
31 January first, two thousand seven through December thirty-first, two
32 thousand ten, up to five million one hundred twenty-three thousand
33 dollars for the period January first, two thousand eleven through March
34 thirty-first, two thousand eleven, up to eighteen million three hundred
35 fifty thousand dollars for the period April first, two thousand eleven
36 through March thirty-first, two thousand twelve, up to eighteen million
37 nine hundred fifty thousand dollars for the period April first, two
38 thousand twelve through March thirty-first, two thousand thirteen, up to
39 nineteen million four hundred nineteen thousand dollars for the period
40 April first, two thousand thirteen through March thirty-first, two thou-
41 sand fourteen, and up to nineteen million six hundred fifty-nine thou-
42 sand seven hundred dollars each state fiscal year for the period of
43 April first, two thousand fourteen through March thirty-first, two thou-
44 sand [~~twenty-three~~] twenty-six;

45 (iii) priority distributions by the commissioner up to thirty-two
46 million dollars on an annualized basis for the period January first, two
47 thousand through December thirty-first, two thousand four, up to thir-
48 ty-eight million dollars on an annualized basis for the period January
49 first, two thousand five through December thirty-first, two thousand
50 six, up to eighteen million two hundred fifty thousand dollars for the
51 period January first, two thousand seven through December thirty-first,
52 two thousand seven, up to three million dollars annually for the period
53 January first, two thousand eight through December thirty-first, two
54 thousand ten, up to seven hundred fifty thousand dollars for the period
55 January first, two thousand eleven through March thirty-first, two thou-
56 sand eleven, up to two million nine hundred thousand dollars each state

1 fiscal year for the period April first, two thousand eleven through
2 March thirty-first, two thousand fourteen, and up to two million nine
3 hundred thousand dollars each state fiscal year for the period April
4 first, two thousand fourteen through March thirty-first, two thousand
5 ~~[twenty-three]~~ twenty-six to be allocated (A) for the purposes estab-
6 lished pursuant to subparagraph (ii) of paragraph (f) of subdivision
7 nineteen of section twenty-eight hundred seven-c of this article as in
8 effect on December thirty-first, nineteen hundred ninety-six and as may
9 thereafter be amended, up to fifteen million dollars annually for the
10 periods January first, two thousand through December thirty-first, two
11 thousand four, up to twenty-one million dollars annually for the period
12 January first, two thousand five through December thirty-first, two
13 thousand six, and up to seven million five hundred thousand dollars for
14 the period January first, two thousand seven through March thirty-first,
15 two thousand seven;

16 (B) pursuant to a memorandum of understanding entered into by the
17 commissioner, the majority leader of the senate and the speaker of the
18 assembly, for the purposes outlined in such memorandum upon the recom-
19 mendation of the majority leader of the senate, up to eight million
20 five hundred thousand dollars annually for the period January first, two
21 thousand through December thirty-first, two thousand six, and up to four
22 million two hundred fifty thousand dollars for the period January first,
23 two thousand seven through June thirtieth, two thousand seven, and for
24 the purposes outlined in such memorandum upon the recommendation of the
25 speaker of the assembly, up to eight million five hundred thousand
26 dollars annually for the periods January first, two thousand through
27 December thirty-first, two thousand six, and up to four million two
28 hundred fifty thousand dollars for the period January first, two thou-
29 sand seven through June thirtieth, two thousand seven; and

30 (C) for services and expenses, including grants, related to emergency
31 assistance distributions as designated by the commissioner. Notwith-
32 standing section one hundred twelve or one hundred sixty-three of the
33 state finance law or any other contrary provision of law, such distrib-
34 utions shall be limited to providers or programs where, as determined by
35 the commissioner, emergency assistance is vital to protect the life or
36 safety of patients, to ensure the retention of facility caregivers or
37 other staff, or in instances where health facility operations are jeop-
38 ardized, or where the public health is jeopardized or other emergency
39 situations exist, up to three million dollars annually for the period
40 April first, two thousand seven through March thirty-first, two thousand
41 eleven, up to two million nine hundred thousand dollars each state
42 fiscal year for the period April first, two thousand eleven through
43 March thirty-first, two thousand fourteen, up to two million nine
44 hundred thousand dollars each state fiscal year for the period April
45 first, two thousand fourteen through March thirty-first, two thousand
46 seventeen, up to two million nine hundred thousand dollars each state
47 fiscal year for the period April first, two thousand seventeen through
48 March thirty-first, two thousand twenty, ~~[and]~~ up to two million nine
49 hundred thousand dollars each state fiscal year for the period April
50 first, two thousand twenty through March thirty-first, two thousand
51 twenty-three, and up to two million nine hundred thousand dollars each
52 state fiscal year for the period April first, two thousand twenty-three
53 through March thirty-first, two thousand twenty-six. Upon any distrib-
54 ution of such funds, the commissioner shall immediately notify the chair
55 and ranking minority member of the senate finance committee, the assem-

bly ways and means committee, the senate committee on health, and the assembly committee on health;

(iv) distributions by the commissioner related to poison control centers pursuant to subdivision seven of section twenty-five hundred-d of this chapter, up to five million dollars for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, up to three million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-nine, up to five million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four million six hundred thousand dollars annually for the periods January first, two thousand three through December thirty-first, two thousand four, up to five million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand six annually, up to five million one hundred thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand nine, up to three million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to seven hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to two million five hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to three million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to three million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, ~~[and]~~ up to three million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, and up to three million dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six; and

(v) deposit by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to, to the credit of the department of health's special revenue fund - other, miscellaneous special revenue fund - 339 maternal and child HIV services account or the health care reform act (HCRA) resources fund, whichever is applicable, for purposes of a special program for HIV services for women and children, including adolescents pursuant to section twenty-five hundred-f-one of this chapter, up to five million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to five million dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to two million five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to two million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to five million dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to one million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, and up to five million dollars each state

1 fiscal year for the period April first, two thousand eleven through
2 March thirty-first, two thousand fourteen;

3 (d) (i) An amount of up to twenty million dollars annually for the
4 period January first, two thousand through December thirty-first, two
5 thousand six, up to ten million dollars for the period January first,
6 two thousand seven through June thirtieth, two thousand seven, up to
7 twenty million dollars annually for the period January first, two thou-
8 sand eight through December thirty-first, two thousand ten, up to five
9 million dollars for the period January first, two thousand eleven
10 through March thirty-first, two thousand eleven, up to nineteen million
11 six hundred thousand dollars each state fiscal year for the period April
12 first, two thousand eleven through March thirty-first, two thousand
13 fourteen, up to nineteen million six hundred thousand dollars each state
14 fiscal year for the period April first, two thousand fourteen through
15 March thirty-first, two thousand seventeen, up to nineteen million six
16 hundred thousand dollars each state fiscal year for the period of April
17 first, two thousand seventeen through March thirty-first, two thousand
18 twenty, ~~and~~ up to nineteen million six hundred thousand dollars each
19 state fiscal year for the period of April first, two thousand twenty
20 through March thirty-first, two thousand twenty-three, and up to nine-
21 teen million six hundred thousand dollars each state fiscal year for the
22 period of April first, two thousand twenty-three through March thirty-
23 first, two thousand twenty-six, shall be transferred to the health
24 facility restructuring pool established pursuant to section twenty-eight
25 hundred fifteen of this article;

26 (ii) provided, however, amounts transferred pursuant to subparagraph
27 (i) of this paragraph may be reduced in an amount to be approved by the
28 director of the budget to reflect the amount received from the federal
29 government under the state's 1115 waiver which is directed under its
30 terms and conditions to the health facility restructuring program.

31 (f) Funds shall be accumulated and transferred from as follows:

32 (i) from the pool for the period January first, nineteen hundred nine-
33 ty-seven through December thirty-first, nineteen hundred ninety-seven,
34 (A) thirty-four million six hundred thousand dollars shall be trans-
35 ferred to funds reserved and accumulated pursuant to paragraph (b) of
36 subdivision nineteen of section twenty-eight hundred seven-c of this
37 article, and (B) eighty-two million dollars shall be transferred and
38 deposited and credited to the credit of the state general fund medical
39 assistance local assistance account;

40 (ii) from the pool for the period January first, nineteen hundred
41 ninety-eight through December thirty-first, nineteen hundred ninety-
42 eight, eighty-two million dollars shall be transferred and deposited and
43 credited to the credit of the state general fund medical assistance
44 local assistance account;

45 (iii) from the pool for the period January first, nineteen hundred
46 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
47 eighty-two million dollars shall be transferred and deposited and cred-
48 ited to the credit of the state general fund medical assistance local
49 assistance account;

50 (iv) from the pool or the health care reform act (HCRA) resources
51 fund, whichever is applicable, for the period January first, two thou-
52 sand through December thirty-first, two thousand four, eighty-two
53 million dollars annually, and for the period January first, two thousand
54 five through December thirty-first, two thousand five, eighty-two
55 million dollars, and for the period January first, two thousand six
56 through December thirty-first, two thousand six, eighty-two million

1 dollars, and for the period January first, two thousand seven through
2 December thirty-first, two thousand seven, eighty-two million dollars,
3 and for the period January first, two thousand eight through December
4 thirty-first, two thousand eight, ninety million seven hundred thousand
5 dollars shall be deposited by the commissioner, and the state comp-
6 troller is hereby authorized and directed to receive for deposit to the
7 credit of the state special revenue fund - other, HCRA transfer fund,
8 medical assistance account;

9 (v) from the health care reform act (HCRA) resources fund for the
10 period January first, two thousand nine through December thirty-first,
11 two thousand nine, one hundred eight million nine hundred seventy-five
12 thousand dollars, and for the period January first, two thousand ten
13 through December thirty-first, two thousand ten, one hundred twenty-six
14 million one hundred thousand dollars, for the period January first, two
15 thousand eleven through March thirty-first, two thousand eleven, twenty
16 million five hundred thousand dollars, and for each state fiscal year
17 for the period April first, two thousand eleven through March thirty-
18 first, two thousand fourteen, one hundred forty-six million four hundred
19 thousand dollars, shall be deposited by the commissioner, and the state
20 comptroller is hereby authorized and directed to receive for deposit, to
21 the credit of the state special revenue fund - other, HCRA transfer
22 fund, medical assistance account.

23 (g) Funds shall be transferred to primary health care services pools
24 created by the commissioner, and shall be available, including income
25 from invested funds, for distributions in accordance with former section
26 twenty-eight hundred seven-bb of this article from the respective health
27 care initiatives pools for the following periods in the following
28 percentage amounts of funds remaining after allocations in accordance
29 with paragraphs (a) through (f) of this subdivision:

30 (i) from the pool for the period January first, nineteen hundred nine-
31 ty-seven through December thirty-first, nineteen hundred ninety-seven,
32 fifteen and eighty-seven-hundredths percent;

33 (ii) from the pool for the period January first, nineteen hundred
34 ninety-eight through December thirty-first, nineteen hundred ninety-
35 eight, fifteen and eighty-seven-hundredths percent; and

36 (iii) from the pool for the period January first, nineteen hundred
37 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
38 sixteen and thirteen-hundredths percent.

39 (h) Funds shall be reserved and accumulated from year to year by the
40 commissioner and shall be available, including income from invested
41 funds, for purposes of primary care education and training pursuant to
42 article nine of this chapter from the respective health care initiatives
43 pools established for the following periods in the following percentage
44 amounts of funds remaining after allocations in accordance with para-
45 graphs (a) through (f) of this subdivision and shall be available for
46 distributions as follows:

47 (i) funds shall be reserved and accumulated:

48 (A) from the pool for the period January first, nineteen hundred nine-
49 ty-seven through December thirty-first, nineteen hundred ninety-seven,
50 six and thirty-five-hundredths percent;

51 (B) from the pool for the period January first, nineteen hundred nine-
52 ty-eight through December thirty-first, nineteen hundred ninety-eight,
53 six and thirty-five-hundredths percent; and

54 (C) from the pool for the period January first, nineteen hundred nine-
55 ty-nine through December thirty-first, nineteen hundred ninety-nine, six
56 and forty-five-hundredths percent;

1 (ii) funds shall be available for distributions including income from
2 invested funds as follows:

3 (A) for purposes of the primary care physician loan repayment program
4 in accordance with section nine hundred three of this chapter, up to
5 five million dollars on an annualized basis;

6 (B) for purposes of the primary care practitioner scholarship program
7 in accordance with section nine hundred four of this chapter, up to two
8 million dollars on an annualized basis;

9 (C) for purposes of minority participation in medical education grants
10 in accordance with section nine hundred six of this chapter, up to one
11 million dollars on an annualized basis; and

12 (D) provided, however, that the commissioner may reallocate any funds
13 remaining or unallocated for distributions for the primary care practi-
14 tioner scholarship program in accordance with section nine hundred four
15 of this chapter.

16 (i) Funds shall be reserved and accumulated from year to year and
17 shall be available, including income from invested funds, for distrib-
18 utions in accordance with section twenty-nine hundred fifty-two and
19 section twenty-nine hundred fifty-eight of this chapter for rural health
20 care delivery development and rural health care access development,
21 respectively, from the respective health care initiatives pools or the
22 health care reform act (HCRA) resources fund, whichever is applicable,
23 for the following periods in the following percentage amounts of funds
24 remaining after allocations in accordance with paragraphs (a) through
25 (f) of this subdivision, and for periods on and after January first, two
26 thousand, in the following amounts:

27 (i) from the pool for the period January first, nineteen hundred nine-
28 ty-seven through December thirty-first, nineteen hundred ninety-seven,
29 thirteen and forty-nine-hundredths percent;

30 (ii) from the pool for the period January first, nineteen hundred
31 ninety-eight through December thirty-first, nineteen hundred ninety-
32 eight, thirteen and forty-nine-hundredths percent;

33 (iii) from the pool for the period January first, nineteen hundred
34 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
35 thirteen and seventy-one-hundredths percent;

36 (iv) from the pool for the periods January first, two thousand through
37 December thirty-first, two thousand two, seventeen million dollars annu-
38 ally, and for the period January first, two thousand three through
39 December thirty-first, two thousand three, up to fifteen million eight
40 hundred fifty thousand dollars;

41 (v) from the pool or the health care reform act (HCRA) resources fund,
42 whichever is applicable, for the period January first, two thousand four
43 through December thirty-first, two thousand four, up to fifteen million
44 eight hundred fifty thousand dollars, for the period January first, two
45 thousand five through December thirty-first, two thousand five, up to
46 nineteen million two hundred thousand dollars, for the period January
47 first, two thousand six through December thirty-first, two thousand six,
48 up to nineteen million two hundred thousand dollars, for the period
49 January first, two thousand seven through December thirty-first, two
50 thousand ten, up to eighteen million one hundred fifty thousand dollars
51 annually, for the period January first, two thousand eleven through
52 March thirty-first, two thousand eleven, up to four million five hundred
53 thirty-eight thousand dollars, for each state fiscal year for the period
54 April first, two thousand eleven through March thirty-first, two thou-
55 sand fourteen, up to sixteen million two hundred thousand dollars, up to
56 sixteen million two hundred thousand dollars each state fiscal year for

1 the period April first, two thousand fourteen through March thirty-
2 first, two thousand seventeen, up to sixteen million two hundred thou-
3 sand dollars each state fiscal year for the period April first, two
4 thousand seventeen through March thirty-first, two thousand twenty,
5 ~~[and]~~ up to sixteen million two hundred thousand dollars each state
6 fiscal year for the period April first, two thousand twenty through
7 March thirty-first, two thousand twenty-three, and up to sixteen million
8 two hundred thousand dollars each state fiscal year for the period April
9 first, two thousand twenty-three through March thirty-first, two thou-
10 sand twenty-six.

11 (j) Funds shall be reserved and accumulated from year to year and
12 shall be available, including income from invested funds, for purposes
13 of distributions related to health information and health care quality
14 improvement pursuant to former section twenty-eight hundred seven-n of
15 this article from the respective health care initiatives pools estab-
16 lished for the following periods in the following percentage amounts of
17 funds remaining after allocations in accordance with paragraphs (a)
18 through (f) of this subdivision:

19 (i) from the pool for the period January first, nineteen hundred nine-
20 ty-seven through December thirty-first, nineteen hundred ninety-seven,
21 six and thirty-five-hundredths percent;

22 (ii) from the pool for the period January first, nineteen hundred
23 ninety-eight through December thirty-first, nineteen hundred ninety-
24 eight, six and thirty-five-hundredths percent; and

25 (iii) from the pool for the period January first, nineteen hundred
26 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
27 six and forty-five-hundredths percent.

28 (k) Funds shall be reserved and accumulated from year to year and
29 shall be available, including income from invested funds, for allo-
30 cations and distributions in accordance with section twenty-eight
31 hundred seven-p of this article for diagnostic and treatment center
32 uncompensated care from the respective health care initiatives pools or
33 the health care reform act (HCRA) resources fund, whichever is applica-
34 ble, for the following periods in the following percentage amounts of
35 funds remaining after allocations in accordance with paragraphs (a)
36 through (f) of this subdivision, and for periods on and after January
37 first, two thousand, in the following amounts:

38 (i) from the pool for the period January first, nineteen hundred nine-
39 ty-seven through December thirty-first, nineteen hundred ninety-seven,
40 thirty-eight and one-tenth percent;

41 (ii) from the pool for the period January first, nineteen hundred
42 ninety-eight through December thirty-first, nineteen hundred ninety-
43 eight, thirty-eight and one-tenth percent;

44 (iii) from the pool for the period January first, nineteen hundred
45 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
46 thirty-eight and seventy-one-hundredths percent;

47 (iv) from the pool for the periods January first, two thousand through
48 December thirty-first, two thousand two, forty-eight million dollars
49 annually, and for the period January first, two thousand three through
50 June thirtieth, two thousand three, twenty-four million dollars;

51 (v) (A) from the pool or the health care reform act (HCRA) resources
52 fund, whichever is applicable, for the period July first, two thousand
53 three through December thirty-first, two thousand three, up to six
54 million dollars, for the period January first, two thousand four through
55 December thirty-first, two thousand six, up to twelve million dollars
56 annually, for the period January first, two thousand seven through

1 December thirty-first, two thousand thirteen, up to forty-eight million
2 dollars annually, for the period January first, two thousand fourteen
3 through March thirty-first, two thousand fourteen, up to twelve million
4 dollars for the period April first, two thousand fourteen through March
5 thirty-first, two thousand seventeen, up to forty-eight million dollars
6 annually, for the period April first, two thousand seventeen through
7 March thirty-first, two thousand twenty, up to forty-eight million
8 dollars annually, [and] for the period April first, two thousand twenty
9 through March thirty-first, two thousand twenty-three, up to forty-eight
10 million dollars annually, and for the period April first, two thousand
11 twenty-three through March thirty-first, two thousand twenty-six, up to
12 forty-eight million dollars annually;

13 (B) from the health care reform act (HCRA) resources fund for the
14 period January first, two thousand six through December thirty-first,
15 two thousand six, an additional seven million five hundred thousand
16 dollars, for the period January first, two thousand seven through Decem-
17 ber thirty-first, two thousand thirteen, an additional seven million
18 five hundred thousand dollars annually, for the period January first,
19 two thousand fourteen through March thirty-first, two thousand fourteen,
20 an additional one million eight hundred seventy-five thousand dollars,
21 for the period April first, two thousand fourteen through March thirty-
22 first, two thousand seventeen, an additional seven million five hundred
23 thousand dollars annually, for the period April first, two thousand
24 seventeen through March thirty-first, two thousand twenty, an additional
25 seven million five hundred thousand dollars annually, [and] for the
26 period April first, two thousand twenty through March thirty-first, two
27 thousand twenty-three, an additional seven million five hundred thousand
28 dollars annually, and for the period April first, two thousand twenty-
29 three through March thirty-first, two thousand twenty-six, an additional
30 seven million five hundred thousand dollars annually for voluntary non-
31 profit diagnostic and treatment center uncompensated care in accordance
32 with subdivision four-c of section twenty-eight hundred seven-p of this
33 article; and

34 (vi) funds reserved and accumulated pursuant to this paragraph for
35 periods on and after July first, two thousand three, shall be deposited
36 by the commissioner, within amounts appropriated, and the state comp-
37 troller is hereby authorized and directed to receive for deposit to the
38 credit of the state special revenue funds - other, HCRA transfer fund,
39 medical assistance account, for purposes of funding the state share of
40 rate adjustments made pursuant to section twenty-eight hundred seven-p
41 of this article, provided, however, that in the event federal financial
42 participation is not available for rate adjustments made pursuant to
43 paragraph (b) of subdivision one of section twenty-eight hundred seven-p
44 of this article, funds shall be distributed pursuant to paragraph (a) of
45 subdivision one of section twenty-eight hundred seven-p of this article
46 from the respective health care initiatives pools or the health care
47 reform act (HCRA) resources fund, whichever is applicable.

48 (1) Funds shall be reserved and accumulated from year to year by the
49 commissioner and shall be available, including income from invested
50 funds, for transfer to and allocation for services and expenses for the
51 payment of benefits to recipients of drugs under the AIDS drug assist-
52 ance program (ADAP) - HIV uninsured care program as administered by
53 Health Research Incorporated from the respective health care initi-
54 atives pools or the health care reform act (HCRA) resources fund, which-
55 ever is applicable, established for the following periods in the follow-
56 ing percentage amounts of funds remaining after allocations in

1 accordance with paragraphs (a) through (f) of this subdivision, and for
2 periods on and after January first, two thousand, in the following
3 amounts:

4 (i) from the pool for the period January first, nineteen hundred nine-
5 ty-seven through December thirty-first, nineteen hundred ninety-seven,
6 nine and fifty-two-hundredths percent;

7 (ii) from the pool for the period January first, nineteen hundred
8 ninety-eight through December thirty-first, nineteen hundred ninety-
9 eight, nine and fifty-two-hundredths percent;

10 (iii) from the pool for the period January first, nineteen hundred
11 ninety-nine and December thirty-first, nineteen hundred ninety-nine,
12 nine and sixty-eight-hundredths percent;

13 (iv) from the pool for the periods January first, two thousand through
14 December thirty-first, two thousand two, up to twelve million dollars
15 annually, and for the period January first, two thousand three through
16 December thirty-first, two thousand three, up to forty million dollars;
17 and

18 (v) from the pool or the health care reform act (HCRA) resources fund,
19 whichever is applicable, for the periods January first, two thousand
20 four through December thirty-first, two thousand four, up to fifty-six
21 million dollars, for the period January first, two thousand five through
22 December thirty-first, two thousand six, up to sixty million dollars
23 annually, for the period January first, two thousand seven through
24 December thirty-first, two thousand ten, up to sixty million dollars
25 annually, for the period January first, two thousand eleven through
26 March thirty-first, two thousand eleven, up to fifteen million dollars,
27 each state fiscal year for the period April first, two thousand eleven
28 through March thirty-first, two thousand fourteen, up to forty-two
29 million three hundred thousand dollars and up to forty-one million fifty
30 thousand dollars each state fiscal year for the period April first, two
31 thousand fourteen through March thirty-first, two thousand [~~twenty-~~
32 ~~three~~] twenty-six.

33 (m) Funds shall be reserved and accumulated from year to year and
34 shall be available, including income from invested funds, for purposes
35 of distributions pursuant to section twenty-eight hundred seven-r of
36 this article for cancer related services from the respective health care
37 initiatives pools or the health care reform act (HCRA) resources fund,
38 whichever is applicable, established for the following periods in the
39 following percentage amounts of funds remaining after allocations in
40 accordance with paragraphs (a) through (f) of this subdivision, and for
41 periods on and after January first, two thousand, in the following
42 amounts:

43 (i) from the pool for the period January first, nineteen hundred nine-
44 ty-seven through December thirty-first, nineteen hundred ninety-seven,
45 seven and ninety-four-hundredths percent;

46 (ii) from the pool for the period January first, nineteen hundred
47 ninety-eight through December thirty-first, nineteen hundred ninety-
48 eight, seven and ninety-four-hundredths percent;

49 (iii) from the pool for the period January first, nineteen hundred
50 ninety-nine and December thirty-first, nineteen hundred ninety-nine, six
51 and forty-five-hundredths percent;

52 (iv) from the pool for the period January first, two thousand through
53 December thirty-first, two thousand two, up to ten million dollars on an
54 annual basis;

1 (v) from the pool for the period January first, two thousand three
2 through December thirty-first, two thousand four, up to eight million
3 nine hundred fifty thousand dollars on an annual basis;

4 (vi) from the pool or the health care reform act (HCRA) resources
5 fund, whichever is applicable, for the period January first, two thou-
6 sand five through December thirty-first, two thousand six, up to ten
7 million fifty thousand dollars on an annual basis, for the period Janu-
8 ary first, two thousand seven through December thirty-first, two thou-
9 sand ten, up to nineteen million dollars annually, and for the period
10 January first, two thousand eleven through March thirty-first, two thou-
11 sand eleven, up to four million seven hundred fifty thousand dollars.

12 (n) Funds shall be accumulated and transferred from the health care
13 reform act (HCRA) resources fund as follows: for the period April first,
14 two thousand seven through March thirty-first, two thousand eight, and
15 on an annual basis for the periods April first, two thousand eight
16 through November thirtieth, two thousand nine, funds within amounts
17 appropriated shall be transferred and deposited and credited to the
18 credit of the state special revenue funds - other, HCRA transfer fund,
19 medical assistance account, for purposes of funding the state share of
20 rate adjustments made to public and voluntary hospitals in accordance
21 with paragraphs (i) and (j) of subdivision one of section twenty-eight
22 hundred seven-c of this article.

23 2. Notwithstanding any inconsistent provision of law, rule or regu-
24 lation, any funds accumulated in the health care initiatives pools
25 pursuant to paragraph (b) of subdivision nine of section twenty-eight
26 hundred seven-j of this article, as a result of surcharges, assessments
27 or other obligations during the periods January first, nineteen hundred
28 ninety-seven through December thirty-first, nineteen hundred ninety-
29 nine, which are unused or uncommitted for distributions pursuant to this
30 section shall be reserved and accumulated from year to year by the
31 commissioner and, within amounts appropriated, transferred and deposited
32 into the special revenue funds - other, miscellaneous special revenue
33 fund - 339, child health insurance account or any successor fund or
34 account, for purposes of distributions to implement the child health
35 insurance program established pursuant to sections twenty-five hundred
36 ten and twenty-five hundred eleven of this chapter for periods on and
37 after January first, two thousand one; provided, however, funds reserved
38 and accumulated for priority distributions pursuant to subparagraph
39 (iii) of paragraph (c) of subdivision one of this section shall not be
40 transferred and deposited into such account pursuant to this subdivi-
41 sion; and provided further, however, that any unused or uncommitted pool
42 funds accumulated and allocated pursuant to paragraph (j) of subdivision
43 one of this section shall be distributed for purposes of the health
44 information and quality improvement act of 2000.

45 3. Revenue from distributions pursuant to this section shall not be
46 included in gross revenue received for purposes of the assessments
47 pursuant to subdivision eighteen of section twenty-eight hundred seven-c
48 of this article, subject to the provisions of paragraph (e) of subdivi-
49 sion eighteen of section twenty-eight hundred seven-c of this article,
50 and shall not be included in gross revenue received for purposes of the
51 assessments pursuant to section twenty-eight hundred seven-d of this
52 article, subject to the provisions of subdivision twelve of section
53 twenty-eight hundred seven-d of this article.

54 § 6. Subdivision 5-a of section 2807-m of the public health law, as
55 amended by section 6 of part Y of chapter 56 of the laws of 2020, is
56 amended to read as follows:

1 5-a. Graduate medical education innovations pool. (a) Supplemental
2 distributions. (i) Thirty-one million dollars for the period January
3 first, two thousand eight through December thirty-first, two thousand
4 eight, shall be set aside and reserved by the commissioner from the
5 regional pools established pursuant to subdivision two of this section
6 and shall be available for distributions pursuant to subdivision five of
7 this section and in accordance with section 86-1.89 of title 10 of the
8 codes, rules and regulations of the state of New York as in effect on
9 January first, two thousand eight; provided, however, for purposes of
10 funding the empire clinical research investigation program (ECRIP) in
11 accordance with paragraph eight of subdivision (e) and paragraph two of
12 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and
13 regulations of the state of New York, distributions shall be made using
14 two regions defined as New York city and the rest of the state and the
15 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-
16 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-
17 lations of the state of New York shall be increased from sixty thousand
18 dollars to seventy-five thousand dollars.

19 (ii) For periods on and after January first, two thousand nine,
20 supplemental distributions pursuant to subdivision five of this section
21 and in accordance with section 86-1.89 of title 10 of the codes, rules
22 and regulations of the state of New York shall no longer be made and the
23 provisions of section 86-1.89 of title 10 of the codes, rules and regu-
24 lations of the state of New York shall be null and void.

25 (b) Empire clinical research investigator program (ECRIP). Nine
26 million one hundred twenty thousand dollars annually for the period
27 January first, two thousand nine through December thirty-first, two
28 thousand ten, and two million two hundred eighty thousand dollars for
29 the period January first, two thousand eleven, through March thirty-
30 first, two thousand eleven, nine million one hundred twenty thousand
31 dollars each state fiscal year for the period April first, two thousand
32 eleven through March thirty-first, two thousand fourteen, up to eight
33 million six hundred twelve thousand dollars each state fiscal year for
34 the period April first, two thousand fourteen through March thirty-
35 first, two thousand seventeen, up to eight million six hundred twelve
36 thousand dollars each state fiscal year for the period April first, two
37 thousand seventeen through March thirty-first, two thousand twenty,
38 ~~[and]~~ up to eight million six hundred twelve thousand dollars each state
39 fiscal year for the period April first, two thousand twenty through
40 March thirty-first, two thousand twenty-three, and up to eight million
41 six hundred twelve thousand dollars each state fiscal year for the peri-
42 od April first, two thousand twenty-three through March thirty-first,
43 two thousand twenty-six, shall be set aside and reserved by the commis-
44 sioner from the regional pools established pursuant to subdivision two
45 of this section to be allocated regionally with two-thirds of the avail-
46 able funding going to New York city and one-third of the available fund-
47 ing going to the rest of the state and shall be available for distrib-
48 ution as follows:

49 Distributions shall first be made to consortia and teaching general
50 hospitals for the empire clinical research investigator program (ECRIP)
51 to help secure federal funding for biomedical research, train clinical
52 researchers, recruit national leaders as faculty to act as mentors, and
53 train residents and fellows in biomedical research skills based on
54 hospital-specific data submitted to the commissioner by consortia and
55 teaching general hospitals in accordance with clause (G) of this subpar-

1 agraph. Such distributions shall be made in accordance with the follow-
2 ing methodology:

3 (A) The greatest number of clinical research positions for which a
4 consortium or teaching general hospital may be funded pursuant to this
5 subparagraph shall be one percent of the total number of residents
6 training at the consortium or teaching general hospital on July first,
7 two thousand eight for the period January first, two thousand nine
8 through December thirty-first, two thousand nine rounded up to the near-
9 est one position.

10 (B) Distributions made to a consortium or teaching general hospital
11 shall equal the product of the total number of clinical research posi-
12 tions submitted by a consortium or teaching general hospital and
13 accepted by the commissioner as meeting the criteria set forth in para-
14 graph (b) of subdivision one of this section, subject to the reduction
15 calculation set forth in clause (C) of this subparagraph, times one
16 hundred ten thousand dollars.

17 (C) If the dollar amount for the total number of clinical research
18 positions in the region calculated pursuant to clause (B) of this
19 subparagraph exceeds the total amount appropriated for purposes of this
20 paragraph, including clinical research positions that continue from and
21 were funded in prior distribution periods, the commissioner shall elimi-
22 nate one-half of the clinical research positions submitted by each
23 consortium or teaching general hospital rounded down to the nearest one
24 position. Such reduction shall be repeated until the dollar amount for
25 the total number of clinical research positions in the region does not
26 exceed the total amount appropriated for purposes of this paragraph. If
27 the repeated reduction of the total number of clinical research posi-
28 tions in the region by one-half does not render a total funding amount
29 that is equal to or less than the total amount reserved for that region
30 within the appropriation, the funding for each clinical research posi-
31 tion in that region shall be reduced proportionally in one thousand
32 dollar increments until the total dollar amount for the total number of
33 clinical research positions in that region does not exceed the total
34 amount reserved for that region within the appropriation. Any reduction
35 in funding will be effective for the duration of the award. No clinical
36 research positions that continue from and were funded in prior distrib-
37 ution periods shall be eliminated or reduced by such methodology.

38 (D) Each consortium or teaching general hospital shall receive its
39 annual distribution amount in accordance with the following:

40 (I) Each consortium or teaching general hospital with a one-year ECRIP
41 award shall receive its annual distribution amount in full upon
42 completion of the requirements set forth in items (I) and (II) of clause
43 (G) of this subparagraph. The requirements set forth in items (IV) and
44 (V) of clause (G) of this subparagraph must be completed by the consor-
45 tium or teaching general hospital in order for the consortium or teach-
46 ing general hospital to be eligible to apply for ECRIP funding in any
47 subsequent funding cycle.

48 (II) Each consortium or teaching general hospital with a two-year
49 ECRIP award shall receive its first annual distribution amount in full
50 upon completion of the requirements set forth in items (I) and (II) of
51 clause (G) of this subparagraph. Each consortium or teaching general
52 hospital will receive its second annual distribution amount in full upon
53 completion of the requirements set forth in item (III) of clause (G) of
54 this subparagraph. The requirements set forth in items (IV) and (V) of
55 clause (G) of this subparagraph must be completed by the consortium or
56 teaching general hospital in order for the consortium or teaching gener-

1 al hospital to be eligible to apply for ECRIP funding in any subsequent
2 funding cycle.

3 (E) Each consortium or teaching general hospital receiving distrib-
4 utions pursuant to this subparagraph shall reserve seventy-five thousand
5 dollars to primarily fund salary and fringe benefits of the clinical
6 research position with the remainder going to fund the development of
7 faculty who are involved in biomedical research, training and clinical
8 care.

9 (F) Undistributed or returned funds available to fund clinical
10 research positions pursuant to this paragraph for a distribution period
11 shall be available to fund clinical research positions in a subsequent
12 distribution period.

13 (G) In order to be eligible for distributions pursuant to this subpar-
14 agraph, each consortium and teaching general hospital shall provide to
15 the commissioner by July first of each distribution period, the follow-
16 ing data and information on a hospital-specific basis. Such data and
17 information shall be certified as to accuracy and completeness by the
18 chief executive officer, chief financial officer or chair of the consor-
19 tium governing body of each consortium or teaching general hospital and
20 shall be maintained by each consortium and teaching general hospital for
21 five years from the date of submission:

22 (I) For each clinical research position, information on the type,
23 scope, training objectives, institutional support, clinical research
24 experience of the sponsor-mentor, plans for submitting research outcomes
25 to peer reviewed journals and at scientific meetings, including a meet-
26 ing sponsored by the department, the name of a principal contact person
27 responsible for tracking the career development of researchers placed in
28 clinical research positions, as defined in paragraph (c) of subdivision
29 one of this section, and who is authorized to certify to the commission-
30 er that all the requirements of the clinical research training objec-
31 tives set forth in this subparagraph shall be met. Such certification
32 shall be provided by July first of each distribution period;

33 (II) For each clinical research position, information on the name,
34 citizenship status, medical education and training, and medical license
35 number of the researcher, if applicable, shall be provided by December
36 thirty-first of the calendar year following the distribution period;

37 (III) Information on the status of the clinical research plan, accom-
38 plishments, changes in research activities, progress, and performance of
39 the researcher shall be provided upon completion of one-half of the
40 award term;

41 (IV) A final report detailing training experiences, accomplishments,
42 activities and performance of the clinical researcher, and data, meth-
43 ods, results and analyses of the clinical research plan shall be
44 provided three months after the clinical research position ends; and

45 (V) Tracking information concerning past researchers, including but
46 not limited to (A) background information, (B) employment history, (C)
47 research status, (D) current research activities, (E) publications and
48 presentations, (F) research support, and (G) any other information
49 necessary to track the researcher; and

50 (VI) Any other data or information required by the commissioner to
51 implement this subparagraph.

52 (H) Notwithstanding any inconsistent provision of this subdivision,
53 for periods on and after April first, two thousand thirteen, ECRIP grant
54 awards shall be made in accordance with rules and regulations promulgat-
55 ed by the commissioner. Such regulations shall, at a minimum:

(1) provide that ECRIP grant awards shall be made with the objective of securing federal funding for biomedical research, training clinical researchers, recruiting national leaders as faculty to act as mentors, and training residents and fellows in biomedical research skills;

(2) provide that ECRIP grant applicants may include interdisciplinary research teams comprised of teaching general hospitals acting in collaboration with entities including but not limited to medical centers, hospitals, universities and local health departments;

(3) provide that applications for ECRIP grant awards shall be based on such information requested by the commissioner, which shall include but not be limited to hospital-specific data;

(4) establish the qualifications for investigators and other staff required for grant projects eligible for ECRIP grant awards; and

(5) establish a methodology for the distribution of funds under ECRIP grant awards.

(c) Physician loan repayment program. One million nine hundred sixty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, one million nine hundred sixty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, one million nine hundred sixty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, four hundred ninety thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, one million seven hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand twenty, ~~and~~ up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, and up to one million seven hundred five thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for purposes of physician loan repayment in accordance with subdivision ten of this section. Notwithstanding any contrary provision of this section, sections one hundred twelve and one hundred sixty-three of the state finance law, or any other contrary provision of law, such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner without a competitive bid or request for proposal process as follows:

(i) Funding shall first be awarded to repay loans of up to twenty-five physicians who train in primary care or specialty tracks in teaching general hospitals, and who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner.

(ii) After distributions in accordance with subparagraph (i) of this paragraph, all remaining funds shall be awarded to repay loans of physicians who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner, including

1 but not limited to physicians working in general hospitals, or other
2 health care facilities.

3 (iii) In no case shall less than fifty percent of the funds available
4 pursuant to this paragraph be distributed in accordance with subpara-
5 graphs (i) and (ii) of this paragraph to physicians identified by gener-
6 al hospitals.

7 (iv) In addition to the funds allocated under this paragraph, for the
8 period April first, two thousand fifteen through March thirty-first, two
9 thousand sixteen, two million dollars shall be available for the
10 purposes described in subdivision ten of this section;

11 (v) In addition to the funds allocated under this paragraph, for the
12 period April first, two thousand sixteen through March thirty-first, two
13 thousand seventeen, two million dollars shall be available for the
14 purposes described in subdivision ten of this section;

15 (vi) Notwithstanding any provision of law to the contrary, and subject
16 to the extension of the Health Care Reform Act of 1996, sufficient funds
17 shall be available for the purposes described in subdivision ten of this
18 section in amounts necessary to fund the remaining year commitments for
19 awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

20 (d) Physician practice support. Four million nine hundred thousand
21 dollars for the period January first, two thousand eight through Decem-
22 ber thirty-first, two thousand eight, four million nine hundred thousand
23 dollars annually for the period January first, two thousand nine through
24 December thirty-first, two thousand ten, one million two hundred twen-
25 ty-five thousand dollars for the period January first, two thousand
26 eleven through March thirty-first, two thousand eleven, four million
27 three hundred thousand dollars each state fiscal year for the period
28 April first, two thousand eleven through March thirty-first, two thou-
29 sand fourteen, up to four million three hundred sixty thousand dollars
30 each state fiscal year for the period April first, two thousand fourteen
31 through March thirty-first, two thousand seventeen, up to four million
32 three hundred sixty thousand dollars for each state fiscal year for the
33 period April first, two thousand seventeen through March thirty-first,
34 two thousand twenty, ~~and~~ up to four million three hundred sixty thou-
35 sand dollars for each fiscal year for the period April first, two thou-
36 sand twenty through March thirty-first, two thousand twenty-three, and
37 up to four million three hundred sixty thousand dollars for each fiscal
38 year for the period April first, two thousand twenty-three through March
39 thirty-first, two thousand twenty-six, shall be set aside and reserved
40 by the commissioner from the regional pools established pursuant to
41 subdivision two of this section and shall be available for purposes of
42 physician practice support. Notwithstanding any contrary provision of
43 this section, sections one hundred twelve and one hundred sixty-three of
44 the state finance law, or any other contrary provision of law, such
45 funding shall be allocated regionally with one-third of available funds
46 going to New York city and two-thirds of available funds going to the
47 rest of the state and shall be distributed in a manner to be determined
48 by the commissioner without a competitive bid or request for proposal
49 process as follows:

50 (i) Preference in funding shall first be accorded to teaching general
51 hospitals for up to twenty-five awards, to support costs incurred by
52 physicians trained in primary or specialty tracks who thereafter estab-
53 lish or join practices in underserved communities, as determined by the
54 commissioner.

55 (ii) After distributions in accordance with subparagraph (i) of this
56 paragraph, all remaining funds shall be awarded to physicians to support

1 the cost of establishing or joining practices in underserved communi-
2 ties, as determined by the commissioner, and to hospitals and other
3 health care providers to recruit new physicians to provide services in
4 underserved communities, as determined by the commissioner.

5 (iii) In no case shall less than fifty percent of the funds available
6 pursuant to this paragraph be distributed to general hospitals in
7 accordance with subparagraphs (i) and (ii) of this paragraph.

8 (e) Work group. For funding available pursuant to paragraphs (c)
9 ~~[and]~~, (d) and (e) of this subdivision:

10 (i) The department shall appoint a work group from recommendations
11 made by associations representing physicians, general hospitals and
12 other health care facilities to develop a streamlined application proc-
13 ess by June first, two thousand twelve.

14 (ii) Subject to available funding, applications shall be accepted on a
15 continuous basis. The department shall provide technical assistance to
16 applicants to facilitate their completion of applications. An applicant
17 shall be notified in writing by the department within ten days of
18 receipt of an application as to whether the application is complete and
19 if the application is incomplete, what information is outstanding. The
20 department shall act on an application within thirty days of receipt of
21 a complete application.

22 (f) Study on physician workforce. Five hundred ninety thousand dollars
23 annually for the period January first, two thousand eight through Decem-
24 ber thirty-first, two thousand ten, one hundred forty-eight thousand
25 dollars for the period January first, two thousand eleven through March
26 thirty-first, two thousand eleven, five hundred sixteen thousand dollars
27 each state fiscal year for the period April first, two thousand eleven
28 through March thirty-first, two thousand fourteen, up to four hundred
29 eighty-seven thousand dollars each state fiscal year for the period
30 April first, two thousand fourteen through March thirty-first, two thou-
31 sand seventeen, up to four hundred eighty-seven thousand dollars for
32 each state fiscal year for the period April first, two thousand seven-
33 teen through March thirty-first, two thousand twenty, ~~[and]~~ up to four
34 hundred eighty-seven thousand dollars each state fiscal year for the
35 period April first, two thousand twenty through March thirty-first, two
36 thousand twenty-three, and up to four hundred eighty-seven thousand
37 dollars each state fiscal year for the period April first, two thousand
38 twenty-three through March thirty-first, two thousand twenty-six, shall
39 be set aside and reserved by the commissioner from the regional pools
40 established pursuant to subdivision two of this section and shall be
41 available to fund a study of physician workforce needs and solutions
42 including, but not limited to, an analysis of residency programs and
43 projected physician workforce and community needs. The commissioner
44 shall enter into agreements with one or more organizations to conduct
45 such study based on a request for proposal process.

46 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
47 any inconsistent provision of section one hundred twelve or one hundred
48 sixty-three of the state finance law or any other law, one million nine
49 hundred sixty thousand dollars annually for the period January first,
50 two thousand eight through December thirty-first, two thousand ten, four
51 hundred ninety thousand dollars for the period January first, two thou-
52 sand eleven through March thirty-first, two thousand eleven, one million
53 seven hundred thousand dollars each state fiscal year for the period
54 April first, two thousand eleven through March thirty-first, two thou-
55 sand fourteen, up to one million six hundred five thousand dollars each
56 state fiscal year for the period April first, two thousand fourteen

1 through March thirty-first, two thousand seventeen, up to one million
2 six hundred five thousand dollars each state fiscal year for the period
3 April first, two thousand seventeen through March thirty-first, two
4 thousand twenty, [and] up to one million six hundred five thousand
5 dollars each state fiscal year for the period April first, two thousand
6 twenty through March thirty-first, two thousand twenty-three, and up to
7 one million six hundred five thousand dollars each state fiscal year for
8 the period April first, two thousand twenty-three through March thirty-
9 first, two thousand twenty-six, shall be set aside and reserved by the
10 commissioner from the regional pools established pursuant to subdivision
11 two of this section and shall be available for distributions to the
12 Associated Medical Schools of New York to fund its diversity program
13 including existing and new post-baccalaureate programs for minority and
14 economically disadvantaged students and encourage participation from all
15 medical schools in New York. The associated medical schools of New York
16 shall report to the commissioner on an annual basis regarding the use of
17 funds for such purpose in such form and manner as specified by the
18 commissioner.

19 (h) In the event there are undistributed funds within amounts made
20 available for distributions pursuant to this subdivision, such funds may
21 be reallocated and distributed in current or subsequent distribution
22 periods in a manner determined by the commissioner for any purpose set
23 forth in this subdivision.

24 § 7. Subdivision 4-c of section 2807-p of the public health law, as
25 amended by section 10 of part Y of chapter 56 of the laws of 2020, is
26 amended to read as follows:

27 4-c. Notwithstanding any provision of law to the contrary, the commis-
28 sioner shall make additional payments for uncompensated care to volun-
29 tary non-profit diagnostic and treatment centers that are eligible for
30 distributions under subdivision four of this section in the following
31 amounts: for the period June first, two thousand six through December
32 thirty-first, two thousand six, in the amount of seven million five
33 hundred thousand dollars, for the period January first, two thousand
34 seven through December thirty-first, two thousand seven, seven million
35 five hundred thousand dollars, for the period January first, two thou-
36 sand eight through December thirty-first, two thousand eight, seven
37 million five hundred thousand dollars, for the period January first, two
38 thousand nine through December thirty-first, two thousand nine, fifteen
39 million five hundred thousand dollars, for the period January first, two
40 thousand ten through December thirty-first, two thousand ten, seven
41 million five hundred thousand dollars, for the period January first, two
42 thousand eleven through December thirty-first, two thousand eleven, seven
43 million five hundred thousand dollars, for the period January first, two
44 thousand twelve through December thirty-first, two thousand twelve,
45 seven million five hundred thousand dollars, for the period January
46 first, two thousand thirteen through December thirty-first, two thousand
47 thirteen, seven million five hundred thousand dollars, for the period
48 January first, two thousand fourteen through December thirty-first, two
49 thousand fourteen, seven million five hundred thousand dollars, for the
50 period January first, two thousand fifteen through December thirty-
51 first, two thousand fifteen, seven million five hundred thousand
52 dollars, for the period January first two thousand sixteen through
53 December thirty-first, two thousand sixteen, seven million five hundred
54 thousand dollars, for the period January first, two thousand seventeen
55 through December thirty-first, two thousand seventeen, seven million
56 five hundred thousand dollars, for the period January first, two thou-

1 sand eighteen through December thirty-first, two thousand eighteen,
2 seven million five hundred thousand dollars, for the period January
3 first, two thousand nineteen through December thirty-first, two thousand
4 nineteen, seven million five hundred thousand dollars, for the period
5 January first, two thousand twenty through December thirty-first, two
6 thousand twenty, seven million five hundred thousand dollars, for the
7 period January first, two thousand twenty-one through December thirty-
8 first, two thousand twenty-one, seven million five hundred thousand
9 dollars, for the period January first, two thousand twenty-two through
10 December thirty-first, two thousand twenty-two, seven million five
11 hundred thousand dollars, for the period January first, two thousand
12 twenty-three through December thirty-first, two thousand twenty-three,
13 seven million five hundred thousand dollars, for the period January
14 first, two thousand twenty-four through December thirty-first, two thou-
15 sand twenty-four, seven million five hundred thousand dollars, for the
16 period January first, two thousand twenty-five through December thirty-
17 first, two thousand twenty-five, seven million five hundred thousand
18 dollars, and for the period January first, two thousand [~~twenty-three~~]
19 twenty-six through March thirty-first, two thousand [~~twenty-three~~] twen-
20 ty-six, in the amount of one million six hundred thousand dollars,
21 provided, however, that for periods on and after January first, two
22 thousand eight, such additional payments shall be distributed to volun-
23 tary, non-profit diagnostic and treatment centers and to public diagnos-
24 tic and treatment centers in accordance with paragraph (g) of subdivi-
25 sion four of this section. In the event that federal financial
26 participation is available for rate adjustments pursuant to this
27 section, the commissioner shall make such payments as additional adjust-
28 ments to rates of payment for voluntary non-profit diagnostic and treat-
29 ment centers that are eligible for distributions under subdivision
30 four-a of this section in the following amounts: for the period June
31 first, two thousand six through December thirty-first, two thousand six,
32 fifteen million dollars in the aggregate, and for the period January
33 first, two thousand seven through June thirtieth, two thousand seven,
34 seven million five hundred thousand dollars in the aggregate. The
35 amounts allocated pursuant to this paragraph shall be aggregated with
36 and distributed pursuant to the same methodology applicable to the
37 amounts allocated to such diagnostic and treatment centers for such
38 periods pursuant to subdivision four of this section if federal finan-
39 cial participation is not available, or pursuant to subdivision four-a
40 of this section if federal financial participation is available.
41 Notwithstanding section three hundred sixty-eight-a of the social
42 services law, there shall be no local share in a medical assistance
43 payment adjustment under this subdivision.

44 § 8. Subparagraph (xv) of paragraph (a) of subdivision 6 of section
45 2807-s of the public health law, as amended by section 11 of part Y of
46 chapter 56 of the laws of 2020, is amended and a new subparagraph (xvi)
47 is added to read as follows:

48 (xv) A gross annual statewide amount for the period January first, two
49 thousand fifteen through December thirty-first, two thousand [~~twenty-~~
50 ~~three~~] twenty-two, shall be one billion forty-five million dollars.

51 (xvi) A gross annual statewide amount for the period January first,
52 two thousand twenty-three to December thirty-first, two thousand twen-
53 ty-six shall be one billion eighty-five million dollars, forty million
54 dollars annually of which shall be allocated under section twenty-eight
55 hundred seven-o of this article among the municipalities of and the
56 state of New York based on each municipality's share and the state's

share of early intervention program expenditures not reimbursable by the medical assistance program for the latest twelve month period for which such data is available.

§ 9. Paragraph (g) of subdivision 6 of section 2807-s of the public health law, as added by chapter 820 of the laws of 2021, is amended to read as follows:

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

§ 10. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section 2807-s of the public health law, as amended by section 12 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

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

§ 11. Subdivision 6 of section 2807-t of the public health law, as amended by section 13 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

6. Prospective adjustments. (a) The commissioner shall annually reconcile the sum of the actual payments made to the commissioner or the commissioner's designee for each region pursuant to section twenty-eight hundred seven-s of this article and pursuant to this section for the prior year with the regional allocation of the gross annual statewide amount specified in subdivision six of section twenty-eight hundred seven-s of this article for such prior year. The difference between the actual amount raised for a region and the regional allocation of the specified gross annual amount for such prior year shall be applied as a prospective adjustment to the regional allocation of the specified gross annual payment amount for such region for the year next following the calculation of the reconciliation. The authorized dollar value of the adjustments shall be the same as if calculated retrospectively.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, for covered lives assessment rate periods on and after January first, two thousand fifteen through December thirty-first, two thousand [~~twenty-three~~] twenty-one, for amounts collected in the aggregate in excess of one billion forty-five million dollars on an annual basis, and for the period January first, two thousand twenty-two to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis, prospective adjustments shall be suspended if the annual reconciliation calculation from the prior year would otherwise result in a decrease to the regional allocation of the specified gross annual payment amount for that region, provided, however, that such suspension shall be lifted upon a determination by the commissioner, in consultation with the director of the budget, that sixty-five million dollars in aggregate collections on an annual basis over and above one billion forty-five million dollars on an annual basis for the period on and after January first, two thousand fifteen through December thirty-first, two thousand twenty-one and for the period January first, two thousand twenty-two to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis have been reserved and set aside for deposit in the HCRA resources fund. Any amounts collected in the aggregate at or below one billion forty-five million dollars on an annual basis for the period on and after January first, two thousand fifteen through December thirty-first, two thousand twenty-two, and for the period January first, two

thousand twenty-three to December thirty-first, two thousand twenty-six for amounts collected in the aggregate in excess of one billion eighty-five million dollars on an annual basis, shall be subject to regional adjustments reconciling any decreases or increases to the regional allocation in accordance with paragraph (a) of this subdivision.

§ 12. Section 2807-v of the public health law, as amended by section 14 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

§ 2807-v. Tobacco control and insurance initiatives pool distributions. 1. Funds accumulated in the tobacco control and insurance initiatives pool or in the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, including income from invested funds, shall be distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following:

(a) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medicaid fraud hotline and medicaid administration account, or any successor fund or account, for purposes of services and expenses related to the toll-free medicaid fraud hotline established pursuant to section one hundred eight of chapter one of the laws of nineteen hundred ninety-nine from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: four hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to four hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to four hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to four hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to one hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven and within amounts appropriated on and after April first, two thousand eleven.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of payment of audits or audit contracts necessary to determine payor and provider compliance with requirements set forth in sections twenty-eight hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: five million six hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to five million dollars for the period January first, two thousand three through December thirty-first, two thousand three, up

1 to five million dollars for the period January first, two thousand four
2 through December thirty-first, two thousand four, up to five million
3 dollars for the period January first, two thousand five through December
4 thirty-first, two thousand five, up to five million dollars for the
5 period January first, two thousand six through December thirty-first,
6 two thousand six, up to seven million eight hundred thousand dollars for
7 the period January first, two thousand seven through December thirty-
8 first, two thousand seven, and up to eight million three hundred twen-
9 ty-five thousand dollars for the period January first, two thousand
10 eight through December thirty-first, two thousand eight, up to eight
11 million five hundred thousand dollars for the period January first, two
12 thousand nine through December thirty-first, two thousand nine, up to
13 eight million five hundred thousand dollars for the period January
14 first, two thousand ten through December thirty-first, two thousand ten,
15 up to two million one hundred twenty-five thousand dollars for the peri-
16 od January first, two thousand eleven through March thirty-first, two
17 thousand eleven, up to fourteen million seven hundred thousand dollars
18 each state fiscal year for the period April first, two thousand eleven
19 through March thirty-first, two thousand fourteen, up to eleven million
20 one hundred thousand dollars each state fiscal year for the period April
21 first, two thousand fourteen through March thirty-first, two thousand
22 seventeen, up to eleven million one hundred thousand dollars each state
23 fiscal year for the period April first, two thousand seventeen through
24 March thirty-first, two thousand twenty, [and] up to eleven million one
25 hundred thousand dollars each state fiscal year for the period April
26 first, two thousand twenty through March thirty-first, two thousand
27 twenty-three, and up to eleven million one hundred thousand dollars each
28 state fiscal year for the period April first, two thousand twenty-three
29 through March thirty-first, two thousand twenty-six.

30 (c) Funds shall be deposited by the commissioner, within amounts
31 appropriated, and the state comptroller is hereby authorized and
32 directed to receive for deposit to the credit of the state special
33 revenue funds - other, HCRA transfer fund, enhanced community services
34 account, or any successor fund or account, for mental health services
35 programs for case management services for adults and children; supported
36 housing; home and community based waiver services; family based treat-
37 ment; family support services; mobile mental health teams; transitional
38 housing; and community oversight, established pursuant to articles seven
39 and forty-one of the mental hygiene law and subdivision nine of section
40 three hundred sixty-six of the social services law; and for comprehen-
41 sive care centers for eating disorders pursuant to the former section
42 twenty-seven hundred ninety-nine-1 of this chapter, provided however
43 that, for such centers, funds in the amount of five hundred thousand
44 dollars on an annualized basis shall be transferred from the enhanced
45 community services account, or any successor fund or account, and depos-
46 ited into the fund established by section ninety-five-e of the state
47 finance law; from the tobacco control and insurance initiatives pool
48 established for the following periods in the following amounts:

49 (i) forty-eight million dollars to be reserved, to be retained or for
50 distribution pursuant to a chapter of the laws of two thousand, for the
51 period January first, two thousand through December thirty-first, two
52 thousand;

53 (ii) eighty-seven million dollars to be reserved, to be retained or
54 for distribution pursuant to a chapter of the laws of two thousand one,
55 for the period January first, two thousand one through December thirty-
56 first, two thousand one;

1 (iii) eighty-seven million dollars to be reserved, to be retained or
2 for distribution pursuant to a chapter of the laws of two thousand two,
3 for the period January first, two thousand two through December thirty-
4 first, two thousand two;

5 (iv) eighty-eight million dollars to be reserved, to be retained or
6 for distribution pursuant to a chapter of the laws of two thousand
7 three, for the period January first, two thousand three through December
8 thirty-first, two thousand three;

9 (v) eighty-eight million dollars, plus five hundred thousand dollars,
10 to be reserved, to be retained or for distribution pursuant to a chapter
11 of the laws of two thousand four, and pursuant to the former section
12 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
13 ary first, two thousand four through December thirty-first, two thousand
14 four;

15 (vi) eighty-eight million dollars, plus five hundred thousand dollars,
16 to be reserved, to be retained or for distribution pursuant to a chapter
17 of the laws of two thousand five, and pursuant to the former section
18 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
19 ary first, two thousand five through December thirty-first, two thousand
20 five;

21 (vii) eighty-eight million dollars, plus five hundred thousand
22 dollars, to be reserved, to be retained or for distribution pursuant to
23 a chapter of the laws of two thousand six, and pursuant to former
24 section twenty-seven hundred ninety-nine-1 of this chapter, for the
25 period January first, two thousand six through December thirty-first,
26 two thousand six;

27 (viii) eighty-six million four hundred thousand dollars, plus five
28 hundred thousand dollars, to be reserved, to be retained or for distrib-
29 ution pursuant to a chapter of the laws of two thousand seven and pursu-
30 ant to the former section twenty-seven hundred ninety-nine-1 of this
31 chapter, for the period January first, two thousand seven through Decem-
32 ber thirty-first, two thousand seven; and

33 (ix) twenty-two million nine hundred thirteen thousand dollars, plus
34 one hundred twenty-five thousand dollars, to be reserved, to be retained
35 or for distribution pursuant to a chapter of the laws of two thousand
36 eight and pursuant to the former section twenty-seven hundred ninety-
37 nine-1 of this chapter, for the period January first, two thousand eight
38 through March thirty-first, two thousand eight.

39 (d) Funds shall be deposited by the commissioner, within amounts
40 appropriated, and the state comptroller is hereby authorized and
41 directed to receive for deposit to the credit of the state special
42 revenue funds - other, HCRA transfer fund, medical assistance account,
43 or any successor fund or account, for purposes of funding the state
44 share of services and expenses related to the family health plus program
45 including up to two and one-half million dollars annually for the period
46 January first, two thousand through December thirty-first, two thousand
47 two, for administration and marketing costs associated with such program
48 established pursuant to clause (A) of subparagraph (v) of paragraph (a)
49 of subdivision two of section three hundred sixty-nine-ee of the social
50 services law from the tobacco control and insurance initiatives pool
51 established for the following periods in the following amounts:

52 (i) three million five hundred thousand dollars for the period January
53 first, two thousand through December thirty-first, two thousand;

54 (ii) twenty-seven million dollars for the period January first, two
55 thousand one through December thirty-first, two thousand one; and

1 (iii) fifty-seven million dollars for the period January first, two
2 thousand two through December thirty-first, two thousand two.

3 (e) Funds shall be deposited by the commissioner, within amounts
4 appropriated, and the state comptroller is hereby authorized and
5 directed to receive for deposit to the credit of the state special
6 revenue funds - other, HCRA transfer fund, medical assistance account,
7 or any successor fund or account, for purposes of funding the state
8 share of services and expenses related to the family health plus program
9 including up to two and one-half million dollars annually for the period
10 January first, two thousand through December thirty-first, two thousand
11 two for administration and marketing costs associated with such program
12 established pursuant to clause (B) of subparagraph (v) of paragraph (a)
13 of subdivision two of section three hundred sixty-nine-ee of the social
14 services law from the tobacco control and insurance initiatives pool
15 established for the following periods in the following amounts:

16 (i) two million five hundred thousand dollars for the period January
17 first, two thousand through December thirty-first, two thousand;

18 (ii) thirty million five hundred thousand dollars for the period Janu-
19 ary first, two thousand one through December thirty-first, two thousand
20 one; and

21 (iii) sixty-six million dollars for the period January first, two
22 thousand two through December thirty-first, two thousand two.

23 (f) Funds shall be deposited by the commissioner, within amounts
24 appropriated, and the state comptroller is hereby authorized and
25 directed to receive for deposit to the credit of the state special
26 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and
27 medicaid administration account, or any successor fund or account, for
28 purposes of payment of administrative expenses of the department related
29 to the family health plus program established pursuant to section three
30 hundred sixty-nine-ee of the social services law from the tobacco
31 control and insurance initiatives pool established for the following
32 periods in the following amounts: five hundred thousand dollars on an
33 annual basis for the periods January first, two thousand through Decem-
34 ber thirty-first, two thousand six, five hundred thousand dollars for
35 the period January first, two thousand seven through December thirty-
36 first, two thousand seven, and five hundred thousand dollars for the
37 period January first, two thousand eight through December thirty-first,
38 two thousand eight, five hundred thousand dollars for the period January
39 first, two thousand nine through December thirty-first, two thousand
40 nine, five hundred thousand dollars for the period January first, two
41 thousand ten through December thirty-first, two thousand ten, one
42 hundred twenty-five thousand dollars for the period January first, two
43 thousand eleven through March thirty-first, two thousand eleven and
44 within amounts appropriated on and after April first, two thousand elev-
45 en.

46 (g) Funds shall be reserved and accumulated from year to year and
47 shall be available, including income from invested funds, for purposes
48 of services and expenses related to the health maintenance organization
49 direct pay market program established pursuant to sections forty-three
50 hundred twenty-one-a and forty-three hundred twenty-two-a of the insur-
51 ance law from the tobacco control and insurance initiatives pool estab-
52 lished for the following periods in the following amounts:

53 (i) up to thirty-five million dollars for the period January first,
54 two thousand through December thirty-first, two thousand of which fifty
55 per centum shall be allocated to the program pursuant to section four
56 thousand three hundred twenty-one-a of the insurance law and fifty

1 percentum to the program pursuant to section four thousand three hundred
2 twenty-two-a of the insurance law;

3 (ii) up to thirty-six million dollars for the period January first,
4 two thousand one through December thirty-first, two thousand one of
5 which fifty percentum shall be allocated to the program pursuant to
6 section four thousand three hundred twenty-one-a of the insurance law
7 and fifty percentum to the program pursuant to section four thousand
8 three hundred twenty-two-a of the insurance law;

9 (iii) up to thirty-nine million dollars for the period January first,
10 two thousand two through December thirty-first, two thousand two of
11 which fifty percentum shall be allocated to the program pursuant to
12 section four thousand three hundred twenty-one-a of the insurance law
13 and fifty percentum to the program pursuant to section four thousand
14 three hundred twenty-two-a of the insurance law;

15 (iv) up to forty million dollars for the period January first, two
16 thousand three through December thirty-first, two thousand three of
17 which fifty percentum shall be allocated to the program pursuant to
18 section four thousand three hundred twenty-one-a of the insurance law
19 and fifty percentum to the program pursuant to section four thousand
20 three hundred twenty-two-a of the insurance law;

21 (v) up to forty million dollars for the period January first, two
22 thousand four through December thirty-first, two thousand four of which
23 fifty percentum shall be allocated to the program pursuant to section
24 four thousand three hundred twenty-one-a of the insurance law and fifty
25 percentum to the program pursuant to section four thousand three hundred
26 twenty-two-a of the insurance law;

27 (vi) up to forty million dollars for the period January first, two
28 thousand five through December thirty-first, two thousand five of which
29 fifty percentum shall be allocated to the program pursuant to section
30 four thousand three hundred twenty-one-a of the insurance law and fifty
31 percentum to the program pursuant to section four thousand three hundred
32 twenty-two-a of the insurance law;

33 (vii) up to forty million dollars for the period January first, two
34 thousand six through December thirty-first, two thousand six of which
35 fifty percentum shall be allocated to the program pursuant to section
36 four thousand three hundred twenty-one-a of the insurance law and fifty
37 percentum shall be allocated to the program pursuant to section four
38 thousand three hundred twenty-two-a of the insurance law;

39 (viii) up to forty million dollars for the period January first, two
40 thousand seven through December thirty-first, two thousand seven of
41 which fifty percentum shall be allocated to the program pursuant to
42 section four thousand three hundred twenty-one-a of the insurance law
43 and fifty percentum shall be allocated to the program pursuant to
44 section four thousand three hundred twenty-two-a of the insurance law;
45 and

46 (ix) up to forty million dollars for the period January first, two
47 thousand eight through December thirty-first, two thousand eight of
48 which fifty per centum shall be allocated to the program pursuant to
49 section four thousand three hundred twenty-one-a of the insurance law
50 and fifty per centum shall be allocated to the program pursuant to
51 section four thousand three hundred twenty-two-a of the insurance law.

52 (h) Funds shall be reserved and accumulated from year to year and
53 shall be available, including income from invested funds, for purposes
54 of services and expenses related to the healthy New York individual
55 program established pursuant to sections four thousand three hundred
56 twenty-six and four thousand three hundred twenty-seven of the insurance

1 law from the tobacco control and insurance initiatives pool established
2 for the following periods in the following amounts:

3 (i) up to six million dollars for the period January first, two thou-
4 sand one through December thirty-first, two thousand one;

5 (ii) up to twenty-nine million dollars for the period January first,
6 two thousand two through December thirty-first, two thousand two;

7 (iii) up to five million one hundred thousand dollars for the period
8 January first, two thousand three through December thirty-first, two
9 thousand three;

10 (iv) up to twenty-four million six hundred thousand dollars for the
11 period January first, two thousand four through December thirty-first,
12 two thousand four;

13 (v) up to thirty-four million six hundred thousand dollars for the
14 period January first, two thousand five through December thirty-first,
15 two thousand five;

16 (vi) up to fifty-four million eight hundred thousand dollars for the
17 period January first, two thousand six through December thirty-first,
18 two thousand six;

19 (vii) up to sixty-one million seven hundred thousand dollars for the
20 period January first, two thousand seven through December thirty-first,
21 two thousand seven; and

22 (viii) up to one hundred three million seven hundred fifty thousand
23 dollars for the period January first, two thousand eight through Decem-
24 ber thirty-first, two thousand eight.

25 (i) Funds shall be reserved and accumulated from year to year and
26 shall be available, including income from invested funds, for purposes
27 of services and expenses related to the healthy New York group program
28 established pursuant to sections four thousand three hundred twenty-six
29 and four thousand three hundred twenty-seven of the insurance law from
30 the tobacco control and insurance initiatives pool established for the
31 following periods in the following amounts:

32 (i) up to thirty-four million dollars for the period January first,
33 two thousand one through December thirty-first, two thousand one;

34 (ii) up to seventy-seven million dollars for the period January first,
35 two thousand two through December thirty-first, two thousand two;

36 (iii) up to ten million five hundred thousand dollars for the period
37 January first, two thousand three through December thirty-first, two
38 thousand three;

39 (iv) up to twenty-four million six hundred thousand dollars for the
40 period January first, two thousand four through December thirty-first,
41 two thousand four;

42 (v) up to thirty-four million six hundred thousand dollars for the
43 period January first, two thousand five through December thirty-first,
44 two thousand five;

45 (vi) up to fifty-four million eight hundred thousand dollars for the
46 period January first, two thousand six through December thirty-first,
47 two thousand six;

48 (vii) up to sixty-one million seven hundred thousand dollars for the
49 period January first, two thousand seven through December thirty-first,
50 two thousand seven; and

51 (viii) up to one hundred three million seven hundred fifty thousand
52 dollars for the period January first, two thousand eight through Decem-
53 ber thirty-first, two thousand eight.

54 (i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this
55 subdivision, the commissioner shall reserve and accumulate up to two
56 million five hundred thousand dollars annually for the periods January

1 first, two thousand four through December thirty-first, two thousand
2 six, one million four hundred thousand dollars for the period January
3 first, two thousand seven through December thirty-first, two thousand
4 seven, two million dollars for the period January first, two thousand
5 eight through December thirty-first, two thousand eight, from funds
6 otherwise available for distribution under such paragraphs for the
7 services and expenses related to the pilot program for entertainment
8 industry employees included in subsection (b) of section one thousand
9 one hundred twenty-two of the insurance law, and an additional seven
10 hundred thousand dollars annually for the periods January first, two
11 thousand four through December thirty-first, two thousand six, an addi-
12 tional three hundred thousand dollars for the period January first, two
13 thousand seven through June thirtieth, two thousand seven for services
14 and expenses related to the pilot program for displaced workers included
15 in subsection (c) of section one thousand one hundred twenty-two of the
16 insurance law.

17 (j) Funds shall be reserved and accumulated from year to year and
18 shall be available, including income from invested funds, for purposes
19 of services and expenses related to the tobacco use prevention and
20 control program established pursuant to sections thirteen hundred nine-
21 ty-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the
22 tobacco control and insurance initiatives pool established for the
23 following periods in the following amounts:

24 (i) up to thirty million dollars for the period January first, two
25 thousand through December thirty-first, two thousand;

26 (ii) up to forty million dollars for the period January first, two
27 thousand one through December thirty-first, two thousand one;

28 (iii) up to forty million dollars for the period January first, two
29 thousand two through December thirty-first, two thousand two;

30 (iv) up to thirty-six million nine hundred fifty thousand dollars for
31 the period January first, two thousand three through December thirty-
32 first, two thousand three;

33 (v) up to thirty-six million nine hundred fifty thousand dollars for
34 the period January first, two thousand four through December thirty-
35 first, two thousand four;

36 (vi) up to forty million six hundred thousand dollars for the period
37 January first, two thousand five through December thirty-first, two
38 thousand five;

39 (vii) up to eighty-one million nine hundred thousand dollars for the
40 period January first, two thousand six through December thirty-first,
41 two thousand six, provided, however, that within amounts appropriated, a
42 portion of such funds may be transferred to the Roswell Park Cancer
43 Institute Corporation to support costs associated with cancer research;

44 (viii) up to ninety-four million one hundred fifty thousand dollars
45 for the period January first, two thousand seven through December thir-
46 ty-first, two thousand seven, provided, however, that within amounts
47 appropriated, a portion of such funds may be transferred to the Roswell
48 Park Cancer Institute Corporation to support costs associated with
49 cancer research;

50 (ix) up to ninety-four million one hundred fifty thousand dollars for
51 the period January first, two thousand eight through December thirty-
52 first, two thousand eight;

53 (x) up to ninety-four million one hundred fifty thousand dollars for
54 the period January first, two thousand nine through December thirty-
55 first, two thousand nine;

1 (xi) up to eighty-seven million seven hundred seventy-five thousand
2 dollars for the period January first, two thousand ten through December
3 thirty-first, two thousand ten;

4 (xii) up to twenty-one million four hundred twelve thousand dollars
5 for the period January first, two thousand eleven through March thirty-
6 first, two thousand eleven;

7 (xiii) up to fifty-two million one hundred thousand dollars each state
8 fiscal year for the period April first, two thousand eleven through
9 March thirty-first, two thousand fourteen;

10 (xiv) up to six million dollars each state fiscal year for the period
11 April first, two thousand fourteen through March thirty-first, two thou-
12 sand seventeen;

13 (xv) up to six million dollars each state fiscal year for the period
14 April first, two thousand seventeen through March thirty-first, two
15 thousand twenty; [and]

16 (xvi) up to six million dollars each state fiscal year for the period
17 April first, two thousand twenty through March thirty-first, two thou-
18 sand twenty-three; and

19 (xvii) up to six million dollars each state fiscal year for the period
20 April first, two thousand twenty-three through March thirty-first, two
21 thousand twenty-six.

22 (k) Funds shall be deposited by the commissioner, within amounts
23 appropriated, and the state comptroller is hereby authorized and
24 directed to receive for deposit to the credit of the state special
25 revenue fund - other, HCRA transfer fund, health care services account,
26 or any successor fund or account, for purposes of services and expenses
27 related to public health programs, including comprehensive care centers
28 for eating disorders pursuant to the former section twenty-seven hundred
29 ninety-nine-1 of this chapter, provided however that, for such centers,
30 funds in the amount of five hundred thousand dollars on an annualized
31 basis shall be transferred from the health care services account, or any
32 successor fund or account, and deposited into the fund established by
33 section ninety-five-e of the state finance law for periods prior to
34 March thirty-first, two thousand eleven, from the tobacco control and
35 insurance initiatives pool established for the following periods in the
36 following amounts:

37 (i) up to thirty-one million dollars for the period January first, two
38 thousand through December thirty-first, two thousand;

39 (ii) up to forty-one million dollars for the period January first, two
40 thousand one through December thirty-first, two thousand one;

41 (iii) up to eighty-one million dollars for the period January first,
42 two thousand two through December thirty-first, two thousand two;

43 (iv) one hundred twenty-two million five hundred thousand dollars for
44 the period January first, two thousand three through December thirty-
45 first, two thousand three;

46 (v) one hundred eight million five hundred seventy-five thousand
47 dollars, plus an additional five hundred thousand dollars, for the peri-
48 od January first, two thousand four through December thirty-first, two
49 thousand four;

50 (vi) ninety-one million eight hundred thousand dollars, plus an addi-
51 tional five hundred thousand dollars, for the period January first, two
52 thousand five through December thirty-first, two thousand five;

53 (vii) one hundred fifty-six million six hundred thousand dollars, plus
54 an additional five hundred thousand dollars, for the period January
55 first, two thousand six through December thirty-first, two thousand six;

(viii) one hundred fifty-one million four hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) twenty-nine million two hundred thirty-seven thousand two hundred fifty dollars, plus an additional one hundred twenty-five thousand dollars, for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) one hundred twenty million thirty-eight thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve; and

(xiv) one hundred nineteen million four hundred seven thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand fourteen.

(l) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the personal care and certified home health agency rate or fee increases established pursuant to subdivision three of section three hundred sixty-seven-o of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-three million two hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) twenty-three million two hundred thousand dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) twenty-three million two hundred thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) up to sixty-five million two hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) up to sixty-five million two hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) up to sixty-five million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) up to sixty-five million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

1 (viii) up to sixty-five million two hundred thousand dollars for the
2 period January first, two thousand seven through December thirty-first,
3 two thousand seven; and

4 (ix) up to sixteen million three hundred thousand dollars for the
5 period January first, two thousand eight through March thirty-first, two
6 thousand eight.

7 (m) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and the state comptroller is hereby authorized and
9 directed to receive for deposit to the credit of the state special
10 revenue funds - other, HCRA transfer fund, medical assistance account,
11 or any successor fund or account, for purposes of funding the state
12 share of services and expenses related to home care workers insurance
13 pilot demonstration programs established pursuant to subdivision two of
14 section three hundred sixty-seven-o of the social services law from the
15 tobacco control and insurance initiatives pool established for the
16 following periods in the following amounts:

17 (i) three million eight hundred thousand dollars for the period Janu-
18 ary first, two thousand through December thirty-first, two thousand;

19 (ii) three million eight hundred thousand dollars for the period Janu-
20 ary first, two thousand one through December thirty-first, two thousand
21 one;

22 (iii) three million eight hundred thousand dollars for the period
23 January first, two thousand two through December thirty-first, two thou-
24 sand two;

25 (iv) up to three million eight hundred thousand dollars for the period
26 January first, two thousand three through December thirty-first, two
27 thousand three;

28 (v) up to three million eight hundred thousand dollars for the period
29 January first, two thousand four through December thirty-first, two
30 thousand four;

31 (vi) up to three million eight hundred thousand dollars for the period
32 January first, two thousand five through December thirty-first, two
33 thousand five;

34 (vii) up to three million eight hundred thousand dollars for the peri-
35 od January first, two thousand six through December thirty-first, two
36 thousand six;

37 (viii) up to three million eight hundred thousand dollars for the
38 period January first, two thousand seven through December thirty-first,
39 two thousand seven; and

40 (ix) up to nine hundred fifty thousand dollars for the period January
41 first, two thousand eight through March thirty-first, two thousand
42 eight.

43 (n) Funds shall be transferred by the commissioner and shall be depos-
44 ited to the credit of the special revenue funds - other, miscellaneous
45 special revenue fund - 339, elderly pharmaceutical insurance coverage
46 program premium account authorized pursuant to the provisions of title
47 three of article two of the elder law, or any successor fund or account,
48 for funding state expenses relating to the program from the tobacco
49 control and insurance initiatives pool established for the following
50 periods in the following amounts:

51 (i) one hundred seven million dollars for the period January first,
52 two thousand through December thirty-first, two thousand;

53 (ii) one hundred sixty-four million dollars for the period January
54 first, two thousand one through December thirty-first, two thousand one;

1 (iii) three hundred twenty-two million seven hundred thousand dollars
2 for the period January first, two thousand two through December thirty-
3 first, two thousand two;

4 (iv) four hundred thirty-three million three hundred thousand dollars
5 for the period January first, two thousand three through December thir-
6 ty-first, two thousand three;

7 (v) five hundred four million one hundred fifty thousand dollars for
8 the period January first, two thousand four through December thirty-
9 first, two thousand four;

10 (vi) five hundred sixty-six million eight hundred thousand dollars for
11 the period January first, two thousand five through December thirty-
12 first, two thousand five;

13 (vii) six hundred three million one hundred fifty thousand dollars for
14 the period January first, two thousand six through December thirty-
15 first, two thousand six;

16 (viii) six hundred sixty million eight hundred thousand dollars for
17 the period January first, two thousand seven through December thirty-
18 first, two thousand seven;

19 (ix) three hundred sixty-seven million four hundred sixty-three thou-
20 sand dollars for the period January first, two thousand eight through
21 December thirty-first, two thousand eight;

22 (x) three hundred thirty-four million eight hundred twenty-five thou-
23 sand dollars for the period January first, two thousand nine through
24 December thirty-first, two thousand nine;

25 (xi) three hundred forty-four million nine hundred thousand dollars
26 for the period January first, two thousand ten through December thirty-
27 first, two thousand ten;

28 (xii) eighty-seven million seven hundred eighty-eight thousand dollars
29 for the period January first, two thousand eleven through March thirty-
30 first, two thousand eleven;

31 (xiii) one hundred forty-three million one hundred fifty thousand
32 dollars for the period April first, two thousand eleven through March
33 thirty-first, two thousand twelve;

34 (xiv) one hundred twenty million nine hundred fifty thousand dollars
35 for the period April first, two thousand twelve through March thirty-
36 first, two thousand thirteen;

37 (xv) one hundred twenty-eight million eight hundred fifty thousand
38 dollars for the period April first, two thousand thirteen through March
39 thirty-first, two thousand fourteen;

40 (xvi) one hundred twenty-seven million four hundred sixteen thousand
41 dollars each state fiscal year for the period April first, two thousand
42 fourteen through March thirty-first, two thousand seventeen;

43 (xvii) one hundred twenty-seven million four hundred sixteen thousand
44 dollars each state fiscal year for the period April first, two thousand
45 seventeen through March thirty-first, two thousand twenty; [and]

46 (xviii) one hundred twenty-seven million four hundred sixteen thousand
47 dollars each state fiscal year for the period April first, two thousand
48 twenty through March thirty-first, two thousand twenty-three; and

49 (xix) one hundred twenty-seven million four hundred sixteen thousand
50 dollars each state fiscal year for the period April first, two thousand
51 twenty-three through March thirty-first, two thousand twenty-six.

52 (o) Funds shall be reserved and accumulated and shall be transferred
53 to the Roswell Park Cancer Institute Corporation, from the tobacco
54 control and insurance initiatives pool established for the following
55 periods in the following amounts:

(i) up to ninety million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to sixty million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to eighty-five million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) eighty-five million two hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) seventy-eight million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) seventy-eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) ninety-one million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) seventy-eight million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) seventy-eight million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) seventy-eight million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) seventy-eight million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(xii) nineteen million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xiii) sixty-nine million eight hundred forty thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xiv) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xv) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xvi) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; ~~and~~

(xvii) up to ninety-six million six hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(p) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, indigent care fund - 068, indigent care account, or any successor fund or account, for purposes of providing a medicaid disproportionate share payment from the high need indigent care adjustment pool established pursuant to section twenty-eight hundred seven-w of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighty-two million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two;

(ii) up to eighty-two million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to eighty-two million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

1 (iv) up to eighty-two million dollars for the period January first,
2 two thousand five through December thirty-first, two thousand five;

3 (v) up to eighty-two million dollars for the period January first, two
4 thousand six through December thirty-first, two thousand six;

5 (vi) up to eighty-two million dollars for the period January first,
6 two thousand seven through December thirty-first, two thousand seven;

7 (vii) up to eighty-two million dollars for the period January first,
8 two thousand eight through December thirty-first, two thousand eight;

9 (viii) up to eighty-two million dollars for the period January first,
10 two thousand nine through December thirty-first, two thousand nine;

11 (ix) up to eighty-two million dollars for the period January first,
12 two thousand ten through December thirty-first, two thousand ten;

13 (x) up to twenty million five hundred thousand dollars for the period
14 January first, two thousand eleven through March thirty-first, two thou-
15 sand eleven; and

16 (xi) up to eighty-two million dollars each state fiscal year for the
17 period April first, two thousand eleven through March thirty-first, two
18 thousand fourteen.

19 (q) Funds shall be reserved and accumulated from year to year and
20 shall be available, including income from invested funds, for purposes
21 of providing distributions to eligible school based health centers
22 established pursuant to section eighty-eight of chapter one of the laws
23 of nineteen hundred ninety-nine, from the tobacco control and insurance
24 initiatives pool established for the following periods in the following
25 amounts:

26 (i) seven million dollars annually for the period January first, two
27 thousand through December thirty-first, two thousand two;

28 (ii) up to seven million dollars for the period January first, two
29 thousand three through December thirty-first, two thousand three;

30 (iii) up to seven million dollars for the period January first, two
31 thousand four through December thirty-first, two thousand four;

32 (iv) up to seven million dollars for the period January first, two
33 thousand five through December thirty-first, two thousand five;

34 (v) up to seven million dollars for the period January first, two
35 thousand six through December thirty-first, two thousand six;

36 (vi) up to seven million dollars for the period January first, two
37 thousand seven through December thirty-first, two thousand seven;

38 (vii) up to seven million dollars for the period January first, two
39 thousand eight through December thirty-first, two thousand eight;

40 (viii) up to seven million dollars for the period January first, two
41 thousand nine through December thirty-first, two thousand nine;

42 (ix) up to seven million dollars for the period January first, two
43 thousand ten through December thirty-first, two thousand ten;

44 (x) up to one million seven hundred fifty thousand dollars for the
45 period January first, two thousand eleven through March thirty-first,
46 two thousand eleven;

47 (xi) up to five million six hundred thousand dollars each state fiscal
48 year for the period April first, two thousand eleven through March thir-
49 ty-first, two thousand fourteen;

50 (xii) up to five million two hundred eighty-eight thousand dollars
51 each state fiscal year for the period April first, two thousand fourteen
52 through March thirty-first, two thousand seventeen;

53 (xiii) up to five million two hundred eighty-eight thousand dollars
54 each state fiscal year for the period April first, two thousand seven-
55 teen through March thirty-first, two thousand twenty; [and]

1 (xiv) up to five million two hundred eighty-eight thousand dollars
2 each state fiscal year for the period April first, two thousand twenty
3 through March thirty-first, two thousand twenty-three; and

4 (xv) up to five million two hundred eighty-eight thousand dollars each
5 state fiscal year for the period April first, two thousand twenty-three
6 through March thirty-first, two thousand twenty-six.

7 (r) Funds shall be deposited by the commissioner within amounts appro-
8 priated, and the state comptroller is hereby authorized and directed to
9 receive for deposit to the credit of the state special revenue funds -
10 other, HCRA transfer fund, medical assistance account, or any successor
11 fund or account, for purposes of providing distributions for supplemen-
12 tary medical insurance for Medicare part B premiums, physicians
13 services, outpatient services, medical equipment, supplies and other
14 health services, from the tobacco control and insurance initiatives pool
15 established for the following periods in the following amounts:

16 (i) forty-three million dollars for the period January first, two
17 thousand through December thirty-first, two thousand;

18 (ii) sixty-one million dollars for the period January first, two thou-
19 sand one through December thirty-first, two thousand one;

20 (iii) sixty-five million dollars for the period January first, two
21 thousand two through December thirty-first, two thousand two;

22 (iv) sixty-seven million five hundred thousand dollars for the period
23 January first, two thousand three through December thirty-first, two
24 thousand three;

25 (v) sixty-eight million dollars for the period January first, two
26 thousand four through December thirty-first, two thousand four;

27 (vi) sixty-eight million dollars for the period January first, two
28 thousand five through December thirty-first, two thousand five;

29 (vii) sixty-eight million dollars for the period January first, two
30 thousand six through December thirty-first, two thousand six;

31 (viii) seventeen million five hundred thousand dollars for the period
32 January first, two thousand seven through December thirty-first, two
33 thousand seven;

34 (ix) sixty-eight million dollars for the period January first, two
35 thousand eight through December thirty-first, two thousand eight;

36 (x) sixty-eight million dollars for the period January first, two
37 thousand nine through December thirty-first, two thousand nine;

38 (xi) sixty-eight million dollars for the period January first, two
39 thousand ten through December thirty-first, two thousand ten;

40 (xii) seventeen million dollars for the period January first, two
41 thousand eleven through March thirty-first, two thousand eleven; and

42 (xiii) sixty-eight million dollars each state fiscal year for the
43 period April first, two thousand eleven through March thirty-first, two
44 thousand fourteen.

45 (s) Funds shall be deposited by the commissioner within amounts appro-
46 priated, and the state comptroller is hereby authorized and directed to
47 receive for deposit to the credit of the state special revenue funds -
48 other, HCRA transfer fund, medical assistance account, or any successor
49 fund or account, for purposes of providing distributions pursuant to
50 paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of
51 section twenty-eight hundred seven-c of this article from the tobacco
52 control and insurance initiatives pool established for the following
53 periods in the following amounts:

54 (i) eighteen million dollars for the period January first, two thou-
55 sand through December thirty-first, two thousand;

1 (ii) twenty-four million dollars annually for the periods January
2 first, two thousand one through December thirty-first, two thousand two;

3 (iii) up to twenty-four million dollars for the period January first,
4 two thousand three through December thirty-first, two thousand three;

5 (iv) up to twenty-four million dollars for the period January first,
6 two thousand four through December thirty-first, two thousand four;

7 (v) up to twenty-four million dollars for the period January first,
8 two thousand five through December thirty-first, two thousand five;

9 (vi) up to twenty-four million dollars for the period January first,
10 two thousand six through December thirty-first, two thousand six;

11 (vii) up to twenty-four million dollars for the period January first,
12 two thousand seven through December thirty-first, two thousand seven;

13 (viii) up to twenty-four million dollars for the period January first,
14 two thousand eight through December thirty-first, two thousand eight;
15 and

16 (ix) up to twenty-two million dollars for the period January first,
17 two thousand nine through November thirtieth, two thousand nine.

18 (t) Funds shall be reserved and accumulated from year to year by the
19 commissioner and shall be made available, including income from invested
20 funds:

21 (i) For the purpose of making grants to a state owned and operated
22 medical school which does not have a state owned and operated hospital
23 on site and available for teaching purposes. Notwithstanding sections
24 one hundred twelve and one hundred sixty-three of the state finance law,
25 such grants shall be made in the amount of up to five hundred thousand
26 dollars for the period January first, two thousand through December
27 thirty-first, two thousand;

28 (ii) For the purpose of making grants to medical schools pursuant to
29 section eighty-six-a of chapter one of the laws of nineteen hundred
30 ninety-nine in the sum of up to four million dollars for the period
31 January first, two thousand through December thirty-first, two thousand;
32 and

33 (iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of
34 this paragraph from the tobacco control and insurance initiatives pool
35 are contingent upon meeting all funding amounts established pursuant to
36 paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r)
37 and (s) of this subdivision, paragraph (a) of subdivision nine of
38 section twenty-eight hundred seven-j of this article, and paragraphs
39 (a), (i) and (k) of subdivision one of section twenty-eight hundred
40 seven-l of this article.

41 (u) Funds shall be deposited by the commissioner, within amounts
42 appropriated, and the state comptroller is hereby authorized and
43 directed to receive for deposit to the credit of the state special
44 revenue funds - other, HCRA transfer fund, medical assistance account,
45 or any successor fund or account, for purposes of funding the state
46 share of services and expenses related to the nursing home quality
47 improvement demonstration program established pursuant to section twenty-eight
48 hundred eight-d of this article from the tobacco control and
49 insurance initiatives pool established for the following periods in the
50 following amounts:

51 (i) up to twenty-five million dollars for the period beginning April
52 first, two thousand two and ending December thirty-first, two thousand
53 two, and on an annualized basis, for each annual period thereafter
54 beginning January first, two thousand three and ending December thirty-
55 first, two thousand four;

1 (ii) up to eighteen million seven hundred fifty thousand dollars for
2 the period January first, two thousand five through December thirty-
3 first, two thousand five; and

4 (iii) up to fifty-six million five hundred thousand dollars for the
5 period January first, two thousand six through December thirty-first,
6 two thousand six.

7 (v) Funds shall be transferred by the commissioner and shall be depos-
8 ited to the credit of the hospital excess liability pool created pursu-
9 ant to section eighteen of chapter two hundred sixty-six of the laws of
10 nineteen hundred eighty-six, or any successor fund or account, for
11 purposes of expenses related to the purchase of excess medical malprac-
12 tice insurance and the cost of administrating the pool, including costs
13 associated with the risk management program established pursuant to
14 section forty-two of part A of chapter one of the laws of two thousand
15 two required by paragraph (a) of subdivision one of section eighteen of
16 chapter two hundred sixty-six of the laws of nineteen hundred eighty-six
17 as may be amended from time to time, from the tobacco control and insur-
18 ance initiatives pool established for the following periods in the
19 following amounts:

20 (i) up to fifty million dollars or so much as is needed for the period
21 January first, two thousand two through December thirty-first, two thou-
22 sand two;

23 (ii) up to seventy-six million seven hundred thousand dollars for the
24 period January first, two thousand three through December thirty-first,
25 two thousand three;

26 (iii) up to sixty-five million dollars for the period January first,
27 two thousand four through December thirty-first, two thousand four;

28 (iv) up to sixty-five million dollars for the period January first,
29 two thousand five through December thirty-first, two thousand five;

30 (v) up to one hundred thirteen million eight hundred thousand dollars
31 for the period January first, two thousand six through December thirty-
32 first, two thousand six;

33 (vi) up to one hundred thirty million dollars for the period January
34 first, two thousand seven through December thirty-first, two thousand
35 seven;

36 (vii) up to one hundred thirty million dollars for the period January
37 first, two thousand eight through December thirty-first, two thousand
38 eight;

39 (viii) up to one hundred thirty million dollars for the period January
40 first, two thousand nine through December thirty-first, two thousand
41 nine;

42 (ix) up to one hundred thirty million dollars for the period January
43 first, two thousand ten through December thirty-first, two thousand ten;

44 (x) up to thirty-two million five hundred thousand dollars for the
45 period January first, two thousand eleven through March thirty-first,
46 two thousand eleven;

47 (xi) up to one hundred twenty-seven million four hundred thousand
48 dollars each state fiscal year for the period April first, two thousand
49 eleven through March thirty-first, two thousand fourteen;

50 (xii) up to one hundred twenty-seven million four hundred thousand
51 dollars each state fiscal year for the period April first, two thousand
52 fourteen through March thirty-first, two thousand seventeen;

53 (xiii) up to one hundred twenty-seven million four hundred thousand
54 dollars each state fiscal year for the period April first, two thousand
55 seventeen through March thirty-first, two thousand twenty; [and]

(xiv) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xv) up to one hundred twenty-seven million four hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(w) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the treatment of breast and cervical cancer pursuant to paragraph (d) of subdivision four of section three hundred sixty-six of the social services law, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to four hundred fifty thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to two million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to two million one hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to two million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to two million one hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million one hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million one hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million one hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million one hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) up to five hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xiii) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xiv) up to two million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

1 (xv) up to two million one hundred thousand dollars each state fiscal
2 year for the period April first, two thousand twenty-three through March
3 thirty-first, two thousand twenty-six.

4 (x) Funds shall be deposited by the commissioner, within amounts
5 appropriated, and the state comptroller is hereby authorized and
6 directed to receive for deposit to the credit of the state special
7 revenue funds - other, HCRA transfer fund, medical assistance account,
8 or any successor fund or account, for purposes of funding the state
9 share of the non-public general hospital rates increases for recruitment
10 and retention of health care workers from the tobacco control and insur-
11 ance initiatives pool established for the following periods in the
12 following amounts:

13 (i) twenty-seven million one hundred thousand dollars on an annualized
14 basis for the period January first, two thousand two through December
15 thirty-first, two thousand two;

16 (ii) fifty million eight hundred thousand dollars on an annualized
17 basis for the period January first, two thousand three through December
18 thirty-first, two thousand three;

19 (iii) sixty-nine million three hundred thousand dollars on an annual-
20 ized basis for the period January first, two thousand four through
21 December thirty-first, two thousand four;

22 (iv) sixty-nine million three hundred thousand dollars for the period
23 January first, two thousand five through December thirty-first, two
24 thousand five;

25 (v) sixty-nine million three hundred thousand dollars for the period
26 January first, two thousand six through December thirty-first, two thou-
27 sand six;

28 (vi) sixty-five million three hundred thousand dollars for the period
29 January first, two thousand seven through December thirty-first, two
30 thousand seven;

31 (vii) sixty-one million one hundred fifty thousand dollars for the
32 period January first, two thousand eight through December thirty-first,
33 two thousand eight; and

34 (viii) forty-eight million seven hundred twenty-one thousand dollars
35 for the period January first, two thousand nine through November thirti-
36 eth, two thousand nine.

37 (y) Funds shall be reserved and accumulated from year to year and
38 shall be available, including income from invested funds, for purposes
39 of grants to public general hospitals for recruitment and retention of
40 health care workers pursuant to paragraph (b) of subdivision thirty of
41 section twenty-eight hundred seven-c of this article from the tobacco
42 control and insurance initiatives pool established for the following
43 periods in the following amounts:

44 (i) eighteen million five hundred thousand dollars on an annualized
45 basis for the period January first, two thousand two through December
46 thirty-first, two thousand two;

47 (ii) thirty-seven million four hundred thousand dollars on an annual-
48 ized basis for the period January first, two thousand three through
49 December thirty-first, two thousand three;

50 (iii) fifty-two million two hundred thousand dollars on an annualized
51 basis for the period January first, two thousand four through December
52 thirty-first, two thousand four;

53 (iv) fifty-two million two hundred thousand dollars for the period
54 January first, two thousand five through December thirty-first, two
55 thousand five;

1 (v) fifty-two million two hundred thousand dollars for the period
2 January first, two thousand six through December thirty-first, two thou-
3 sand six;

4 (vi) forty-nine million dollars for the period January first, two
5 thousand seven through December thirty-first, two thousand seven;

6 (vii) forty-nine million dollars for the period January first, two
7 thousand eight through December thirty-first, two thousand eight; and

8 (viii) twelve million two hundred fifty thousand dollars for the peri-
9 od January first, two thousand nine through March thirty-first, two
10 thousand nine.

11 Provided, however, amounts pursuant to this paragraph may be reduced
12 in an amount to be approved by the director of the budget to reflect
13 amounts received from the federal government under the state's 1115
14 waiver which are directed under its terms and conditions to the health
15 workforce recruitment and retention program.

16 (z) Funds shall be deposited by the commissioner, within amounts
17 appropriated, and the state comptroller is hereby authorized and
18 directed to receive for deposit to the credit of the state special
19 revenue funds - other, HCRA transfer fund, medical assistance account,
20 or any successor fund or account, for purposes of funding the state
21 share of the non-public residential health care facility rate increases
22 for recruitment and retention of health care workers pursuant to para-
23 graph (a) of subdivision eighteen of section twenty-eight hundred eight
24 of this article from the tobacco control and insurance initiatives pool
25 established for the following periods in the following amounts:

26 (i) twenty-one million five hundred thousand dollars on an annualized
27 basis for the period January first, two thousand two through December
28 thirty-first, two thousand two;

29 (ii) thirty-three million three hundred thousand dollars on an annual-
30 ized basis for the period January first, two thousand three through
31 December thirty-first, two thousand three;

32 (iii) forty-six million three hundred thousand dollars on an annual-
33 ized basis for the period January first, two thousand four through
34 December thirty-first, two thousand four;

35 (iv) forty-six million three hundred thousand dollars for the period
36 January first, two thousand five through December thirty-first, two
37 thousand five;

38 (v) forty-six million three hundred thousand dollars for the period
39 January first, two thousand six through December thirty-first, two thou-
40 sand six;

41 (vi) thirty million nine hundred thousand dollars for the period Janu-
42 ary first, two thousand seven through December thirty-first, two thou-
43 sand seven;

44 (vii) twenty-four million seven hundred thousand dollars for the peri-
45 od January first, two thousand eight through December thirty-first, two
46 thousand eight;

47 (viii) twelve million three hundred seventy-five thousand dollars for
48 the period January first, two thousand nine through December thirty-
49 first, two thousand nine;

50 (ix) nine million three hundred thousand dollars for the period Janu-
51 ary first, two thousand ten through December thirty-first, two thousand
52 ten; and

53 (x) two million three hundred twenty-five thousand dollars for the
54 period January first, two thousand eleven through March thirty-first,
55 two thousand eleven.

(aa) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to public residential health care facilities for recruitment and retention of health care workers pursuant to paragraph (b) of subdivision eighteen of section twenty-eight hundred eight of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) seven million five hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) eleven million seven hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) sixteen million two hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) sixteen million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) sixteen million two hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) ten million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) six million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(viii) one million three hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine.

(bb)(i) Funds shall be deposited by the commissioner, within amounts appropriated, and subject to the availability of federal financial participation, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of adjustments to Medicaid rates of payment for personal care services provided pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of the social services law, for local social service districts which include a city with a population of over one million persons and computed and distributed in accordance with memorandums of understanding to be entered into between the state of New York and such local social service districts for the purpose of supporting the recruitment and retention of personal care service workers or any worker with direct patient care responsibility, from the tobacco control and insurance initiatives pool established for the following periods and the following amounts:

(A) forty-four million dollars, on an annualized basis, for the period April first, two thousand two through December thirty-first, two thousand two;

(B) seventy-four million dollars, on an annualized basis, for the period January first, two thousand three through December thirty-first, two thousand three;

1 (C) one hundred four million dollars, on an annualized basis, for the
2 period January first, two thousand four through December thirty-first,
3 two thousand four;

4 (D) one hundred thirty-six million dollars, on an annualized basis,
5 for the period January first, two thousand five through December thir-
6 ty-first, two thousand five;

7 (E) one hundred thirty-six million dollars, on an annualized basis,
8 for the period January first, two thousand six through December thirty-
9 first, two thousand six;

10 (F) one hundred thirty-six million dollars for the period January
11 first, two thousand seven through December thirty-first, two thousand
12 seven;

13 (G) one hundred thirty-six million dollars for the period January
14 first, two thousand eight through December thirty-first, two thousand
15 eight;

16 (H) one hundred thirty-six million dollars for the period January
17 first, two thousand nine through December thirty-first, two thousand
18 nine;

19 (I) one hundred thirty-six million dollars for the period January
20 first, two thousand ten through December thirty-first, two thousand ten;

21 (J) thirty-four million dollars for the period January first, two
22 thousand eleven through March thirty-first, two thousand eleven;

23 (K) up to one hundred thirty-six million dollars each state fiscal
24 year for the period April first, two thousand eleven through March thir-
25 ty-first, two thousand fourteen;

26 (L) up to one hundred thirty-six million dollars each state fiscal
27 year for the period March thirty-first, two thousand fourteen through
28 April first, two thousand seventeen;

29 (M) up to one hundred thirty-six million dollars each state fiscal
30 year for the period April first, two thousand seventeen through March
31 thirty-first, two thousand twenty; ~~and~~

32 (N) up to one hundred thirty-six million dollars each state fiscal
33 year for the period April first, two thousand twenty through March thir-
34 ty-first, two thousand twenty-three; and

35 (O) up to one hundred thirty-six million dollars each state fiscal
36 year for the period April first, two thousand twenty-three through March
37 thirty-first, two thousand twenty-six.

38 (ii) Adjustments to Medicaid rates made pursuant to this paragraph
39 shall not, in aggregate, exceed the following amounts for the following
40 periods:

41 (A) for the period April first, two thousand two through December
42 thirty-first, two thousand two, one hundred ten million dollars;

43 (B) for the period January first, two thousand three through December
44 thirty-first, two thousand three, one hundred eighty-five million
45 dollars;

46 (C) for the period January first, two thousand four through December
47 thirty-first, two thousand four, two hundred sixty million dollars;

48 (D) for the period January first, two thousand five through December
49 thirty-first, two thousand five, three hundred forty million dollars;

50 (E) for the period January first, two thousand six through December
51 thirty-first, two thousand six, three hundred forty million dollars;

52 (F) for the period January first, two thousand seven through December
53 thirty-first, two thousand seven, three hundred forty million dollars;

54 (G) for the period January first, two thousand eight through December
55 thirty-first, two thousand eight, three hundred forty million dollars;

1 (H) for the period January first, two thousand nine through December
2 thirty-first, two thousand nine, three hundred forty million dollars;

3 (I) for the period January first, two thousand ten through December
4 thirty-first, two thousand ten, three hundred forty million dollars;

5 (J) for the period January first, two thousand eleven through March
6 thirty-first, two thousand eleven, eighty-five million dollars;

7 (K) for each state fiscal year within the period April first, two
8 thousand eleven through March thirty-first, two thousand fourteen, three
9 hundred forty million dollars;

10 (L) for each state fiscal year within the period April first, two
11 thousand fourteen through March thirty-first, two thousand seventeen,
12 three hundred forty million dollars;

13 (M) for each state fiscal year within the period April first, two
14 thousand seventeen through March thirty-first, two thousand twenty,
15 three hundred forty million dollars; [and]

16 (N) for each state fiscal year within the period April first, two
17 thousand twenty through March thirty-first, two thousand twenty-three,
18 three hundred forty million dollars; and

19 (O) for each state fiscal year within the period April first, two
20 thousand twenty-three through March thirty-first, two thousand twenty-
21 six, three hundred forty million dollars.

22 (iii) Personal care service providers which have their rates adjusted
23 pursuant to this paragraph shall use such funds for the purpose of
24 recruitment and retention of non-supervisory personal care services
25 workers or any worker with direct patient care responsibility only and
26 are prohibited from using such funds for any other purpose. Each such
27 personal care services provider shall submit, at a time and in a manner
28 to be determined by the commissioner, a written certification attesting
29 that such funds will be used solely for the purpose of recruitment and
30 retention of non-supervisory personal care services workers or any work-
31 er with direct patient care responsibility. The commissioner is author-
32 ized to audit each such provider to ensure compliance with the written
33 certification required by this subdivision and shall recoup any funds
34 determined to have been used for purposes other than recruitment and
35 retention of non-supervisory personal care services workers or any work-
36 er with direct patient care responsibility. Such recoupment shall be in
37 addition to any other penalties provided by law.

38 (cc) Funds shall be deposited by the commissioner, within amounts
39 appropriated, and the state comptroller is hereby authorized and
40 directed to receive for deposit to the credit of the state special
41 revenue funds - other, HCRA transfer fund, medical assistance account,
42 or any successor fund or account, for the purpose of supporting the
43 state share of adjustments to Medicaid rates of payment for personal
44 care services provided pursuant to paragraph (e) of subdivision two of
45 section three hundred sixty-five-a of the social services law, for local
46 social service districts which shall not include a city with a popu-
47 lation of over one million persons for the purpose of supporting the
48 personal care services worker recruitment and retention program as
49 established pursuant to section three hundred sixty-seven-q of the
50 social services law, from the tobacco control and insurance initiatives
51 pool established for the following periods and the following amounts:

52 (i) two million eight hundred thousand dollars for the period April
53 first, two thousand two through December thirty-first, two thousand two;

54 (ii) five million six hundred thousand dollars, on an annualized
55 basis, for the period January first, two thousand three through December
56 thirty-first, two thousand three;

1 (iii) eight million four hundred thousand dollars, on an annualized
2 basis, for the period January first, two thousand four through December
3 thirty-first, two thousand four;

4 (iv) ten million eight hundred thousand dollars, on an annualized
5 basis, for the period January first, two thousand five through December
6 thirty-first, two thousand five;

7 (v) ten million eight hundred thousand dollars, on an annualized
8 basis, for the period January first, two thousand six through December
9 thirty-first, two thousand six;

10 (vi) eleven million two hundred thousand dollars for the period Janu-
11 ary first, two thousand seven through December thirty-first, two thou-
12 sand seven;

13 (vii) eleven million two hundred thousand dollars for the period Janu-
14 ary first, two thousand eight through December thirty-first, two thou-
15 sand eight;

16 (viii) eleven million two hundred thousand dollars for the period
17 January first, two thousand nine through December thirty-first, two
18 thousand nine;

19 (ix) eleven million two hundred thousand dollars for the period Janu-
20 ary first, two thousand ten through December thirty-first, two thousand
21 ten;

22 (x) two million eight hundred thousand dollars for the period January
23 first, two thousand eleven through March thirty-first, two thousand
24 eleven;

25 (xi) up to eleven million two hundred thousand dollars each state
26 fiscal year for the period April first, two thousand eleven through
27 March thirty-first, two thousand fourteen;

28 (xii) up to eleven million two hundred thousand dollars each state
29 fiscal year for the period April first, two thousand fourteen through
30 March thirty-first, two thousand seventeen;

31 (xiii) up to eleven million two hundred thousand dollars each state
32 fiscal year for the period April first, two thousand seventeen through
33 March thirty-first, two thousand twenty; ~~and~~

34 (xiv) up to eleven million two hundred thousand dollars each state
35 fiscal year for the period April first, two thousand twenty through
36 March thirty-first, two thousand twenty-three; and

37 (xv) up to eleven million two hundred thousand dollars each state
38 fiscal year for the period April first, two thousand twenty-three
39 through March thirty-first, two thousand twenty-six.

40 (dd) Funds shall be deposited by the commissioner, within amounts
41 appropriated, and the state comptroller is hereby authorized and
42 directed to receive for deposit to the credit of the state special
43 revenue fund - other, HCRA transfer fund, medical assistance account, or
44 any successor fund or account, for purposes of funding the state share
45 of Medicaid expenditures for physician services from the tobacco control
46 and insurance initiatives pool established for the following periods in
47 the following amounts:

48 (i) up to fifty-two million dollars for the period January first, two
49 thousand two through December thirty-first, two thousand two;

50 (ii) eighty-one million two hundred thousand dollars for the period
51 January first, two thousand three through December thirty-first, two
52 thousand three;

53 (iii) eighty-five million two hundred thousand dollars for the period
54 January first, two thousand four through December thirty-first, two
55 thousand four;

1 (iv) eighty-five million two hundred thousand dollars for the period
2 January first, two thousand five through December thirty-first, two
3 thousand five;

4 (v) eighty-five million two hundred thousand dollars for the period
5 January first, two thousand six through December thirty-first, two thou-
6 sand six;

7 (vi) eighty-five million two hundred thousand dollars for the period
8 January first, two thousand seven through December thirty-first, two
9 thousand seven;

10 (vii) eighty-five million two hundred thousand dollars for the period
11 January first, two thousand eight through December thirty-first, two
12 thousand eight;

13 (viii) eighty-five million two hundred thousand dollars for the period
14 January first, two thousand nine through December thirty-first, two
15 thousand nine;

16 (ix) eighty-five million two hundred thousand dollars for the period
17 January first, two thousand ten through December thirty-first, two thou-
18 sand ten;

19 (x) twenty-one million three hundred thousand dollars for the period
20 January first, two thousand eleven through March thirty-first, two thou-
21 sand eleven; and

22 (xi) eighty-five million two hundred thousand dollars each state
23 fiscal year for the period April first, two thousand eleven through
24 March thirty-first, two thousand fourteen.

25 (ee) Funds shall be deposited by the commissioner, within amounts
26 appropriated, and the state comptroller is hereby authorized and
27 directed to receive for deposit to the credit of the state special
28 revenue fund - other, HCRA transfer fund, medical assistance account, or
29 any successor fund or account, for purposes of funding the state share
30 of the free-standing diagnostic and treatment center rate increases for
31 recruitment and retention of health care workers pursuant to subdivision
32 seventeen of section twenty-eight hundred seven of this article from the
33 tobacco control and insurance initiatives pool established for the
34 following periods in the following amounts:

35 (i) three million two hundred fifty thousand dollars for the period
36 April first, two thousand two through December thirty-first, two thou-
37 sand two;

38 (ii) three million two hundred fifty thousand dollars on an annualized
39 basis for the period January first, two thousand three through December
40 thirty-first, two thousand three;

41 (iii) three million two hundred fifty thousand dollars on an annual-
42 ized basis for the period January first, two thousand four through
43 December thirty-first, two thousand four;

44 (iv) three million two hundred fifty thousand dollars for the period
45 January first, two thousand five through December thirty-first, two
46 thousand five;

47 (v) three million two hundred fifty thousand dollars for the period
48 January first, two thousand six through December thirty-first, two thou-
49 sand six;

50 (vi) three million two hundred fifty thousand dollars for the period
51 January first, two thousand seven through December thirty-first, two
52 thousand seven;

53 (vii) three million four hundred thirty-eight thousand dollars for the
54 period January first, two thousand eight through December thirty-first,
55 two thousand eight;

(viii) two million four hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) one million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) three hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(ff) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of Medicaid expenditures for disabled persons as authorized pursuant to former subparagraphs twelve and thirteen of paragraph (a) of subdivision one of section three hundred sixty-six of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) one million eight hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) sixteen million four hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eighteen million seven hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) thirty million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) thirty million six hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) thirty million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) fifteen million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) fifteen million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) fifteen million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(x) three million seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xi) fifteen million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(xii) fifteen million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(xiii) fifteen million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(xiv) fifteen million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xv) fifteen million dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(gg) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of grants to non-public general hospitals pursuant to paragraph (c) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to one million three hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to three million two hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to five million six hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to eight million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight million six hundred thousand dollars on an annualized basis for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million six hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million six hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) up to six hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(hh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue fund - other, HCRA transfer fund, medical assistance account for purposes of providing financial assistance to residential health care facilities pursuant to subdivisions nineteen and twenty-one of section twenty-eight hundred eight of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) for the period April first, two thousand two through December thirty-first, two thousand two, ten million dollars;

(ii) for the period January first, two thousand three through December thirty-first, two thousand three, nine million four hundred fifty thousand dollars;

(iii) for the period January first, two thousand four through December thirty-first, two thousand four, nine million three hundred fifty thousand dollars;

1 (iv) up to fifteen million dollars for the period January first, two
2 thousand five through December thirty-first, two thousand five;

3 (v) up to fifteen million dollars for the period January first, two
4 thousand six through December thirty-first, two thousand six;

5 (vi) up to fifteen million dollars for the period January first, two
6 thousand seven through December thirty-first, two thousand seven;

7 (vii) up to fifteen million dollars for the period January first, two
8 thousand eight through December thirty-first, two thousand eight;

9 (viii) up to fifteen million dollars for the period January first, two
10 thousand nine through December thirty-first, two thousand nine;

11 (ix) up to fifteen million dollars for the period January first, two
12 thousand ten through December thirty-first, two thousand ten;

13 (x) up to three million seven hundred fifty thousand dollars for the
14 period January first, two thousand eleven through March thirty-first,
15 two thousand eleven; and

16 (xi) fifteen million dollars each state fiscal year for the period
17 April first, two thousand eleven through March thirty-first, two thou-
18 sand fourteen.

19 (ii) Funds shall be deposited by the commissioner, within amounts
20 appropriated, and the state comptroller is hereby authorized and
21 directed to receive for deposit to the credit of the state special
22 revenue funds - other, HCRA transfer fund, medical assistance account,
23 or any successor fund or account, for the purpose of supporting the
24 state share of Medicaid expenditures for disabled persons as authorized
25 by sections 1619 (a) and (b) of the federal social security act pursuant
26 to the tobacco control and insurance initiatives pool established for
27 the following periods in the following amounts:

28 (i) six million four hundred thousand dollars for the period April
29 first, two thousand two through December thirty-first, two thousand two;

30 (ii) eight million five hundred thousand dollars, for the period Janu-
31 ary first, two thousand three through December thirty-first, two thou-
32 sand three;

33 (iii) eight million five hundred thousand dollars for the period Janu-
34 ary first, two thousand four through December thirty-first, two thousand
35 four;

36 (iv) eight million five hundred thousand dollars for the period Janu-
37 ary first, two thousand five through December thirty-first, two thousand
38 five;

39 (v) eight million five hundred thousand dollars for the period January
40 first, two thousand six through December thirty-first, two thousand six;

41 (vi) eight million six hundred thousand dollars for the period January
42 first, two thousand seven through December thirty-first, two thousand
43 seven;

44 (vii) eight million five hundred thousand dollars for the period Janu-
45 ary first, two thousand eight through December thirty-first, two thou-
46 sand eight;

47 (viii) eight million five hundred thousand dollars for the period
48 January first, two thousand nine through December thirty-first, two
49 thousand nine;

50 (ix) eight million five hundred thousand dollars for the period Janu-
51 ary first, two thousand ten through December thirty-first, two thousand
52 ten;

53 (x) two million one hundred twenty-five thousand dollars for the peri-
54 od January first, two thousand eleven through March thirty-first, two
55 thousand eleven;

1 (xi) eight million five hundred thousand dollars each state fiscal
2 year for the period April first, two thousand eleven through March thir-
3 ty-first, two thousand fourteen;

4 (xii) eight million five hundred thousand dollars each state fiscal
5 year for the period April first, two thousand fourteen through March
6 thirty-first, two thousand seventeen;

7 (xiii) eight million five hundred thousand dollars each state fiscal
8 year for the period April first, two thousand seventeen through March
9 thirty-first, two thousand twenty; ~~and~~

10 (xiv) eight million five hundred thousand dollars each state fiscal
11 year for the period April first, two thousand twenty through March thir-
12 ty-first, two thousand twenty-three; and

13 (xv) eight million five hundred thousand dollars each state fiscal
14 year for the period April first, two thousand twenty-three through March
15 thirty-first, two thousand twenty-six.

16 (jj) Funds shall be reserved and accumulated from year to year and
17 shall be available, including income from invested funds, for the
18 purposes of a grant program to improve access to infertility services,
19 treatments and procedures, from the tobacco control and insurance initi-
20 atives pool established for the period January first, two thousand two
21 through December thirty-first, two thousand two in the amount of nine
22 million one hundred seventy-five thousand dollars, for the period April
23 first, two thousand six through March thirty-first, two thousand seven
24 in the amount of five million dollars, for the period April first, two
25 thousand seven through March thirty-first, two thousand eight in the
26 amount of five million dollars, for the period April first, two thousand
27 eight through March thirty-first, two thousand nine in the amount of
28 five million dollars, and for the period April first, two thousand nine
29 through March thirty-first, two thousand ten in the amount of five
30 million dollars, for the period April first, two thousand ten through
31 March thirty-first, two thousand eleven in the amount of two million two
32 hundred thousand dollars, and for the period April first, two thousand
33 eleven through March thirty-first, two thousand twelve up to one million
34 one hundred thousand dollars.

35 (kk) Funds shall be deposited by the commissioner, within amounts
36 appropriated, and the state comptroller is hereby authorized and
37 directed to receive for deposit to the credit of the state special
38 revenue funds -- other, HCRA transfer fund, medical assistance account,
39 or any successor fund or account, for purposes of funding the state
40 share of Medical Assistance Program expenditures from the tobacco
41 control and insurance initiatives pool established for the following
42 periods in the following amounts:

43 (i) thirty-eight million eight hundred thousand dollars for the period
44 January first, two thousand two through December thirty-first, two thou-
45 sand two;

46 (ii) up to two hundred ninety-five million dollars for the period
47 January first, two thousand three through December thirty-first, two
48 thousand three;

49 (iii) up to four hundred seventy-two million dollars for the period
50 January first, two thousand four through December thirty-first, two
51 thousand four;

52 (iv) up to nine hundred million dollars for the period January first,
53 two thousand five through December thirty-first, two thousand five;

54 (v) up to eight hundred sixty-six million three hundred thousand
55 dollars for the period January first, two thousand six through December
56 thirty-first, two thousand six;

1 (vi) up to six hundred sixteen million seven hundred thousand dollars
2 for the period January first, two thousand seven through December thir-
3 ty-first, two thousand seven;

4 (vii) up to five hundred seventy-eight million nine hundred twenty-
5 five thousand dollars for the period January first, two thousand eight
6 through December thirty-first, two thousand eight; and

7 (viii) within amounts appropriated on and after January first, two
8 thousand nine.

9 (ll) Funds shall be deposited by the commissioner, within amounts
10 appropriated, and the state comptroller is hereby authorized and
11 directed to receive for deposit to the credit of the state special
12 revenue funds -- other, HCRA transfer fund, medical assistance account,
13 or any successor fund or account, for purposes of funding the state
14 share of Medicaid expenditures related to the city of New York from the
15 tobacco control and insurance initiatives pool established for the
16 following periods in the following amounts:

17 (i) eighty-two million seven hundred thousand dollars for the period
18 January first, two thousand two through December thirty-first, two thou-
19 sand two;

20 (ii) one hundred twenty-four million six hundred thousand dollars for
21 the period January first, two thousand three through December thirty-
22 first, two thousand three;

23 (iii) one hundred twenty-four million seven hundred thousand dollars
24 for the period January first, two thousand four through December thir-
25 ty-first, two thousand four;

26 (iv) one hundred twenty-four million seven hundred thousand dollars
27 for the period January first, two thousand five through December thir-
28 ty-first, two thousand five;

29 (v) one hundred twenty-four million seven hundred thousand dollars for
30 the period January first, two thousand six through December thirty-
31 first, two thousand six;

32 (vi) one hundred twenty-four million seven hundred thousand dollars
33 for the period January first, two thousand seven through December thir-
34 ty-first, two thousand seven;

35 (vii) one hundred twenty-four million seven hundred thousand dollars
36 for the period January first, two thousand eight through December thir-
37 ty-first, two thousand eight;

38 (viii) one hundred twenty-four million seven hundred thousand dollars
39 for the period January first, two thousand nine through December thir-
40 ty-first, two thousand nine;

41 (ix) one hundred twenty-four million seven hundred thousand dollars
42 for the period January first, two thousand ten through December thirty-
43 first, two thousand ten;

44 (x) thirty-one million one hundred seventy-five thousand dollars for
45 the period January first, two thousand eleven through March thirty-
46 first, two thousand eleven; and

47 (xi) one hundred twenty-four million seven hundred thousand dollars
48 each state fiscal year for the period April first, two thousand eleven
49 through March thirty-first, two thousand fourteen.

50 (mm) Funds shall be deposited by the commissioner, within amounts
51 appropriated, and the state comptroller is hereby authorized and
52 directed to receive for deposit to the credit of the state special
53 revenue funds - other, HCRA transfer fund, medical assistance account,
54 or any successor fund or account, for purposes of funding specified
55 percentages of the state share of services and expenses related to the
56 family health plus program in accordance with the following schedule:

1 (i) (A) for the period January first, two thousand three through
2 December thirty-first, two thousand four, one hundred percent of the
3 state share;

4 (B) for the period January first, two thousand five through December
5 thirty-first, two thousand five, seventy-five percent of the state
6 share; and

7 (C) for periods beginning on and after January first, two thousand
8 six, fifty percent of the state share.

9 (ii) Funding for the family health plus program will include up to
10 five million dollars annually for the period January first, two thousand
11 three through December thirty-first, two thousand six, up to five
12 million dollars for the period January first, two thousand seven through
13 December thirty-first, two thousand seven, up to seven million two
14 hundred thousand dollars for the period January first, two thousand
15 eight through December thirty-first, two thousand eight, up to seven
16 million two hundred thousand dollars for the period January first, two
17 thousand nine through December thirty-first, two thousand nine, up to
18 seven million two hundred thousand dollars for the period January first,
19 two thousand ten through December thirty-first, two thousand ten, up to
20 one million eight hundred thousand dollars for the period January first,
21 two thousand eleven through March thirty-first, two thousand eleven, up
22 to six million forty-nine thousand dollars for the period April first,
23 two thousand eleven through March thirty-first, two thousand twelve, up
24 to six million two hundred eighty-nine thousand dollars for the period
25 April first, two thousand twelve through March thirty-first, two thou-
26 sand thirteen, and up to six million four hundred sixty-one thousand
27 dollars for the period April first, two thousand thirteen through March
28 thirty-first, two thousand fourteen, for administration and marketing
29 costs associated with such program established pursuant to clauses (A)
30 and (B) of subparagraph (v) of paragraph (a) of subdivision two of the
31 former section three hundred sixty-nine-ee of the social services law
32 from the tobacco control and insurance initiatives pool established for
33 the following periods in the following amounts:

34 (A) one hundred ninety million six hundred thousand dollars for the
35 period January first, two thousand three through December thirty-first,
36 two thousand three;

37 (B) three hundred seventy-four million dollars for the period January
38 first, two thousand four through December thirty-first, two thousand
39 four;

40 (C) five hundred thirty-eight million four hundred thousand dollars
41 for the period January first, two thousand five through December thir-
42 ty-first, two thousand five;

43 (D) three hundred eighteen million seven hundred seventy-five thousand
44 dollars for the period January first, two thousand six through December
45 thirty-first, two thousand six;

46 (E) four hundred eighty-two million eight hundred thousand dollars for
47 the period January first, two thousand seven through December thirty-
48 first, two thousand seven;

49 (F) five hundred seventy million twenty-five thousand dollars for the
50 period January first, two thousand eight through December thirty-first,
51 two thousand eight;

52 (G) six hundred ten million seven hundred twenty-five thousand dollars
53 for the period January first, two thousand nine through December thir-
54 ty-first, two thousand nine;

1 (H) six hundred twenty-seven million two hundred seventy-five thousand
2 dollars for the period January first, two thousand ten through December
3 thirty-first, two thousand ten;

4 (I) one hundred fifty-seven million eight hundred seventy-five thou-
5 sand dollars for the period January first, two thousand eleven through
6 March thirty-first, two thousand eleven;

7 (J) six hundred twenty-eight million four hundred thousand dollars for
8 the period April first, two thousand eleven through March thirty-first,
9 two thousand twelve;

10 (K) six hundred fifty million four hundred thousand dollars for the
11 period April first, two thousand twelve through March thirty-first, two
12 thousand thirteen;

13 (L) six hundred fifty million four hundred thousand dollars for the
14 period April first, two thousand thirteen through March thirty-first,
15 two thousand fourteen; and

16 (M) up to three hundred ten million five hundred ninety-five thousand
17 dollars for the period April first, two thousand fourteen through March
18 thirty-first, two thousand fifteen.

19 (nn) Funds shall be deposited by the commissioner, within amounts
20 appropriated, and the state comptroller is hereby authorized and
21 directed to receive for deposit to the credit of the state special
22 revenue fund - other, HCRA transfer fund, health care services account,
23 or any successor fund or account, for purposes related to adult home
24 initiatives for medicaid eligible residents of residential facilities
25 licensed pursuant to section four hundred sixty-b of the social services
26 law from the tobacco control and insurance initiatives pool established
27 for the following periods in the following amounts:

28 (i) up to four million dollars for the period January first, two thou-
29 sand three through December thirty-first, two thousand three;

30 (ii) up to six million dollars for the period January first, two thou-
31 sand four through December thirty-first, two thousand four;

32 (iii) up to eight million dollars for the period January first, two
33 thousand five through December thirty-first, two thousand five,
34 provided, however, that up to five million two hundred fifty thousand
35 dollars of such funds shall be received by the comptroller and deposited
36 to the credit of the special revenue fund - other / aid to localities,
37 HCRA transfer fund - 061, enhanced community services account - 05, or
38 any successor fund or account, for the purposes set forth in this para-
39 graph;

40 (iv) up to eight million dollars for the period January first, two
41 thousand six through December thirty-first, two thousand six, provided,
42 however, that up to five million two hundred fifty thousand dollars of
43 such funds shall be received by the comptroller and deposited to the
44 credit of the special revenue fund - other / aid to localities, HCRA
45 transfer fund - 061, enhanced community services account - 05, or any
46 successor fund or account, for the purposes set forth in this paragraph;

47 (v) up to eight million dollars for the period January first, two
48 thousand seven through December thirty-first, two thousand seven,
49 provided, however, that up to five million two hundred fifty thousand
50 dollars of such funds shall be received by the comptroller and deposited
51 to the credit of the special revenue fund - other / aid to localities,
52 HCRA transfer fund - 061, enhanced community services account - 05, or
53 any successor fund or account, for the purposes set forth in this para-
54 graph;

1 (vi) up to two million seven hundred fifty thousand dollars for the
2 period January first, two thousand eight through December thirty-first,
3 two thousand eight;

4 (vii) up to two million seven hundred fifty thousand dollars for the
5 period January first, two thousand nine through December thirty-first,
6 two thousand nine;

7 (viii) up to two million seven hundred fifty thousand dollars for the
8 period January first, two thousand ten through December thirty-first,
9 two thousand ten; and

10 (ix) up to six hundred eighty-eight thousand dollars for the period
11 January first, two thousand eleven through March thirty-first, two thou-
12 sand eleven.

13 (oo) Funds shall be reserved and accumulated from year to year and
14 shall be available, including income from invested funds, for purposes
15 of grants to non-public general hospitals pursuant to paragraph (e) of
16 subdivision twenty-five of section twenty-eight hundred seven-c of this
17 article from the tobacco control and insurance initiatives pool estab-
18 lished for the following periods in the following amounts:

19 (i) up to five million dollars on an annualized basis for the period
20 January first, two thousand four through December thirty-first, two
21 thousand four;

22 (ii) up to five million dollars for the period January first, two
23 thousand five through December thirty-first, two thousand five;

24 (iii) up to five million dollars for the period January first, two
25 thousand six through December thirty-first, two thousand six;

26 (iv) up to five million dollars for the period January first, two
27 thousand seven through December thirty-first, two thousand seven;

28 (v) up to five million dollars for the period January first, two thou-
29 sand eight through December thirty-first, two thousand eight;

30 (vi) up to five million dollars for the period January first, two
31 thousand nine through December thirty-first, two thousand nine;

32 (vii) up to five million dollars for the period January first, two
33 thousand ten through December thirty-first, two thousand ten; and

34 (viii) up to one million two hundred fifty thousand dollars for the
35 period January first, two thousand eleven through March thirty-first,
36 two thousand eleven.

37 (pp) Funds shall be reserved and accumulated from year to year and
38 shall be available, including income from invested funds, for the
39 purpose of supporting the provision of tax credits for long term care
40 insurance pursuant to subdivision one of section one hundred ninety of
41 the tax law, paragraph (a) of subdivision fourteen of section two
42 hundred ten-B of such law, subsection (aa) of section six hundred six of
43 such law and paragraph one of subdivision (m) of section fifteen hundred
44 eleven of such law, in the following amounts:

45 (i) ten million dollars for the period January first, two thousand
46 four through December thirty-first, two thousand four;

47 (ii) ten million dollars for the period January first, two thousand
48 five through December thirty-first, two thousand five;

49 (iii) ten million dollars for the period January first, two thousand
50 six through December thirty-first, two thousand six; and

51 (iv) five million dollars for the period January first, two thousand
52 seven through June thirtieth, two thousand seven.

53 (qq) Funds shall be reserved and accumulated from year to year and
54 shall be available, including income from invested funds, for the
55 purpose of supporting the long-term care insurance education and

1 outreach program established pursuant to section two hundred seventeen-a
2 of the elder law for the following periods in the following amounts:

3 (i) up to five million dollars for the period January first, two thou-
4 sand four through December thirty-first, two thousand four; of such
5 funds one million nine hundred fifty thousand dollars shall be made
6 available to the department for the purpose of developing, implementing
7 and administering the long-term care insurance education and outreach
8 program and three million fifty thousand dollars shall be deposited by
9 the commissioner, within amounts appropriated, and the comptroller is
10 hereby authorized and directed to receive for deposit to the credit of
11 the special revenue funds - other, HCRA transfer fund, long term care
12 insurance resource center account of the state office for the aging or
13 any future account designated for the purpose of implementing the long
14 term care insurance education and outreach program and providing the
15 long term care insurance resource centers with the necessary resources
16 to carry out their operations;

17 (ii) up to five million dollars for the period January first, two
18 thousand five through December thirty-first, two thousand five; of such
19 funds one million nine hundred fifty thousand dollars shall be made
20 available to the department for the purpose of developing, implementing
21 and administering the long-term care insurance education and outreach
22 program and three million fifty thousand dollars shall be deposited by
23 the commissioner, within amounts appropriated, and the comptroller is
24 hereby authorized and directed to receive for deposit to the credit of
25 the special revenue funds - other, HCRA transfer fund, long term care
26 insurance resource center account of the state office for the aging or
27 any future account designated for the purpose of implementing the long
28 term care insurance education and outreach program and providing the
29 long term care insurance resource centers with the necessary resources
30 to carry out their operations;

31 (iii) up to five million dollars for the period January first, two
32 thousand six through December thirty-first, two thousand six; of such
33 funds one million nine hundred fifty thousand dollars shall be made
34 available to the department for the purpose of developing, implementing
35 and administering the long-term care insurance education and outreach
36 program and three million fifty thousand dollars shall be made available
37 to the office for the aging for the purpose of providing the long term
38 care insurance resource centers with the necessary resources to carry
39 out their operations;

40 (iv) up to five million dollars for the period January first, two
41 thousand seven through December thirty-first, two thousand seven; of
42 such funds one million nine hundred fifty thousand dollars shall be made
43 available to the department for the purpose of developing, implementing
44 and administering the long-term care insurance education and outreach
45 program and three million fifty thousand dollars shall be made available
46 to the office for the aging for the purpose of providing the long term
47 care insurance resource centers with the necessary resources to carry
48 out their operations;

49 (v) up to five million dollars for the period January first, two thou-
50 sand eight through December thirty-first, two thousand eight; of such
51 funds one million nine hundred fifty thousand dollars shall be made
52 available to the department for the purpose of developing, implementing
53 and administering the long term care insurance education and outreach
54 program and three million fifty thousand dollars shall be made available
55 to the office for the aging for the purpose of providing the long term

1 care insurance resource centers with the necessary resources to carry
2 out their operations;

3 (vi) up to five million dollars for the period January first, two
4 thousand nine through December thirty-first, two thousand nine; of such
5 funds one million nine hundred fifty thousand dollars shall be made
6 available to the department for the purpose of developing, implementing
7 and administering the long-term care insurance education and outreach
8 program and three million fifty thousand dollars shall be made available
9 to the office for the aging for the purpose of providing the long-term
10 care insurance resource centers with the necessary resources to carry
11 out their operations;

12 (vii) up to four hundred eighty-eight thousand dollars for the period
13 January first, two thousand ten through March thirty-first, two thousand
14 ten; of such funds four hundred eighty-eight thousand dollars shall be
15 made available to the department for the purpose of developing, imple-
16 menting and administering the long-term care insurance education and
17 outreach program.

18 (rr) Funds shall be reserved and accumulated from the tobacco control
19 and insurance initiatives pool and shall be available, including income
20 from invested funds, for the purpose of supporting expenses related to
21 implementation of the provisions of title three of article twenty-nine-D
22 of this chapter, for the following periods and in the following amounts:

23 (i) up to ten million dollars for the period January first, two thou-
24 sand six through December thirty-first, two thousand six;

25 (ii) up to ten million dollars for the period January first, two thou-
26 sand seven through December thirty-first, two thousand seven;

27 (iii) up to ten million dollars for the period January first, two
28 thousand eight through December thirty-first, two thousand eight;

29 (iv) up to ten million dollars for the period January first, two thou-
30 sand nine through December thirty-first, two thousand nine;

31 (v) up to ten million dollars for the period January first, two thou-
32 sand ten through December thirty-first, two thousand ten; and

33 (vi) up to two million five hundred thousand dollars for the period
34 January first, two thousand eleven through March thirty-first, two thou-
35 sand eleven.

36 (ss) Funds shall be reserved and accumulated from the tobacco control
37 and insurance initiatives pool and used for a health care stabilization
38 program established by the commissioner for the purposes of stabilizing
39 critical health care providers and health care programs whose ability to
40 continue to provide appropriate services are threatened by financial or
41 other challenges, in the amount of up to twenty-eight million dollars
42 for the period July first, two thousand four through June thirtieth, two
43 thousand five. Notwithstanding the provisions of section one hundred
44 twelve of the state finance law or any other inconsistent provision of
45 the state finance law or any other law, funds available for distribution
46 pursuant to this paragraph may be allocated and distributed by the
47 commissioner, or the state comptroller as applicable without a compet-
48 itive bid or request for proposal process. Considerations relied upon by
49 the commissioner in determining the allocation and distribution of these
50 funds shall include, but not be limited to, the following: (i) the
51 importance of the provider or program in meeting critical health care
52 needs in the community in which it operates; (ii) the provider or
53 program provision of care to under-served populations; (iii) the quality
54 of the care or services the provider or program delivers; (iv) the abil-
55 ity of the provider or program to continue to deliver an appropriate
56 level of care or services if additional funding is made available; (v)

1 the ability of the provider or program to access, in a timely manner,
2 alternative sources of funding, including other sources of government
3 funding; (vi) the ability of other providers or programs in the communi-
4 ty to meet the community health care needs; (vii) whether the provider
5 or program has an appropriate plan to improve its financial condition;
6 and (viii) whether additional funding would permit the provider or
7 program to consolidate, relocate, or close programs or services where
8 such actions would result in greater stability and efficiency in the
9 delivery of needed health care services or programs.

10 (tt) Funds shall be reserved and accumulated from year to year and
11 shall be available, including income from invested funds, for purposes
12 of providing grants for two long term care demonstration projects
13 designed to test new models for the delivery of long term care services
14 established pursuant to section twenty-eight hundred seven-x of this
15 chapter, for the following periods and in the following amounts:

16 (i) up to five hundred thousand dollars for the period January first,
17 two thousand four through December thirty-first, two thousand four;

18 (ii) up to five hundred thousand dollars for the period January first,
19 two thousand five through December thirty-first, two thousand five;

20 (iii) up to five hundred thousand dollars for the period January
21 first, two thousand six through December thirty-first, two thousand six;

22 (iv) up to one million dollars for the period January first, two thou-
23 sand seven through December thirty-first, two thousand seven; and

24 (v) up to two hundred fifty thousand dollars for the period January
25 first, two thousand eight through March thirty-first, two thousand
26 eight.

27 (uu) Funds shall be reserved and accumulated from year to year and
28 shall be available, including income from invested funds, for the
29 purpose of supporting disease management and telemedicine demonstration
30 programs authorized pursuant to section twenty-one hundred eleven of
31 this chapter for the following periods in the following amounts:

32 (i) five million dollars for the period January first, two thousand
33 four through December thirty-first, two thousand four, of which three
34 million dollars shall be available for disease management demonstration
35 programs and two million dollars shall be available for telemedicine
36 demonstration programs;

37 (ii) five million dollars for the period January first, two thousand
38 five through December thirty-first, two thousand five, of which three
39 million dollars shall be available for disease management demonstration
40 programs and two million dollars shall be available for telemedicine
41 demonstration programs;

42 (iii) nine million five hundred thousand dollars for the period Janu-
43 ary first, two thousand six through December thirty-first, two thousand
44 six, of which seven million five hundred thousand dollars shall be
45 available for disease management demonstration programs and two million
46 dollars shall be available for telemedicine demonstration programs;

47 (iv) nine million five hundred thousand dollars for the period January
48 first, two thousand seven through December thirty-first, two thousand
49 seven, of which seven million five hundred thousand dollars shall be
50 available for disease management demonstration programs and one million
51 dollars shall be available for telemedicine demonstration programs;

52 (v) nine million five hundred thousand dollars for the period January
53 first, two thousand eight through December thirty-first, two thousand
54 eight, of which seven million five hundred thousand dollars shall be
55 available for disease management demonstration programs and two million
56 dollars shall be available for telemedicine demonstration programs;

(vi) seven million eight hundred thirty-three thousand three hundred thirty-three dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and three hundred thirty-three thousand three hundred thirty-three dollars shall be available for telemedicine demonstration programs for the period January first, two thousand nine through March first, two thousand nine;

(vii) one million eight hundred seventy-five thousand dollars for the period January first, two thousand ten through March thirty-first, two thousand ten shall be available for disease management demonstration programs.

(ww) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for recruitment and retention of health care workers pursuant to paragraph (e) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) sixty million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five; and

(ii) sixty million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(xx) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for rural hospitals pursuant to subdivision thirty-two of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) three million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(ii) three million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iii) three million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(iv) three million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(v) three million two hundred eight thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(yy) Funds shall be reserved and accumulated from year to year and shall be available, within amounts appropriated and notwithstanding section one hundred twelve of the state finance law and any other contrary provision of law, for the purpose of supporting grants not to

1 exceed five million dollars to be made by the commissioner without a
2 competitive bid or request for proposal process, in support of the
3 delivery of critically needed health care services, to health care
4 providers located in the counties of Erie and Niagara which executed a
5 memorandum of closing and conducted a merger closing in escrow on Novem-
6 ber twenty-fourth, nineteen hundred ninety-seven and which entered into
7 a settlement dated December thirtieth, two thousand four for a loss on
8 disposal of assets under the provisions of title XVIII of the federal
9 social security act applicable to mergers occurring prior to December
10 first, nineteen hundred ninety-seven.

11 (zz) Funds shall be reserved and accumulated from year to year and
12 shall be available, within amounts appropriated, for the purpose of
13 supporting expenditures authorized pursuant to section twenty-eight
14 hundred eighteen of this article from the tobacco control and insurance
15 initiatives pool established for the following periods in the following
16 amounts:

17 (i) six million five hundred thousand dollars for the period January
18 first, two thousand five through December thirty-first, two thousand
19 five;

20 (ii) one hundred eight million three hundred thousand dollars for the
21 period January first, two thousand six through December thirty-first,
22 two thousand six, provided, however, that within amounts appropriated in
23 the two thousand six through two thousand seven state fiscal year, a
24 portion of such funds may be transferred to the Roswell Park Cancer
25 Institute Corporation to fund capital costs;

26 (iii) one hundred seventy-one million dollars for the period January
27 first, two thousand seven through December thirty-first, two thousand
28 seven, provided, however, that within amounts appropriated in the two
29 thousand six through two thousand seven state fiscal year, a portion of
30 such funds may be transferred to the Roswell Park Cancer Institute
31 Corporation to fund capital costs;

32 (iv) one hundred seventy-one million five hundred thousand dollars for
33 the period January first, two thousand eight through December thirty-
34 first, two thousand eight;

35 (v) one hundred twenty-eight million seven hundred fifty thousand
36 dollars for the period January first, two thousand nine through December
37 thirty-first, two thousand nine;

38 (vi) one hundred thirty-one million three hundred seventy-five thou-
39 sand dollars for the period January first, two thousand ten through
40 December thirty-first, two thousand ten;

41 (vii) thirty-four million two hundred fifty thousand dollars for the
42 period January first, two thousand eleven through March thirty-first,
43 two thousand eleven;

44 (viii) four hundred thirty-three million three hundred sixty-six thou-
45 sand dollars for the period April first, two thousand eleven through
46 March thirty-first, two thousand twelve;

47 (ix) one hundred fifty million eight hundred six thousand dollars for
48 the period April first, two thousand twelve through March thirty-first,
49 two thousand thirteen;

50 (x) seventy-eight million seventy-one thousand dollars for the period
51 April first, two thousand thirteen through March thirty-first, two thou-
52 sand fourteen.

53 (aaa) Funds shall be reserved and accumulated from year to year and
54 shall be available, including income from invested funds, for services
55 and expenses related to school based health centers, in an amount up to
56 three million five hundred thousand dollars for the period April first,

1 two thousand six through March thirty-first, two thousand seven, up to
2 three million five hundred thousand dollars for the period April first,
3 two thousand seven through March thirty-first, two thousand eight, up to
4 three million five hundred thousand dollars for the period April first,
5 two thousand eight through March thirty-first, two thousand nine, up to
6 three million five hundred thousand dollars for the period April first,
7 two thousand nine through March thirty-first, two thousand ten, up to
8 three million five hundred thousand dollars for the period April first,
9 two thousand ten through March thirty-first, two thousand eleven, up to
10 two million eight hundred thousand dollars each state fiscal year for
11 the period April first, two thousand eleven through March thirty-first,
12 two thousand fourteen, up to two million six hundred forty-four thousand
13 dollars each state fiscal year for the period April first, two thousand
14 fourteen through March thirty-first, two thousand seventeen, up to two
15 million six hundred forty-four thousand dollars each state fiscal year
16 for the period April first, two thousand seventeen through March thir-
17 ty-first, two thousand twenty, ~~and~~ up to two million six hundred
18 forty-four thousand dollars each state fiscal year for the period April
19 first, two thousand twenty through March thirty-first, two thousand
20 twenty-three, and up to two million six hundred forty-four thousand
21 dollars each state fiscal year for the period April first, two thousand
22 twenty-three through March thirty-first, two thousand twenty-six. The
23 total amount of funds provided herein shall be distributed as grants
24 based on the ratio of each provider's total enrollment for all sites to
25 the total enrollment of all providers. This formula shall be applied to
26 the total amount provided herein.

27 (bbb) Funds shall be reserved and accumulated from year to year and
28 shall be available, including income from invested funds, for purposes
29 of awarding grants to operators of adult homes, enriched housing
30 programs and residences through the enhancing abilities and life experi-
31 ence (EnAbLe) program to provide for the installation, operation and
32 maintenance of air conditioning in resident rooms, consistent with this
33 paragraph, in an amount up to two million dollars for the period April
34 first, two thousand six through March thirty-first, two thousand seven,
35 up to three million eight hundred thousand dollars for the period April
36 first, two thousand seven through March thirty-first, two thousand
37 eight, up to three million eight hundred thousand dollars for the period
38 April first, two thousand eight through March thirty-first, two thousand
39 nine, up to three million eight hundred thousand dollars for the period
40 April first, two thousand nine through March thirty-first, two thousand
41 ten, and up to three million eight hundred thousand dollars for the
42 period April first, two thousand ten through March thirty-first, two
43 thousand eleven. Residents shall not be charged utility cost for the use
44 of air conditioners supplied under the EnAbLe program. All such air
45 conditioners must be operated in occupied resident rooms consistent with
46 requirements applicable to common areas.

47 (ccc) Funds shall be deposited by the commissioner, within amounts
48 appropriated, and the state comptroller is hereby authorized and
49 directed to receive for the deposit to the credit of the state special
50 revenue funds - other, HCRA transfer fund, medical assistance account,
51 or any successor fund or account, for purposes of funding the state
52 share of increases in the rates for certified home health agencies, long
53 term home health care programs, AIDS home care programs, hospice
54 programs and managed long term care plans and approved managed long term
55 care operating demonstrations as defined in section forty-four hundred
56 three-f of this chapter for recruitment and retention of health care

workers pursuant to subdivisions nine and ten of section thirty-six hundred fourteen of this chapter from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-five million dollars for the period June first, two thousand six through December thirty-first, two thousand six;

(ii) fifty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(iii) fifty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(iv) fifty million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(v) fifty million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten;

(vi) twelve million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(vii) up to fifty million dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(viii) up to fifty million dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen;

(ix) up to fifty million dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty; ~~and~~

(x) up to fifty million dollars each state fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three; and

(xi) up to fifty million dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six.

(ddd) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of increases in the medical assistance rates for providers for purposes of enhancing the provision, quality and/or efficiency of home care services pursuant to subdivision eleven of section thirty-six hundred fourteen of this chapter from the tobacco control and insurance initiatives pool established for the following period in the amount of eight million dollars for the period April first, two thousand six through December thirty-first, two thousand six.

(eee) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, to the Center for Functional Genomics at the State University of New York at Albany, for the purposes of the Adirondack network for cancer education and research in rural communities grant program to improve access to health care and shall be made available from the tobacco control and insurance initiatives pool established for the following period in the amount of up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(fff) Funds shall be made available to the empire state stem cell trust fund established by section ninety-nine-p of the state finance law

1 within amounts appropriated up to fifty million dollars annually and
2 shall not exceed five hundred million dollars in total.

3 (ggg) Funds shall be deposited by the commissioner, within amounts
4 appropriated, and the state comptroller is hereby authorized and
5 directed to receive for deposit to the credit of the state special
6 revenue fund - other, HCRA transfer fund, medical assistance account, or
7 any successor fund or account, for the purpose of supporting the state
8 share of Medicaid expenditures for hospital translation services as
9 authorized pursuant to paragraph (k) of subdivision one of section twen-
10 ty-eight hundred seven-c of this article from the tobacco control and
11 initiatives pool established for the following periods in the following
12 amounts:

13 (i) sixteen million dollars for the period July first, two thousand
14 eight through December thirty-first, two thousand eight; and

15 (ii) fourteen million seven hundred thousand dollars for the period
16 January first, two thousand nine through November thirtieth, two thou-
17 sand nine.

18 (hhh) Funds shall be deposited by the commissioner, within amounts
19 appropriated, and the state comptroller is hereby authorized and
20 directed to receive for deposit to the credit of the state special
21 revenue fund - other, HCRA transfer fund, medical assistance account, or
22 any successor fund or account, for the purpose of supporting the state
23 share of Medicaid expenditures for adjustments to inpatient rates of
24 payment for general hospitals located in the counties of Nassau and
25 Suffolk as authorized pursuant to paragraph (l) of subdivision one of
26 section twenty-eight hundred seven-c of this article from the tobacco
27 control and initiatives pool established for the following periods in
28 the following amounts:

29 (i) two million five hundred thousand dollars for the period April
30 first, two thousand eight through December thirty-first, two thousand
31 eight; and

32 (ii) two million two hundred ninety-two thousand dollars for the peri-
33 od January first, two thousand nine through November thirtieth, two
34 thousand nine.

35 (iii) Funds shall be reserved and set aside and accumulated from year
36 to year and shall be made available, including income from investment
37 funds, for the purpose of supporting the New York state medical indem-
38 nity fund as authorized pursuant to title four of article twenty-nine-D
39 of this chapter, for the following periods and in the following amounts,
40 provided, however, that the commissioner is authorized to seek waiver
41 authority from the federal centers for medicare and Medicaid for the
42 purpose of securing Medicaid federal financial participation for such
43 program, in which case the funding authorized pursuant to this paragraph
44 shall be utilized as the non-federal share for such payments:

45 Thirty million dollars for the period April first, two thousand eleven
46 through March thirty-first, two thousand twelve.

47 2. (a) For periods prior to January first, two thousand five, the
48 commissioner is authorized to contract with the article forty-three
49 insurance law plans, or such other contractors as the commissioner shall
50 designate, to receive and distribute funds from the tobacco control and
51 insurance initiatives pool established pursuant to this section. In the
52 event contracts with the article forty-three insurance law plans or
53 other commissioner's designees are effectuated, the commissioner shall
54 conduct annual audits of the receipt and distribution of such funds. The
55 reasonable costs and expenses of an administrator as approved by the
56 commissioner, not to exceed for personnel services on an annual basis

1 five hundred thousand dollars, for collection and distribution of funds
2 pursuant to this section shall be paid from such funds.

3 (b) Notwithstanding any inconsistent provision of section one hundred
4 twelve or one hundred sixty-three of the state finance law or any other
5 law, at the discretion of the commissioner without a competitive bid or
6 request for proposal process, contracts in effect for administration of
7 pools established pursuant to sections twenty-eight hundred seven-k,
8 twenty-eight hundred seven-l and twenty-eight hundred seven-m of this
9 article for the period January first, nineteen hundred ninety-nine
10 through December thirty-first, nineteen hundred ninety-nine may be
11 extended to provide for administration pursuant to this section and may
12 be amended as may be necessary.

13 § 13. Paragraph (a) of subdivision 12 of section 367-b of the social
14 services law, as amended by section 15 of part Y of chapter 56 of the
15 laws of 2020, is amended to read as follows:

16 (a) For the purpose of regulating cash flow for general hospitals, the
17 department shall develop and implement a payment methodology to provide
18 for timely payments for inpatient hospital services eligible for case
19 based payments per discharge based on diagnosis-related groups provided
20 during the period January first, nineteen hundred eighty-eight through
21 March thirty-first two thousand [~~twenty-three~~] twenty-six, by such
22 hospitals which elect to participate in the system.

23 § 14. Paragraph (r) of subdivision 9 of section 3614 of the public
24 health law, as added by section 16 of part Y of chapter 56 of the laws
25 of 2020, is amended and three new paragraphs (s), (t) and (u) are added
26 to read as follows:

27 (r) for the period April first, two thousand twenty-two through March
28 thirty-first, two thousand twenty-three, up to one hundred million
29 dollars[~~+~~];

30 (s) for the period April first, two thousand twenty-three through
31 March thirty-first, two thousand twenty-four, up to one hundred million
32 dollars;

33 (t) for the period April first, two thousand twenty-four through March
34 thirty-first, two thousand twenty-five, up to one hundred million
35 dollars;

36 (u) for the period April first, two thousand twenty-five through March
37 thirty-first, two thousand twenty-six, up to one hundred million
38 dollars.

39 § 15. Paragraph (v) of subdivision 1 of section 367-q of the social
40 services law, as added by section 17 of part Y of chapter 56 of the laws
41 of 2020, is amended and three new paragraphs (w), (x) and (y) are added
42 to read as follows:

43 (v) for the period April first, two thousand twenty-two through March
44 thirty-first, two thousand twenty-three, up to twenty-eight million five
45 hundred thousand dollars[~~+~~];

46 (w) for the period April first, two thousand twenty-three through
47 March thirty-first, two thousand twenty-four, up to twenty-eight million
48 five hundred thousand dollars;

49 (x) for the period April first, two thousand twenty-four through March
50 thirty-first, two thousand twenty-five, up to twenty-eight million five
51 hundred thousand dollars;

52 (y) for the period April first, two thousand twenty-five through March
53 thirty-first, two thousand twenty-six, up to twenty-eight million five
54 hundred thousand dollars.

55 § 16. This act shall take effect April 1, 2023; provided, however, if
56 this act shall become a law after such date it shall take effect imme-

diately and shall be deemed to have been in full force and effect on and after April 1, 2023; and further provided, that:

(a) the amendments to sections 2807-j and 2807-s of the public health law made by sections two, eight, nine, and ten of this act shall not affect the expiration of such sections and shall expire therewith;

(b) the amendments to subdivision 6 of section 2807-t of the public health law made by section eleven of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and

(c) the amendments to paragraph (i-1) of subdivision 1 of section 2807-v of the public health law made by section twelve of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.

PART D

Section 1. Paragraph (a) of subdivision 4 of section 365-a of the social services law, as amended by chapter 493 of the laws of 2010, is amended to read as follows:

(a) drugs which may be dispensed without a prescription as required by section sixty-eight hundred ten of the education law; provided, however, that the state commissioner of health may by regulation specify certain of such drugs which may be reimbursed as an item of medical assistance in accordance with the price schedule established by such commissioner. Notwithstanding any other provision of law, ~~additions~~ modifications to the list of drugs reimbursable under this paragraph may be filed as regulations by the commissioner of health without prior notice and comment;

§ 2. Paragraph (b) of subdivision 3 of section 273 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

(b) In the event that the patient does not meet the criteria in paragraph (a) of this subdivision, the prescriber may provide additional information to the program to justify the use of a prescription drug that is not on the preferred drug list. The program shall provide a reasonable opportunity for a prescriber to reasonably present his or her justification of prior authorization. ~~[If, after consultation with the program, the prescriber, in his or her reasonable professional judgment, determines that]~~ The program will consider the additional information and the justification presented to determine whether the use of a prescription drug that is not on the preferred drug list is warranted, and the ~~prescriber's~~ program's determination shall be final.

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

§ 4. This act shall take effect October 1, 2023; provided that sections two and three of this act shall take effect April 1, 2024.

PART E

Section 1. Subdivision 5-d of section 2807-k of the public health law, as amended by section 3 of part KK of chapter 56 of the laws of 2020, is amended to read as follows:

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

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

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

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

21 (ii) Annual distributions pursuant to such regulations for the two
22 thousand twenty through two thousand [~~twenty-two~~] ~~twenty-five~~ calendar
23 years shall be in accord with the following:

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

27 (B) nine hundred sixty-nine million nine hundred thousand dollars as
28 Medicaid DSH payments to eligible general hospitals, other than major
29 public general hospitals.

30 For the calendar years two thousand twenty through two thousand twen-
31 ty-two, the total distributions to eligible general hospitals, other
32 than major public general hospitals, shall be subject to an aggregate
33 reduction of one hundred fifty million dollars annually, provided that
34 eligible general hospitals, other than major public general hospitals,
35 that qualify as enhanced safety net hospitals under section two thousand
36 eight hundred seven-c of this article shall not be subject to such
37 reduction.

38 For the calendar years two thousand twenty-three through two thousand
39 twenty-five, the total distributions to eligible general hospitals,
40 other than major public general hospitals, shall be subject to an aggre-
41 gate reduction of two hundred thirty-five million four hundred thousand
42 dollars annually, provided that eligible general hospitals, other than
43 major public general hospitals that qualify as enhanced safety net
44 hospitals under section two thousand eight hundred seven-c of this arti-
45 cle as of April first, two thousand twenty, shall not be subject to such
46 reduction.

47 Such [~~reduction~~] ~~reductions~~ shall be determined by a methodology to be
48 established by the commissioner. Such [~~methodology~~] ~~methodologies~~ may
49 take into account the payor mix of each non-public general hospital,
50 including the percentage of inpatient days paid by Medicaid.

51 (iii) For calendar years two thousand twenty through two thousand
52 [~~twenty-two~~] ~~twenty-five~~, sixty-four million six hundred thousand
53 dollars shall be distributed to eligible general hospitals, other than
54 major public general hospitals, that experience a reduction in indigent
55 care pool payments pursuant to this subdivision, and that qualify as
56 enhanced safety net hospitals under section two thousand eight hundred

1 seven-c of this article as of April first, two thousand twenty. Such
2 distribution shall be established pursuant to regulations promulgated by
3 the commissioner and shall be proportional to the reduction experienced
4 by the facility.

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

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

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

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

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

23 § 2. Subdivision 1 of section 2801 of the public health law, as
24 amended by section 1 of part Z of chapter 57 of the laws of 2019, is
25 amended to read as follows:

26 1. "Hospital" means a facility or institution engaged principally in
27 providing services by or under the supervision of a physician or, in the
28 case of a dental clinic or dental dispensary, of a dentist, or, in the
29 case of a midwifery birth center, of a midwife, for the prevention,
30 diagnosis or treatment of human disease, pain, injury, deformity or
31 physical condition, including, but not limited to, a general hospital,
32 public health center, diagnostic center, treatment center, a rural emer-
33 gency hospital under 42 USC 1395x(kkk), or successor provisions, dental
34 clinic, dental dispensary, rehabilitation center other than a facility
35 used solely for vocational rehabilitation, nursing home, tuberculosis
36 hospital, chronic disease hospital, maternity hospital, midwifery birth
37 center, lying-in-asylum, out-patient department, out-patient lodge,
38 dispensary and a laboratory or central service facility serving one or
39 more such institutions, but the term hospital shall not include an
40 institution, sanitarium or other facility engaged principally in provid-
41 ing services for the prevention, diagnosis or treatment of mental disa-
42 bility and which is subject to the powers of visitation, examination,
43 inspection and investigation of the department of mental hygiene except
44 for those distinct parts of such a facility which provide hospital
45 service. The provisions of this article shall not apply to a facility or
46 institution engaged principally in providing services by or under the
47 supervision of the bona fide members and adherents of a recognized reli-
48 gious organization whose teachings include reliance on spiritual means
49 through prayer alone for healing in the practice of the religion of such
50 organization and where services are provided in accordance with those
51 teachings. No provision of this article or any other provision of law
52 shall be construed to: (a) limit the volume of mental health, substance
53 use disorder services or developmental disability services that can be
54 provided by a provider of primary care services licensed under this
55 article and authorized to provide integrated services in accordance with
56 regulations issued by the commissioner in consultation with the commis-

1 sioner of the office of mental health, the commissioner of the office of
2 alcoholism and substance abuse services and the commissioner of the
3 office for people with developmental disabilities, including regulations
4 issued pursuant to subdivision seven of section three hundred sixty-
5 five-1 of the social services law or part L of chapter fifty-six of the
6 laws of two thousand twelve; (b) require a provider licensed pursuant to
7 article thirty-one of the mental hygiene law or certified pursuant to
8 article sixteen or article thirty-two of the mental hygiene law to
9 obtain an operating certificate from the department if such provider has
10 been authorized to provide integrated services in accordance with regu-
11 lations issued by the commissioner in consultation with the commissioner
12 of the office of mental health, the commissioner of the office of alco-
13 holism and substance abuse services and the commissioner of the office
14 for people with developmental disabilities, including regulations issued
15 pursuant to subdivision seven of section three hundred sixty-five-1 of
16 the social services law or part L of chapter fifty-six of the laws of
17 two thousand twelve.

18 § 3. Section 2801-g of the public health law is amended by adding a
19 new subdivision 4 to read as follows:

20 4. At least thirty days prior to a general hospital applying to the
21 federal centers for medicare and medicaid services to convert from a
22 general hospital with inpatients to a rural emergency hospital under 42
23 USC 1395x(kkk), or successor provisions, such hospital shall hold a
24 public community forum for the purpose of obtaining public input
25 concerning the anticipated impact of the hospital's closure of inpatient
26 units, including but not limited to, the impact on recipients of medical
27 assistance for needy persons, the uninsured, and medically underserved
28 populations, and options and proposals to ameliorate such anticipated
29 impact. The hospital shall afford all public participants a reasonable
30 opportunity to speak about relevant matters at such community forum.
31 Prior to any community forum and as soon as practicable, the hospital
32 shall be required to:

33 (a) notify the office of mental health and the local director of
34 community services in the event such general hospital has psychiatric
35 inpatient beds licensed under article thirty-one of the mental hygiene
36 law or designated pursuant to section 9.39 of the mental hygiene law,
37 and

38 (b) notify the office of addiction services and supports in the event
39 such general hospital has inpatient substance use disorder treatment
40 programs or inpatient chemical dependence treatment programs licensed
41 under article thirty-two of the mental hygiene law.

42 § 4. The opening paragraph of subdivision (g) of section 2826 of the
43 public health law, as amended by section 3 of part M of chapter 57 of
44 the laws of 2022, is amended to read as follows:

45 Notwithstanding subdivision (a) of this section, and within amounts
46 appropriated for such purposes as described herein, [~~for the period of~~
47 ~~April first, two thousand twenty-two through March thirty-first, two~~
48 ~~thousand twenty-three,~~] the commissioner may award a temporary adjust-
49 ment to the non-capital components of rates, or make temporary lump-sum
50 Medicaid payments to eligible facilities in severe financial distress to
51 enable such facilities to maintain operations and vital services while
52 such facilities establish long term solutions to achieve sustainable
53 health services. Provided, however, the commissioner is authorized to
54 make such a temporary adjustment or make such temporary lump sum payment
55 only pursuant to criteria, an application, and an evaluation process[~~r~~
56 ~~and transformation plan~~] acceptable to the commissioner in consultation

1 with the director of the division of the budget. The department shall
2 publish on its website the criteria, application, and evaluation process
3 ~~[and guidance for transformation plans]~~ and notification of any award
4 recipients.

5 § 5. Subparagraph (F) of paragraph (i) of subdivision (g) of section
6 2826 of the public health law, as added by section 3 of part M of chap-
7 ter 57 of the laws of 2022, is amended to read as follows:

8 (F) an independent practice association or accountable care organiza-
9 tion authorized under applicable regulations that participate in managed
10 care provider network arrangements with any of the provider types in
11 subparagraphs (A) through (F) of this paragraph; or an entity that was
12 formed as a preferred provider system pursuant to the delivery system
13 reform incentive payment (DSRIP) program and collaborated with an inde-
14 pendent practice association that received VBP innovator status from the
15 department for purposes of meeting DSRIP goals, and which preferred
16 provider system remains operational as an integrated care system.

17 § 6. The opening paragraph of paragraph (ii) of subdivision (g) of
18 section 2826 of the public health law, as added by section 6 of part J
19 of chapter 60 of the laws of 2015, is amended to read as follows:

20 Eligible applicants must demonstrate that without such award, they
21 will be in severe financial distress ~~[through March thirty-first, two~~
22 ~~thousand sixteen]~~, as evidenced by:

23 § 7. Subparagraph (A), the opening paragraph of subparagraph (E) and
24 subparagraph (F) of paragraph (iii) of subdivision (g) of section 2826
25 of the public health law, as added by section 6 of part J of chapter 60
26 of the laws of 2015, are amended to read as follows:

27 (A) ~~[Applications under this subdivision]~~ Eligible applicants shall
28 ~~[include a multi-year transformation plan that is aligned with the~~
29 ~~delivery system reform incentive payment ("DSRIP") program goals and~~
30 ~~objectives. Such plan shall be approved by]~~ submit a completed applica-
31 tion to the department ~~[and shall demonstrate a path towards long term~~
32 ~~sustainability and improved patient care].~~

33 The department shall review all applications under this subdivision,
34 and ~~[a]~~ determine:

35 (F) After review of all applications under this subdivision, and a
36 determination of the aggregate amount of requested funds, the department
37 ~~[shall]~~ may make awards to eligible applicants; provided, however, that
38 such awards may be in an amount lower than such requested funding, on a
39 per applicant or aggregate basis.

40 § 8. Paragraph (v) of subdivision (g) of section 2826 of the public
41 health law, as added by section 6 of part J of chapter 60 of the laws of
42 2015, is amended to read as follows:

43 (v) Payments made to awardees pursuant to this subdivision ~~[shall be]~~
44 that are made on a monthly basis~~[. Such payments]~~ will be based on the
45 applicant's actual monthly financial performance during such period and
46 the reasonable cash amount necessary to sustain operations for the
47 following month. The applicant's monthly financial performance shall be
48 measured by such applicant's monthly financial and activity reports,
49 which shall include, but not be limited to, actual revenue and expenses
50 for the prior month, projected cash need for the current month, and
51 projected cash need for the following month.

52 § 9. Part I of chapter 57 of the laws of 2022 relating to providing a
53 one percent across the board payment increase to all qualifying fee-for-
54 service Medicaid rates, is amended by adding a new section 1-a to read
55 as follows:

§ 1-a. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of hospital inpatient services shall be subject to a uniform rate increase of five percent in addition to the increase contained in section one of this act, subject to the approval of the commissioner of health and the director of the budget. Such rate increase shall be subject to federal financial participation.

§ 10. This act shall take effect immediately; provided that sections two and three of this act shall take effect on the sixtieth day after it shall have become a law; provided, further, that sections one, four, five, six, seven, eight, and nine of this act shall be deemed to have been in full force and effect on and after April 1, 2023.

PART F

Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 1 of part Z of chapter 57 of the laws of 2022, is amended to read as follows:

(a) The superintendent of financial services and the commissioner of health or their designee shall, from funds available in the hospital excess liability pool created pursuant to subdivision 5 of this section, purchase a policy or policies for excess insurance coverage, as authorized by paragraph 1 of subsection (e) of section 5502 of the insurance law; or from an insurer, other than an insurer described in section 5502 of the insurance law, duly authorized to write such coverage and actually writing medical malpractice insurance in this state; or shall purchase equivalent excess coverage in a form previously approved by the superintendent of financial services for purposes of providing equivalent excess coverage in accordance with section 19 of chapter 294 of the laws of 1985, for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, between July 1, 2021 and June 30, 2022, ~~and~~ and between July 1, 2023 and June 30, 2024 or reimburse the hospital where the hospital purchases equivalent excess coverage as defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this section for

1 medical or dental malpractice occurrences between July 1, 1987 and June
2 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
3 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
4 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
5 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
6 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
7 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
8 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
9 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
10 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
11 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
12 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
13 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
14 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
15 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
16 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
17 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
18 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
19 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
20 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,
21 between July 1, 2021 and June 30, 2022, ~~and~~ between July 1, 2022 and
22 June 30, 2023, and between July 1, 2023 and June 30, 2024 for physicians
23 or dentists certified as eligible for each such period or periods pursu-
24 ant to subdivision 2 of this section by a general hospital licensed
25 pursuant to article 28 of the public health law; provided that no single
26 insurer shall write more than fifty percent of the total excess premium
27 for a given policy year; and provided, however, that such eligible
28 physicians or dentists must have in force an individual policy, from an
29 insurer licensed in this state of primary malpractice insurance coverage
30 in amounts of no less than one million three hundred thousand dollars
31 for each claimant and three million nine hundred thousand dollars for
32 all claimants under that policy during the period of such excess cover-
33 age for such occurrences or be endorsed as additional insureds under a
34 hospital professional liability policy which is offered through a volun-
35 tary attending physician ("channeling") program previously permitted by
36 the superintendent of financial services during the period of such
37 excess coverage for such occurrences. During such period, such policy
38 for excess coverage or such equivalent excess coverage shall, when
39 combined with the physician's or dentist's primary malpractice insurance
40 coverage or coverage provided through a voluntary attending physician
41 ("channeling") program, total an aggregate level of two million three
42 hundred thousand dollars for each claimant and six million nine hundred
43 thousand dollars for all claimants from all such policies with respect
44 to occurrences in each of such years provided, however, if the cost of
45 primary malpractice insurance coverage in excess of one million dollars,
46 but below the excess medical malpractice insurance coverage provided
47 pursuant to this act, exceeds the rate of nine percent per annum, then
48 the required level of primary malpractice insurance coverage in excess
49 of one million dollars for each claimant shall be in an amount of not
50 less than the dollar amount of such coverage available at nine percent
51 per annum; the required level of such coverage for all claimants under
52 that policy shall be in an amount not less than three times the dollar
53 amount of coverage for each claimant; and excess coverage, when combined
54 with such primary malpractice insurance coverage, shall increase the
55 aggregate level for each claimant by one million dollars and three
56 million dollars for all claimants; and provided further, that, with

1 respect to policies of primary medical malpractice coverage that include
2 occurrences between April 1, 2002 and June 30, 2002, such requirement
3 that coverage be in amounts no less than one million three hundred thou-
4 sand dollars for each claimant and three million nine hundred thousand
5 dollars for all claimants for such occurrences shall be effective April
6 1, 2002.

7 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
8 amending the civil practice law and rules and other laws relating to
9 malpractice and professional medical conduct, as amended by section 2 of
10 part Z of chapter 57 of the laws of 2022, is amended to read as follows:

11 (3)(a) The superintendent of financial services shall determine and
12 certify to each general hospital and to the commissioner of health the
13 cost of excess malpractice insurance for medical or dental malpractice
14 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
15 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
16 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
17 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
18 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
19 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
20 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
21 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
22 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
23 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
24 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
25 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
26 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
27 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
28 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,
29 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
30 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016
31 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July
32 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,
33 between July 1, 2020 and June 30, 2021, between July 1, 2021 and June
34 30, 2022, ~~[and]~~ between July 1, 2022 and June 30, 2023, and between July
35 1, 2023 and June 30, 2024 allocable to each general hospital for physi-
36 cians or dentists certified as eligible for purchase of a policy for
37 excess insurance coverage by such general hospital in accordance with
38 subdivision 2 of this section, and may amend such determination and
39 certification as necessary.

40 (b) The superintendent of financial services shall determine and
41 certify to each general hospital and to the commissioner of health the
42 cost of excess malpractice insurance or equivalent excess coverage for
43 medical or dental malpractice occurrences between July 1, 1987 and June
44 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
45 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
46 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
47 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
48 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
49 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
50 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
51 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
52 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
53 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
54 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
55 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
56 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010

1 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
2 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
3 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
4 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
5 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
6 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,
7 between July 1, 2021 and June 30, 2022, [~~and~~] between July 1, 2022 and
8 June 30, 2023, and between July 1, 2023 and June 30, 2024 allocable to
9 each general hospital for physicians or dentists certified as eligible
10 for purchase of a policy for excess insurance coverage or equivalent
11 excess coverage by such general hospital in accordance with subdivision
12 2 of this section, and may amend such determination and certification as
13 necessary. The superintendent of financial services shall determine and
14 certify to each general hospital and to the commissioner of health the
15 ratable share of such cost allocable to the period July 1, 1987 to
16 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to
17 the period July 1, 1988 to December 31, 1988, to the period January 1,
18 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,
19 to the period January 1, 1990 to June 30, 1990, to the period July 1,
20 1990 to December 31, 1990, to the period January 1, 1991 to June 30,
21 1991, to the period July 1, 1991 to December 31, 1991, to the period
22 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
23 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
24 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
25 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
26 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
27 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
28 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
29 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
30 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
31 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
32 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
33 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
34 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
35 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
36 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
37 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
38 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
39 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
40 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the
41 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and
42 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the
43 period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and
44 June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the
45 period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June
46 30, 2019, to the period July 1, 2019 to June 30, 2020, to the period
47 July 1, 2020 to June 30, 2021, to the period July 1, 2021 to June 30,
48 2022, [~~and~~] to the period July 1, 2022 to June 30, 2023, and to the
49 period July 1, 2023 to June 30, 2024.

50 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
51 18 of chapter 266 of the laws of 1986, amending the civil practice law
52 and rules and other laws relating to malpractice and professional
53 medical conduct, as amended by section 3 of part Z of chapter 57 of the
54 laws of 2022, are amended to read as follows:

55 (a) To the extent funds available to the hospital excess liability
56 pool pursuant to subdivision 5 of this section as amended, and pursuant

1 to section 6 of part J of chapter 63 of the laws of 2001, as may from
2 time to time be amended, which amended this subdivision, are insuffi-
3 cient to meet the costs of excess insurance coverage or equivalent
4 excess coverage for coverage periods during the period July 1, 1992 to
5 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
6 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
7 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
8 during the period July 1, 1997 to June 30, 1998, during the period July
9 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
10 2000, during the period July 1, 2000 to June 30, 2001, during the period
11 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
12 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
13 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
14 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
15 during the period July 1, 2006 to June 30, 2007, during the period July
16 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
17 2009, during the period July 1, 2009 to June 30, 2010, during the period
18 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
19 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
20 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
21 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during
22 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017
23 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,
24 during the period July 1, 2019 to June 30, 2020, during the period July
25 1, 2020 to June 30, 2021, during the period July 1, 2021 to June 30,
26 2022, ~~[and]~~ during the period July 1, 2022 to June 30, 2023, and during
27 the period July 1, 2023 to June 30, 2024 allocated or reallocated in
28 accordance with paragraph (a) of subdivision 4-a of this section to
29 rates of payment applicable to state governmental agencies, each physi-
30 cian or dentist for whom a policy for excess insurance coverage or
31 equivalent excess coverage is purchased for such period shall be respon-
32 sible for payment to the provider of excess insurance coverage or equiv-
33 alent excess coverage of an allocable share of such insufficiency, based
34 on the ratio of the total cost of such coverage for such physician to
35 the sum of the total cost of such coverage for all physicians applied to
36 such insufficiency.

37 (b) Each provider of excess insurance coverage or equivalent excess
38 coverage covering the period July 1, 1992 to June 30, 1993, or covering
39 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
40 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
41 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
42 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
43 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
44 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
45 the period July 1, 2001 to October 29, 2001, or covering the period
46 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
47 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
48 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
49 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
50 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
51 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
52 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
53 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
54 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
55 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
56 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or

1 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
2 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
3 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or
4 covering the period July 1, 2020 to June 30, 2021, or covering the peri-
5 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to
6 June 30, 2023, or covering the period July 1, 2023 to June 30, 2024
7 shall notify a covered physician or dentist by mail, mailed to the
8 address shown on the last application for excess insurance coverage or
9 equivalent excess coverage, of the amount due to such provider from such
10 physician or dentist for such coverage period determined in accordance
11 with paragraph (a) of this subdivision. Such amount shall be due from
12 such physician or dentist to such provider of excess insurance coverage
13 or equivalent excess coverage in a time and manner determined by the
14 superintendent of financial services.

15 (c) If a physician or dentist liable for payment of a portion of the
16 costs of excess insurance coverage or equivalent excess coverage cover-
17 ing the period July 1, 1992 to June 30, 1993, or covering the period
18 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
19 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
20 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
21 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
22 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
23 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
24 od July 1, 2001 to October 29, 2001, or covering the period April 1,
25 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
26 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
27 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
28 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
29 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
30 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
31 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
32 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
33 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
34 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
35 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
36 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
37 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
38 2019, or covering the period July 1, 2019 to June 30, 2020, or covering
39 the period July 1, 2020 to June 30, 2021, or covering the period July 1,
40 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,
41 2023, or covering the period July 1, 2023 to June 30, 2024 determined in
42 accordance with paragraph (a) of this subdivision fails, refuses or
43 neglects to make payment to the provider of excess insurance coverage or
44 equivalent excess coverage in such time and manner as determined by the
45 superintendent of financial services pursuant to paragraph (b) of this
46 subdivision, excess insurance coverage or equivalent excess coverage
47 purchased for such physician or dentist in accordance with this section
48 for such coverage period shall be cancelled and shall be null and void
49 as of the first day on or after the commencement of a policy period
50 where the liability for payment pursuant to this subdivision has not
51 been met.

52 (d) Each provider of excess insurance coverage or equivalent excess
53 coverage shall notify the superintendent of financial services and the
54 commissioner of health or their designee of each physician and dentist
55 eligible for purchase of a policy for excess insurance coverage or
56 equivalent excess coverage covering the period July 1, 1992 to June 30,

1 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
2 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
3 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
4 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
5 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
6 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
7 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
8 ing the period April 1, 2002 to June 30, 2002, or covering the period
9 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
10 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
11 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
12 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
13 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
14 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
15 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
16 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
17 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
18 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
19 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
20 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
21 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to
22 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or
23 covering the period July 1, 2021 to June 30, 2022, or covering the peri-
24 od July 1, 2022 to June ~~30~~, 2023, or covering the period July 1,
25 2023 to June 30, 2024 that has made payment to such provider of excess
26 insurance coverage or equivalent excess coverage in accordance with
27 paragraph (b) of this subdivision and of each physician and dentist who
28 has failed, refused or neglected to make such payment.

29 (e) A provider of excess insurance coverage or equivalent excess
30 coverage shall refund to the hospital excess liability pool any amount
31 allocable to the period July 1, 1992 to June 30, 1993, and to the period
32 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
33 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
34 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
35 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
36 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
37 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
38 and to the period April 1, 2002 to June 30, 2002, and to the period July
39 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
40 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
41 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
42 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
43 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
44 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
45 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
46 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
47 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
48 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
49 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
50 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,
51 and to the period July 1, 2020 to June 30, 2021, and to the period July
52 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,
53 2023, and to the period July 1, 2023 to June 30, 2024 received from the
54 hospital excess liability pool for purchase of excess insurance coverage
55 or equivalent excess coverage covering the period July 1, 1992 to June
56 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and

1 covering the period July 1, 1994 to June 30, 1995, and covering the
2 period July 1, 1995 to June 30, 1996, and covering the period July 1,
3 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30,
4 1998, and covering the period July 1, 1998 to June 30, 1999, and cover-
5 ing the period July 1, 1999 to June 30, 2000, and covering the period
6 July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to
7 October 29, 2001, and covering the period April 1, 2002 to June 30,
8 2002, and covering the period July 1, 2002 to June 30, 2003, and cover-
9 ing the period July 1, 2003 to June 30, 2004, and covering the period
10 July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to
11 June 30, 2006, and covering the period July 1, 2006 to June 30, 2007,
12 and covering the period July 1, 2007 to June 30, 2008, and covering the
13 period July 1, 2008 to June 30, 2009, and covering the period July 1,
14 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30,
15 2011, and covering the period July 1, 2011 to June 30, 2012, and cover-
16 ing the period July 1, 2012 to June 30, 2013, and covering the period
17 July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to
18 June 30, 2015, and covering the period July 1, 2015 to June 30, 2016,
19 and covering the period July 1, 2016 to June 30, 2017, and covering the
20 period July 1, 2017 to June 30, 2018, and covering the period July 1,
21 2018 to June 30, 2019, and covering the period July 1, 2019 to June 30,
22 2020, and covering the period July 1, 2020 to June 30, 2021, and cover-
23 ing the period July 1, 2021 to June 30, 2022, and covering the period
24 July 1, 2022 to June 30, 2023 for, and covering the period July 1, 2023
25 to June 30, 2024 a physician or dentist where such excess insurance
26 coverage or equivalent excess coverage is cancelled in accordance with
27 paragraph (c) of this subdivision.

28 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
29 practice law and rules and other laws relating to malpractice and
30 professional medical conduct, as amended by section 4 of part Z of chap-
31 ter 57 of the laws of 2022, is amended to read as follows:

32 § 40. The superintendent of financial services shall establish rates
33 for policies providing coverage for physicians and surgeons medical
34 malpractice for the periods commencing July 1, 1985 and ending June 30,
35 ~~[2023]~~ 2024; provided, however, that notwithstanding any other provision
36 of law, the superintendent shall not establish or approve any increase
37 in rates for the period commencing July 1, 2009 and ending June 30,
38 2010. The superintendent shall direct insurers to establish segregated
39 accounts for premiums, payments, reserves and investment income attrib-
40 utable to such premium periods and shall require periodic reports by the
41 insurers regarding claims and expenses attributable to such periods to
42 monitor whether such accounts will be sufficient to meet incurred claims
43 and expenses. On or after July 1, 1989, the superintendent shall impose
44 a surcharge on premiums to satisfy a projected deficiency that is
45 attributable to the premium levels established pursuant to this section
46 for such periods; provided, however, that such annual surcharge shall
47 not exceed eight percent of the established rate until July 1, ~~[2023]~~
48 2024, at which time and thereafter such surcharge shall not exceed twen-
49 ty-five percent of the approved adequate rate, and that such annual
50 surcharges shall continue for such period of time as shall be sufficient
51 to satisfy such deficiency. The superintendent shall not impose such
52 surcharge during the period commencing July 1, 2009 and ending June 30,
53 2010. On and after July 1, 1989, the surcharge prescribed by this
54 section shall be retained by insurers to the extent that they insured
55 physicians and surgeons during the July 1, 1985 through June 30, ~~[2023]~~
56 2024 policy periods; in the event and to the extent physicians and

1 surgeons were insured by another insurer during such periods, all or a
2 pro rata share of the surcharge, as the case may be, shall be remitted
3 to such other insurer in accordance with rules and regulations to be
4 promulgated by the superintendent. Surcharges collected from physicians
5 and surgeons who were not insured during such policy periods shall be
6 apportioned among all insurers in proportion to the premium written by
7 each insurer during such policy periods; if a physician or surgeon was
8 insured by an insurer subject to rates established by the superintendent
9 during such policy periods, and at any time thereafter a hospital,
10 health maintenance organization, employer or institution is responsible
11 for responding in damages for liability arising out of such physician's
12 or surgeon's practice of medicine, such responsible entity shall also
13 remit to such prior insurer the equivalent amount that would then be
14 collected as a surcharge if the physician or surgeon had continued to
15 remain insured by such prior insurer. In the event any insurer that
16 provided coverage during such policy periods is in liquidation, the
17 property/casualty insurance security fund shall receive the portion of
18 surcharges to which the insurer in liquidation would have been entitled.
19 The surcharges authorized herein shall be deemed to be income earned for
20 the purposes of section 2303 of the insurance law. The superintendent,
21 in establishing adequate rates and in determining any projected defi-
22 ciency pursuant to the requirements of this section and the insurance
23 law, shall give substantial weight, determined in his discretion and
24 judgment, to the prospective anticipated effect of any regulations
25 promulgated and laws enacted and the public benefit of stabilizing
26 malpractice rates and minimizing rate level fluctuation during the peri-
27 od of time necessary for the development of more reliable statistical
28 experience as to the efficacy of such laws and regulations affecting
29 medical, dental or podiatric malpractice enacted or promulgated in 1985,
30 1986, by this act and at any other time. Notwithstanding any provision
31 of the insurance law, rates already established and to be established by
32 the superintendent pursuant to this section are deemed adequate if such
33 rates would be adequate when taken together with the maximum authorized
34 annual surcharges to be imposed for a reasonable period of time whether
35 or not any such annual surcharge has been actually imposed as of the
36 establishment of such rates.

37 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
38 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
39 1986, amending the civil practice law and rules and other laws relating
40 to malpractice and professional medical conduct, as amended by section 5
41 of part Z of chapter 57 of the laws of 2022, are amended to read as
42 follows:

43 § 5. The superintendent of financial services and the commissioner of
44 health shall determine, no later than June 15, 2002, June 15, 2003, June
45 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
46 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
47 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June
48 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, June 15, 2022,
49 ~~and~~ June 15, 2023, and June 15, 2024 the amount of funds available in
50 the hospital excess liability pool, created pursuant to section 18 of
51 chapter 266 of the laws of 1986, and whether such funds are sufficient
52 for purposes of purchasing excess insurance coverage for eligible
53 participating physicians and dentists during the period July 1, 2001 to
54 June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June
55 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
56 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,

1 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
2 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
3 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
4 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
5 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
6 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
7 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
8 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024
9 as applicable.

10 (a) This section shall be effective only upon a determination, pursu-
11 ant to section five of this act, by the superintendent of financial
12 services and the commissioner of health, and a certification of such
13 determination to the state director of the budget, the chair of the
14 senate committee on finance and the chair of the assembly committee on
15 ways and means, that the amount of funds in the hospital excess liabil-
16 ity pool, created pursuant to section 18 of chapter 266 of the laws of
17 1986, is insufficient for purposes of purchasing excess insurance cover-
18 age for eligible participating physicians and dentists during the period
19 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
20 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
21 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
22 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
23 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
24 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
25 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
26 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
27 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
28 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
29 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024
30 as applicable.

31 (e) The commissioner of health shall transfer for deposit to the
32 hospital excess liability pool created pursuant to section 18 of chapter
33 266 of the laws of 1986 such amounts as directed by the superintendent
34 of financial services for the purchase of excess liability insurance
35 coverage for eligible participating physicians and dentists for the
36 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
37 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
38 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
39 2007, as applicable, and the cost of administering the hospital excess
40 liability pool for such applicable policy year, pursuant to the program
41 established in chapter 266 of the laws of 1986, as amended, no later
42 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
43 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
44 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
45 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June
46 15, 2020, June 15, 2021, June 15, 2022, [~~and~~] June 15, 2023, and June
47 15, 2024 as applicable.

48 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending
49 the New York Health Care Reform Act of 1996 and other laws relating to
50 extending certain provisions thereto, as amended by section 6 of part Z
51 of chapter 57 of the laws of 2022, is amended to read as follows:

52 § 20. Notwithstanding any law, rule or regulation to the contrary,
53 only physicians or dentists who were eligible, and for whom the super-
54 intendent of financial services and the commissioner of health, or their
55 designee, purchased, with funds available in the hospital excess liabil-
56 ity pool, a full or partial policy for excess coverage or equivalent

1 excess coverage for the coverage period ending the thirtieth of June,
2 two thousand [~~twenty-two~~] twenty-three, shall be eligible to apply for
3 such coverage for the coverage period beginning the first of July, two
4 thousand [~~twenty-two~~] twenty-three; provided, however, if the total
5 number of physicians or dentists for whom such excess coverage or equiv-
6 alent excess coverage was purchased for the policy year ending the thir-
7 tieth of June, two thousand [~~twenty-two~~] twenty-three exceeds the total
8 number of physicians or dentists certified as eligible for the coverage
9 period beginning the first of July, two thousand [~~twenty-two~~] twenty-
10 three, then the general hospitals may certify additional eligible physi-
11 cians or dentists in a number equal to such general hospital's propor-
12 tional share of the total number of physicians or dentists for whom
13 excess coverage or equivalent excess coverage was purchased with funds
14 available in the hospital excess liability pool as of the thirtieth of
15 June, two thousand [~~twenty-two~~] twenty-three, as applied to the differ-
16 ence between the number of eligible physicians or dentists for whom a
17 policy for excess coverage or equivalent excess coverage was purchased
18 for the coverage period ending the thirtieth of June, two thousand
19 [~~twenty-two~~] twenty-three and the number of such eligible physicians or
20 dentists who have applied for excess coverage or equivalent excess
21 coverage for the coverage period beginning the first of July, two thou-
22 sand [~~twenty-two~~] twenty-three.

23 § 7. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2023.

25 PART G

26 Section 1. Paragraph (a) of subdivision 12 of section 203 of the elder
27 law, as added by section 1 of part U of chapter 57 of the laws of 2019,
28 is amended to read as follows:

29 (a) The director is hereby authorized to implement private pay proto-
30 cols for programs and services administered by the office. These proto-
31 cols may be implemented by area agencies on aging at their option and
32 such protocols shall not be applied to services for a participant when
33 being paid for with federal funds or funds designated as federal match,
34 or for individuals with an income below [~~four~~] two hundred and fifty
35 percent of the federal poverty level. All private payments received
36 directly by an area agency on aging or indirectly by one of its contrac-
37 tors shall be used to supplement, not supplant, funds by state, federal,
38 or county appropriations. Such private pay payments shall be set at a
39 cost to the participant of not more than twenty percent above either the
40 unit cost to the area agency on aging to provide the program or service
41 directly, or the amount that the area agency on aging pays to its
42 contractor to provide the program or service. Private pay payments
43 received under this subdivision shall be used by the area agency on
44 aging to first reduce any unmet need for programs and services, and then
45 to support and enhance services or programs provided by the area agency
46 on aging. No participant, regardless of income, shall be required to pay
47 for any program or service that they are receiving at the time these
48 protocols are implemented by the area agency on aging. This subdivision
49 shall not prevent cost sharing for the programs and services established
50 pursuant to section two hundred fourteen of this title [~~for individuals~~
51 ~~below four hundred percent of the federal poverty level~~]. Consistent
52 with federal and state statute and regulations, when providing programs
53 and services, area agencies on aging and their contractors shall contin-
54 ue to give priority for programs and services to individuals with the

1 greatest economic or social needs. In the event that the capacity to
2 provide programs and services is limited, such programs and services
3 shall be provided to individuals with incomes below [~~four~~] two hundred
4 and fifty percent of the federal poverty level before such programs and
5 services are provided to those participating in the private pay protocol
6 pursuant to this subdivision.

7 § 2. This act shall take effect immediately.

8 PART H

9 Section 1. Section 5 of part AAA of chapter 56 of the laws of 2022,
10 amending the social services law relating to expanding Medicaid eligi-
11 bility requirements for seniors and disabled individuals, is amended to
12 read as follows:

13 § 5. This act shall take effect January 1, 2023, subject to federal
14 financial participation for sections one, three, and four of this act;
15 provided, however that [~~the~~] section two of this act shall take effect
16 January 1, 2024. The commissioner of health shall notify the legislative
17 bill drafting commission upon the occurrence of federal financial
18 participation in order that the commission may maintain an accurate and
19 timely effective data base of the official text of the laws of the state
20 of New York in furtherance of effectuating the provisions of section 44
21 of the legislative law and section 70-b of the public officers law.

22 § 2. Short title. This act shall be known and may be cited as the
23 "1332 state innovation program".

24 § 3. The social services law is amended by adding a new section 369-ii
25 to read as follows:

26 § 369-ii. 1332 state innovation program. 1. Authorization. Notwith-
27 standing section three hundred sixty-nine-gg of this title, subject to
28 federal approval, if it is in the financial interest of the state to do
29 so, the commissioner of health is authorized, with the approval of the
30 director of the budget, to establish a 1332 state innovation program
31 pursuant to section 1332 of the patient protection and affordable care
32 act (P.L. 111-148) and subdivision twenty-five of section two hundred
33 sixty-eight-c of the public health law. The commissioner of health's
34 authority pursuant to this section is contingent upon obtaining and
35 maintaining all necessary approvals from the secretary of health and
36 human services and the secretary of the treasury based on an application
37 for a waiver for state innovation. The commissioner of health may take
38 all actions necessary to obtain such approvals.

39 2. Definitions. For the purposes of this section:

40 (a) "Eligible organization" means an insurer licensed pursuant to
41 article thirty-two or forty-two of the insurance law, a corporation or
42 an organization under article forty-three of the insurance law, or an
43 organization certified under article forty-four of the public health
44 law, including providers certified under section forty-four hundred
45 three-e of the public health law.

46 (b) "Approved organization" means an eligible organization approved by
47 the commissioner of health to underwrite a 1332 state innovation health
48 insurance plan pursuant to this section.

49 (c) "Health care services" means:

50 (i) the services and supplies as defined by the commissioner of health
51 in consultation with the superintendent of financial services, and shall
52 be consistent with and subject to the essential health benefits as
53 defined by the commissioner in accordance with the provisions of the
54 patient protection and affordable care act (P.L. 111-148) and consistent

1 with the benefits provided by the reference plan selected by the commis-
2 sioner of health for the purposes of defining such benefits, and shall
3 include coverage of and access to the services of any national cancer
4 institute-designated cancer center licensed by the department of health
5 within the service area of the approved organization that is willing to
6 agree to provide cancer-related inpatient, outpatient and medical
7 services to all enrollees in approved organizations' plans in such
8 cancer center's service area under the prevailing terms and conditions
9 that the approved organization requires of other similar providers to be
10 included in the approved organization's network, provided that such
11 terms shall include reimbursement of such center at no less than the
12 fee-for-service medicaid payment rate and methodology applicable to the
13 center's inpatient and outpatient services;

14 (ii) dental and vision services as defined by the commissioner of
15 health, and

16 (iii) as defined by the commissioner of health and subject to federal
17 approval, certain services and supports provided to enrollees who have
18 functional limitations and/or chronic illnesses that have the primary
19 purpose of supporting the ability of the enrollee to live or work in the
20 setting of their choice, which may include the individual's home, a
21 worksite, or a provider-owned or controlled residential setting.

22 (d) "Qualified health plan" means a health plan that meets the crite-
23 ria for certification described in § 1311(c) of the patient protection
24 and affordable care act (P.L. 111-148), and is offered to individuals
25 through the NY State of Health, the official health Marketplace, or
26 Marketplace, as defined in subdivision two of section two hundred
27 sixty-eight-a of the public health law.

28 (e) "Basic health insurance plan" means a health plan providing health
29 care services, separate and apart from qualified health plans, that is
30 issued by an approved organization and certified in accordance with
31 section three hundred sixty-nine-gg of this title.

32 (f) "1332 state innovation plan" means a standard health plan provid-
33 ing health care services, separate and apart from a qualified health
34 plan and a basic health insurance plan, that is issued by an approved
35 organization and certified in accordance with this section.

36 3. State innovation plan eligible individual. (a) A person is eligible
37 to receive coverage for health care under this section if they:

38 (i) reside in New York state and are under sixty-five years of age;

39 (ii) are not eligible for medical assistance under title eleven of
40 this article or for the child health insurance plan described in title
41 one-A of article twenty-five of the public health law;

42 (iii) are not eligible for minimum essential coverage, as defined in
43 section 5000A(f) of the Internal Revenue Service Code of 1986, or is
44 eligible for an employer-sponsored plan that is not affordable, in
45 accordance with section 5000A(f) of such code; and

46 (iv) have household income at or below two hundred fifty percent of
47 the federal poverty line defined and annually revised by the United
48 States department of health and human services for a household of the
49 same size; and has household income that exceeds one hundred thirty-
50 three percent of the federal poverty line defined and annually revised
51 by the United States department of health and human services for a
52 household of the same size; however, MAGI eligible noncitizens lawfully
53 present in the United States with household incomes at or below one
54 hundred thirty-three percent of the federal poverty line shall be eligi-
55 ble to receive coverage for health care services pursuant to the
56 provisions of this section if such noncitizen would be ineligible for

1 medical assistance under title eleven of this article due to their immi-
2 gration status.

3 (b) Subject to federal approval, a child born to an individual eligi-
4 ble for and receiving coverage for health care services pursuant to this
5 section who but for their eligibility under this section would be eligi-
6 ble for coverage pursuant to subparagraphs two or four of paragraph (b)
7 of subdivision one of section three hundred sixty-six of this article,
8 shall be administratively enrolled, as defined by the commissioner of
9 health, in medical assistance and to have been found eligible for such
10 assistance on the date of such birth and to remain eligible for such
11 assistance for a period of one year.

12 (c) Subject to federal approval, an individual who is eligible for and
13 receiving coverage for health care services pursuant to this section is
14 eligible to continue to receive health care services pursuant to this
15 section during the individual's pregnancy and for a period of one year
16 following the end of the pregnancy without regard to any change in the
17 income of the household that includes the pregnant individual, even if
18 such change would render the pregnant individual ineligible to receive
19 health care services pursuant to this section.

20 (d) For the purposes of this section, 1332 state innovation program
21 eligible individuals are prohibited from being treated as qualified
22 individuals under section 1312 of the Affordable Care Act and as eligi-
23 ble individuals under section 1331 of the ACA and enrolling in qualified
24 health plan through the Marketplace or standard health plan through the
25 Basic Health Program.

26 4. Enrollment. (a) Subject to federal approval, the commissioner of
27 health is authorized to establish an application and enrollment proce-
28 dure for prospective enrollees. Such procedure will include a verifica-
29 tion system for applicants, which must be consistent with 42 USC §
30 1320b-7.

31 (b) Such procedure shall allow for continuous enrollment for enrollees
32 to the 1332 state innovation program where an individual may apply and
33 enroll for coverage at any point.

34 (c) Upon an applicant's enrollment in a 1332 state innovation plan,
35 coverage for health care services pursuant to the provisions of this
36 section shall be retroactive to the first day of the month in which the
37 individual was determined eligible, except in the case of program tran-
38 sitions within the Marketplace.

39 (d) A person who has enrolled for coverage pursuant to this section,
40 and who loses eligibility to enroll in the 1332 state innovation program
41 for a reason other than citizenship status, lack of state residence,
42 failure to provide a valid social security number, providing inaccurate
43 information that would affect eligibility when requesting or renewing
44 health coverage pursuant to this section, or failure to make an applica-
45 ble premium payment, before the end of a twelve month period beginning
46 on the effective date of the person's initial eligibility for coverage,
47 or before the end of a twelve month period beginning on the date of any
48 subsequent determination of eligibility, shall have their eligibility
49 for coverage continued until the end of such twelve month period,
50 provided that the state receives federal approval for using funds under
51 an approved 1332 waiver.

52 5. Premiums. Subject to federal approval, the commissioner of health
53 shall establish premium payments enrollees in a 1332 state innovation
54 plan shall pay to approved organizations for coverage of health care
55 services pursuant to this section. Such premium payments shall be estab-
56 lished in the following manner:

1 (a) up to fifteen dollars monthly for an individual with a household
2 income above two hundred percent of the federal poverty line but at or
3 below two hundred fifty percent of the federal poverty line defined and
4 annually revised by the United States department of health and human
5 services for a household of the same size; and

6 (b) no payment is required for individuals with a household income at
7 or below two hundred percent of the federal poverty line defined and
8 annually revised by the United States department of health and human
9 services for a household of the same size.

10 6. Cost-sharing. The commissioner of health shall establish cost-shar-
11 ing obligations for enrollees, subject to federal approval, including
12 childbirth and newborn care consistent with the medical assistance
13 program under title eleven of this article. There shall be no cost-shar-
14 ing obligations for enrollees for:

15 (a) dental and vision services as defined in subparagraph (ii) of
16 paragraph (c) of subdivision two of this section; and

17 (b) services and supports as defined in subparagraph (iii) of para-
18 graph (c) of subdivision two of this section.

19 7. Rates of payment. (a) The commissioner of health shall select the
20 contract with an independent actuary to study and recommend appropriate
21 reimbursement methodologies for the cost of health care service coverage
22 pursuant to this section. Such independent actuary shall review and make
23 recommendations concerning appropriate actuarial assumptions relevant to
24 the establishment of reimbursement methodologies, including but not
25 limited to; the adequacy of rates of payment in relation to the popu-
26 lation to be served adjusted for case mix, the scope of health care
27 services approved organizations must provide, the utilization of such
28 services and the network of providers required to meet state standards.

29 (b) Upon consultation with the independent actuary and entities
30 representing approved organizations, the commissioner of health shall
31 develop reimbursement methodologies and fee schedules for determining
32 rates of payment, which rates shall be approved by the director of the
33 division of the budget, to be made by the department to approved organ-
34 izations for the cost of health care services coverage pursuant to this
35 section. Such reimbursement methodologies and fee schedules may include
36 provisions for capitation arrangements.

37 (c) The commissioner of health shall have the authority to promulgate
38 regulations, including emergency regulations, necessary to effectuate
39 the provisions of this subdivision.

40 (d) The department of health shall require the independent actuary
41 selected pursuant to paragraph (a) of this subdivision to provide a
42 complete actuarial report, along with all actuarial assumptions made and
43 all other data, materials and methodologies used in the development of
44 rates for the 1332 state innovation plan authorized under this section.
45 Such report shall be provided annually to the temporary president of the
46 senate and the speaker of the assembly.

47 8. An individual who is lawfully admitted for permanent residence,
48 permanently residing in the United States under color of law, or who is
49 a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C.
50 1101(a)(15), and who would be ineligible for medical assistance under
51 title eleven of this article due to their immigration status if the
52 provisions of section one hundred twenty-two of this chapter were
53 applied, shall be considered to be ineligible for medical assistance for
54 purposes of paragraphs (b) and (c) of subdivision three of this section.

55 9. Reporting. The commissioner of health shall submit a report to the
56 temporary president of the senate and the speaker of the assembly annu-

ally by December thirty-first. The report shall include, at a minimum, an analysis of the 1332 state innovation program and its impact on the financial interest of the state; its impact on the Marketplace including enrollment and premiums; its impact on the number of uninsured individuals in the state; its impact on the Medicaid global cap; and the demographics of the 1332 state innovation program enrollees including age and immigration status.

10. Severability. If the secretary of health and human services or the secretary of the treasury do not approve any provision of the application for a state innovation waiver, such decision shall in no way affect or impair any other provisions that the secretaries may approve under this section.

§ 4. The state finance law is amended by adding a new section 98-d to read as follows:

§ 98-d. 1332 state innovation program fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "1332 state innovation program fund".

2. Such fund shall be kept separate and shall not be commingled with any other funds in the custody of the state comptroller and the commissioner of taxation and finance.

3. Such fund shall consist of moneys transferred from the federal government pursuant to 42 U.S.C. 18052 and an approved 1332 state innovation program waiver application for the purpose implementing the state plan under the 1332 state innovation program, established pursuant to section three hundred sixty-nine-ii of the social services law.

4. Upon federal approval, all moneys in such fund shall be used to implement and operate the 1332 state innovation program, pursuant to section three hundred sixty-nine-ii of the social services law, except to the extent that the provisions of such section conflict or are inconsistent with federal law, in which case the provisions of such federal law shall supersede such state law provisions.

§ 5. Subparagraph (1) of paragraph (g) of subdivision 1 of section 366 of the social services law, as amended by section 43 of Part B of chapter 57 of the laws of 2015, is amended to read as follows:

(1) Applicants and recipients who are lawfully admitted for permanent residence, or who are permanently residing in the United States under color of law, or who are non-citizens in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15); who are MAGI eligible pursuant to paragraph (b) of this subdivision; and who would be ineligible for medical assistance coverage under subdivisions one and two of section three hundred sixty-five-a of this title solely due to their immigration status if the provisions of section one hundred twenty-two of this chapter were applied, shall only be eligible for assistance under this title if enrolled in a standard health plan offered by a basic health program established pursuant to section three hundred sixty-nine-gg of this article or a standard health plan offered by a 1332 state innovation program established pursuant to section three hundred sixty-nine-ii of this article if such program is established and operating.

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

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

3 § 7. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after January 1, 2023;
5 provided that section three of this act shall be contingent upon the
6 commissioner of health obtaining and maintaining all necessary approvals
7 from the secretary of health and human services and the secretary of the
8 treasury based on an application for a waiver for state innovation
9 pursuant to section 1332 of the patient protection and affordable care
10 act (P.L. 111-148) and subdivision 25 of section 268-c of the public
11 health law. The department of health shall notify the legislative bill
12 drafting commission upon the occurrence of approval of the waiver
13 program in order that the commission may maintain an accurate and timely
14 data base of the official text of the laws of the state of New York in
15 furtherance of effectuating the provisions of section 44 of the legisla-
16 tive law and section 70-b of the public officers law.

17 PART I

18 Section 1. Subdivision (i) of section 111 of part H of chapter 59 of
19 the laws of 2011, amending the public health law and other laws relating
20 to known and projected department of health state fund medical expendi-
21 tures, as amended by section 8 of part E of chapter 57 of the laws of
22 2019, is amended to read as follows:

23 (i) the amendments to paragraph (b) and subparagraph (i) of paragraph
24 (g) of subdivision 7 of section 4403-f of the public health law made by
25 section forty-one-b of this act shall expire and be repealed April 1,
26 ~~2023~~ 2027;

27 § 2. The opening paragraph of subdivision 2 of section 4403-f of the
28 public health law, as amended by section 8 of part C of chapter 58 of
29 the laws of 2007, is amended to read as follows:

30 An eligible applicant shall submit an application for a certificate of
31 authority to operate a managed long term care plan upon forms prescribed
32 by the commissioner, including any such forms or process as may be
33 required or prescribed by the commissioner in accordance with the
34 competitive bid process under subdivision six-a of this section. Such
35 eligible applicant shall submit information and documentation to the
36 commissioner which shall include, but not be limited to:

37 § 3. Paragraph (a) of subdivision 6 of section 4403-f of the public
38 health law, as amended by section 4 of part MM of chapter 56 of the laws
39 of 2020, is amended to read as follows:

40 (a) An applicant shall be issued a certificate of authority as a
41 managed long term care plan upon a determination by the commissioner
42 that the applicant complies with the operating requirements for a
43 managed long term care plan under this section. The commissioner shall
44 issue no more than seventy-five certificates of authority to managed
45 long term care plans pursuant to this section.

46 (a-1) Nothing in this section shall be construed as requiring the
47 department to contract with or to contract for a particular line of
48 business with an entity certified under this section for the provision
49 of services available under title eleven of article five of the social
50 services law. A managed long term care plan that has been issued a
51 certificate of authority, or an applicant for a certificate of authority
52 as a managed long term care plan that has, in the sole discretion of the
53 commissioner, in any of the three calendar years immediately preceding
54 the application, met any of the following criteria shall not be eligible

1 for a contract for the provision of services available under title eleven
2 of article five of the social services law: (i) classified as a poor
3 performer, or substantially similar terminology, by the centers for
4 medicare and medicaid services; (ii) an excessive volume of penalties,
5 statements of findings, statements of deficiency, intermediate sanctions
6 or enforcement actions, regardless of whether the applicant has
7 addressed such issues in a timely manner; or (iii) other criteria as
8 deemed appropriate by the commissioner.

9 § 4. The opening paragraph of subparagraph (i) of paragraph (d) of
10 subdivision 6 of section 4403-f of the public health law, as added by
11 section 5 of part MM of chapter 56 of the laws of 2020, is amended to
12 read as follows:

13 Effective April first, two thousand twenty, and expiring March thir-
14 ty-first, two thousand [~~twenty-two~~ twenty-seven, the commissioner shall
15 place a moratorium on the processing and approval of applications seek-
16 ing a certificate of authority as a managed long term care plan pursuant
17 to this section, including applications seeking authorization to expand
18 an existing managed long term care plan's approved service area or scope
19 of eligible enrollee populations. Such moratorium shall not apply to:

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

22 6-a. Performance standards and procurement. (a) On or before October
23 first, two thousand twenty-four, each managed long term care plan that
24 has been issued a certificate of authority pursuant to this section
25 shall have demonstrated experience operating a managed long term care
26 plan that continuously enrolled no fewer than twenty thousand enrollees,
27 or a Medicare Dual Eligible Special Needs Plan that has continuously
28 enrolled no fewer than five thousand residents of this state in the
29 immediately preceding calendar year, or an integrated Medicaid product
30 offered by the department that has continuously enrolled no fewer than
31 five thousand residents of this state in the immediately preceding
32 calendar year. In addition, a managed long term care plan shall suffi-
33 ciently demonstrate, in the sole discretion of the commissioner, success
34 in the following performance categories:

35 (i) in addition to meeting the requirements of paragraph (j) of subdi-
36 vision seven of this section, commitment to contracting with the minimum
37 number of licensed home care service agencies needed to provide neces-
38 sary personal care services to the greatest practicable number of enrol-
39 lees, and with the minimum number of fiscal intermediaries needed to
40 provide necessary consumer directed personal assistance services to the
41 greatest practicable number of enrollees in accordance with section
42 three hundred sixty-five-f of the social services law;

43 (ii) readiness to timely implement and adhere to maximum wait time
44 criteria for key categories of service in accordance with laws, rules
45 and regulations of the department or the center for medicare and medi-
46 caid services;

47 (iii) implementation of a community reinvestment plan that has been
48 approved by the department and commits a percentage of the managed long
49 term care plan's surplus to health related social needs and advancing
50 health equity in the managed long term care plan's service area;

51 (iv) commitment to quality improvement;

52 (v) accessibility and geographic distribution of network providers,
53 taking into account the needs of persons with disabilities and the
54 differences between rural, suburban, and urban settings;

55 (vi) demonstrated cultural and language competencies specific to the
56 population of participants;

(vii) breadth of service area across multiple regions;
(viii) ability to serve enrollees across the continuum of care, as demonstrated by the type and number of products the managed long term care operates or has applied to operate, including integrated care for participants who are dually eligible for medicaid and medicare, and those operated under title one-A of article twenty-five of this chapter and section three hundred sixty-nine-gg of the social services law;
(ix) value based care readiness and experience; and
(x) such other criteria as deemed appropriate by the commissioner.

(b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, if no sooner than October first, two thousand twenty-four the commissioner has determined, in their sole discretion, that an insufficient number of managed long term care plans have met the performance standards set forth in paragraph (a) of this subdivision, each managed long term care plan that has been issued a certificate of authority to cover a population of enrollees eligible for services under title XIX of the federal social security act shall be required to submit an application for continuance of its certification of authority to operate as a managed long term care plan under this section, and shall be subject to selection through a competitive bid process based on proposals submitted to the department, which competitive bid process may be limited to a geographic or other reasonable basis of need, as determined by the commissioner. In making a determination regarding the need for a competitive bid process, the commissioner shall consider whether any managed long term care plans that have not met the performance standards are engaged in a merger, acquisition, or similar transaction with a managed long term care plan that has met the performance standards, as evidenced through an executed definitive agreement by such managed long term care plans.

(ii) In the event the commissioner determines to select managed long term care plans through a competitive bid process, any proposal submitted to the department through the competitive bid process shall include:
(A) the criteria set forth in paragraph (a) of this subdivision;
(B) the type and number of products the bidder proposes to operate, including those providing integrated care to individuals dually eligible for services and benefits under titles XVIII and XIX of the federal social security act in conjunction with an affiliated Medicare Dual Eligible Special Needs Plan; and
(C) the bidder's commitment to offering plans in multiple regions, as such regions are defined by the department, and in every county of each region for which they are submitting a bid.

(iii) Managed long term care plans awarded under this paragraph shall be entitled to enter into a contract with the department for the purpose of offering managed long term care services to enrollees pursuant to this section.

(iv) Managed long term care plans which submit a bid through a competitive bid process and are not awarded under this paragraph shall, upon direction from the commissioner, terminate its services and operations in accordance with the contract between the managed long term care plan and the department, and shall be additionally required to maintain coverage of participants for such period of time as determined necessary by the commissioner to achieve the safe and orderly transfer of participants. Participants who, after no less than sixty days notice, have not selected another plan will be assigned to a managed long term care plan or plans, as determined by the commissioner.

(c) Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, sections one hundred forty-two and one hundred forty-three of the economic development law, and any other inconsistent provision of law, in the event the commissioner determines to provide for the selection of qualified managed long term care plans in accordance with paragraph (b) of this subdivision through a competitive bid process, such process shall be based on proposals submitted to the department; provided, however, that:

(i) A proposal submitted by a managed long term care plan shall include information sufficient to allow the commissioner to evaluate the bidder in accordance with the requirements identified in paragraph (b) of this subdivision.

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

(A) the corporate organization and status of the bidder as a charitable corporation under the not-for-profit corporation law;

(B) for current or previously authorized managed care providers, past performance in meeting managed care contract or federal or state requirements, and if the commissioner issued any statements of findings, statements of deficiency, intermediate sanctions or enforcement actions to a bidder for non-compliance with such requirements, whether the bidder addressed such issues in a timely manner; and

(C) any other criteria deemed appropriate by the commissioner.

(iii) Subparagraphs (i) and (ii) of this paragraph describing proposal content and selection criteria requirements shall not be construed as limiting or requiring the commissioner to evaluate such content or criteria on a pass-fail, scale, or other particular methodological basis; provided, however, that the commissioner must consider all such content and criteria using methods determined by the commissioner in their discretion and, as applicable, in consultation with the commissioners of the office of mental health, the office for people with developmental disabilities, the office of addiction services and supports, and the office of children and family services.

(iv) No sooner than October first, two thousand twenty-four the department shall post on its website:

(A) The request for proposals and a description of the proposed services to be provided pursuant to contracts in accordance with this subdivision;

(B) The criteria on which the department shall determine qualified bidders and evaluate their applications, including all criteria identified in this subdivision;

(C) The manner by which a proposal may be submitted, which may include submission by electronic means;

(D) The manner by which a managed long term care plan may continue to provide health and long term care services to enrollees who are eligible under title XIX of the federal social security act pending awards to managed long term care plans through a competitive bid process pursuant to this subdivision; and

(E) Upon award, the managed long term care plans that the commissioner intends to contract with pursuant to this subdivision, provided that the commissioner shall update such list to indicate the final slate of contracted managed long term care plans.

(v) (A) No sooner than April first two thousand twenty-six, the commissioner shall make awards under this subdivision to at least two managed long term care plans in each geographic region defined by the commissioner in the request for proposals for which at least two managed

1 long term care plans have submitted a proposal, and shall have
2 discretion to offer more contracts based on need for access.

3 (B) Notwithstanding sections one hundred twelve and one hundred
4 sixty-three of the state finance law, sections one hundred forty-two and
5 one hundred forty-three of the economic development law, and any other
6 inconsistent provision of law, managed long term care plans awarded
7 under this subdivision shall be entitled to enter into a contract with
8 the department for the purpose of providing health and long term care
9 services to enrollees who are eligible under title XIX of the federal
10 social security act. Such contracts shall run for a term to be deter-
11 mined by the commissioner, which may be renewed or modified from time to
12 time without a new request for proposals, to ensure consistency with
13 changes in federal and state laws, regulations or policies, including
14 the expansion or reduction of medical assistance services available to
15 participants through a managed long term care plan.

16 (C) Nothing in this paragraph or other provision of this section shall
17 be construed to limit in any way the ability of the department to termi-
18 nate awarded contracts for cause, which shall include but not be limited
19 to any violation of the terms of such contracts or violations of state
20 or federal laws and regulations and any loss of necessary state or
21 federal funding.

22 (D) Notwithstanding sections one hundred twelve and one hundred
23 sixty-three of the state finance law, sections one hundred forty-two and
24 one hundred forty-three of the economic development law, and any other
25 inconsistent provision of law, the department may, in accordance with
26 the provisions of this paragraph, issue new requests for proposals and
27 award new contracts for terms following an existing term of a contract
28 entered into under this paragraph.

29 (vi) (A) Within sixty days of the department issuing the request for
30 proposals, a managed long term care plan that was approved to provide
31 health and long term care services to enrollees who are eligible under
32 title XIX of the federal social security act prior to the issuance of
33 the request for proposals shall submit its intention to complete such
34 proposal to the department.

35 (B) A managed long term care plan that: (1) fails to submit its intent
36 timely, (2) indicates within the sixty days its intent not to complete
37 such a proposal, or (3) fails to submit a proposal within the further
38 timeframe specified by the commissioner in the request for proposals,
39 shall, upon direction from the commissioner, terminate its services and
40 operations in accordance with the contract between the managed long term
41 care plan and the department and shall be additionally required to main-
42 tain coverage of enrollees for such period of time as determined neces-
43 sary by the commissioner to achieve the safe and orderly transfer of
44 enrollees.

45 (vii) If necessary to ensure access to a sufficient number of managed
46 long term care plans on a geographic or other basis, including a lack of
47 adequate and appropriate care, language and cultural competence, or
48 special needs services, the commissioner may reissue a request for
49 proposals as provided for under paragraph (b) of this subdivision,
50 provided, however, that such request may be limited to the geographic or
51 other basis of need that the request for proposals seeks to address. Any
52 awards shall be subject to the requirements of this section, including
53 the minimum and maximum number of awards in a region.

54 (d) In the event the commissioner, in their sole discretion at any
55 time on or after October first, two thousand twenty-four, determines not
56 to select managed long term care plans through a competitive bid proc-

1 ess, the commissioner shall require a managed long term care plan that
2 has not met the performance standards set forth in paragraph (a) of this
3 subdivision to establish and implement a performance improvement plan
4 acceptable to the commissioner. The determination not to select managed
5 long term care plans through a competitive bid process and to require a
6 performance improvement plan shall not preclude the commissioner from
7 making a later determination to select managed long term care plans
8 through a competitive bid process. In making the determination whether
9 to select through a competitive bid process, the commissioner shall
10 consider the standards set forth in paragraph (a) of this subdivision.

11 (e) The commissioner shall have the authority to promulgate regu-
12 lations, including emergency regulations, to effectuate the provisions
13 of this subdivision.

14 (f) The commissioner shall have the authority to add or modify all
15 criteria in this subdivision.

16 § 6. Subparagraph (i) of paragraph (g) of subdivision 7 of section
17 4403-f of the public health law, as amended by section 1 of part GGG of
18 chapter 59 of the laws of 2017, is amended to read as follows:

19 (i) Managed long term care plans and demonstrations may enroll eligi-
20 ble persons in the plan or demonstration upon the completion of a
21 comprehensive assessment that shall include, but not be limited to, an
22 evaluation of the medical, social, cognitive, and environmental needs of
23 each prospective enrollee in such program. This assessment shall also
24 serve as the basis for the development and provision of an appropriate
25 plan of care for the enrollee, including appropriate community-based
26 referrals. Upon approval of federal waivers pursuant to paragraph (b) of
27 this subdivision which require medical assistance recipients who require
28 community-based long term care services to enroll in a plan, and upon
29 approval of the commissioner, a plan may enroll an applicant who is
30 currently receiving home and community-based services and complete the
31 comprehensive assessment within thirty days of enrollment provided that
32 the plan continues to cover transitional care until such time as the
33 assessment is completed.

34 § 6-a. Subparagraph (i) of paragraph (g) of subdivision 7 of section
35 4403-f of the public health law, as added by section 65-c of part A of
36 chapter 57 of the laws of 2006 and relettered by section 20 of part C of
37 chapter 58 of the laws of 2007, is amended to read as follows:

38 (i) Managed long term care plans and demonstrations may enroll eligi-
39 ble persons in the plan or demonstration upon the completion of a
40 comprehensive assessment that shall include, but not be limited to, an
41 evaluation of the medical, social and environmental needs of each
42 prospective enrollee in such program. This assessment shall also serve
43 as the basis for the development and provision of an appropriate plan of
44 care for the prospective enrollee, including appropriate community-based
45 referrals.

46 § 7. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4-a of
47 section 365-f of the social services law, as amended by section 3 of
48 part G of chapter 57 of the laws of 2019, the opening paragraph of
49 subparagraph (i) as amended by section 2 of part PP of chapter 57 of the
50 laws of 2022, are amended to read as follows:

51 (i) "Fiscal intermediary" means an entity that provides fiscal inter-
52 mediary services and has a contract for providing such services with
53 ~~[the department of health and is selected through the procurement proc-~~
54 ~~ess described in paragraphs (b), (b-1), (b-2) and (b-3) of this subdivi-~~
55 ~~sion. Eligible applicants for contracts shall be entities that are capa-~~
56 ~~ble of appropriately providing fiscal intermediary services, performing~~

~~the responsibilities of a fiscal intermediary, and complying with this section, including but not limited to entities that]:~~

~~(A) [are a service center for independent living under section one thousand one hundred twenty-one of the education law; or]~~ a local department of social services;

~~(B) [have been established as fiscal intermediaries prior to January first, two thousand twelve and have been continuously providing such services for eligible individuals under this section.]~~ an organization licensed under article forty-four of the public health law; or

(C) an accountable care organization certified under article twenty-nine-E of the public health law or an integrated delivery system composed primarily of health care providers recognized by the department as a performing provider system under the delivery system reform incentive payment program.

(ii) Fiscal intermediary services shall include the following services, performed on behalf of the consumer to facilitate his or her role as the employer:

(A) wage and benefit processing for consumer directed personal assistants;

(B) processing all income tax and other required wage withholdings;

(C) complying with workers' compensation, disability and unemployment requirements;

(D) maintaining personnel records for each consumer directed personal assistant, including time records and other documentation needed for wages and benefit processing and a copy of the medical documentation required pursuant to regulations established by the commissioner;

(E) ensuring that the health status of each consumer directed personal assistant is assessed prior to service delivery pursuant to regulations issued by the commissioner;

(F) maintaining records of service authorizations or reauthorizations;

(G) monitoring the consumer's or, if applicable, the designated representative's continuing ability to fulfill the consumer's responsibilities under the program and promptly notifying the authorizing entity of any circumstance that may affect the consumer's or, if applicable, the designated representative's ability to fulfill such responsibilities;

(H) complying with regulations established by the commissioner specifying the responsibilities of fiscal intermediaries providing services under this title; and

(I) entering into a department approved memorandum of understanding with the consumer that describes the parties' responsibilities under this program[~~, and~~

~~(J) other related responsibilities which may include, as determined by the commissioner, assisting consumers to perform the consumers' responsibilities under this section and department regulations in a manner that does not infringe upon the consumer's responsibilities and self-direction].~~

§ 8. Paragraph (b) of subdivision 4-a of section 365-f of the social services law, as amended by section 4 of part G of chapter 57 of the laws of 2019, subparagraph (vi) as amended by section 1 of part LL of chapter 57 of the laws of 2021, is amended to read as follows:

~~(b) [Notwithstanding any inconsistent provision of section one hundred sixty-three of the state finance law, or section one hundred forty-two of the economic development law the commissioner shall enter into contracts under this subdivision with eligible contractors that submit an offer for a contract, provided, however, that:~~

~~(i) the department shall post on its website:~~

~~(A) a description of the proposed services to be provided pursuant to contracts in accordance with this subdivision;~~

~~(B) that the selection of contractors shall be based on criteria reasonably related to the contractors' ability to provide fiscal intermediary services including but not limited to: ability to appropriately serve individuals participating in the program, geographic distribution that would ensure access in rural and underserved areas, demonstrated cultural and language competencies specific to the population of consumers and those of the available workforce, ability to provide timely consumer assistance, experience serving individuals with disabilities, the availability of consumer peer support, and demonstrated compliance with all applicable federal and state laws and regulations, including but not limited to those relating to wages and labor;~~

~~(C) the manner by which prospective contractors may seek such selection, which may include submission by electronic means;~~

~~(ii) all reasonable and responsive offers that are received from prospective contractors in timely fashion shall be reviewed by the commissioner;~~

~~(iii) the commissioner shall award such contracts to the contractors that best meet the criteria for selection and are best suited to serve the purposes of this section and the needs of consumers;~~

~~(iv) all entities providing fiscal intermediary services on or before April first, two thousand nineteen, shall submit an offer for a contract under this section within sixty days after the commissioner publishes the initial offer on the department's website. Such entities shall be deemed authorized to provide such services unless: (A) the entity fails to submit an offer for a contract under this section within the sixty days; or (B) the entity's offer for a contract under this section is denied;~~

~~(v) all decisions made and approaches taken pursuant to this paragraph shall be documented in a procurement record as defined in section one hundred sixty three of the state finance law; and~~

~~(vi) the commissioner is authorized to either reoffer contracts or utilize the previous offer, to ensure that all provisions of this section are met.]~~ As of January first, two thousand twenty-four no entity shall provide, directly or through contract, fiscal intermediary services without an authorization as a fiscal intermediary issued by the commissioner in accordance with this subdivision. The commissioner may issue regulations, including emergency regulations, clarifying the authorization process, standards and time frames.

§ 9. Paragraphs (b-1), (b-2) and (b-3) of subdivision 4-a of section 365-f of the social services law are REPEALED.

§ 10. Subdivision 4-b of section 365-f of the social services law, as amended by section 8 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

4-b. Actions involving the authorization of a fiscal intermediary.

(a) ~~[The department may terminate a fiscal intermediary's contract under this section or suspend or limit the fiscal intermediary's rights and privileges under the contract upon thirty day's written notice to the fiscal intermediary, if the commissioner finds that the fiscal intermediary has failed to comply with the provisions of this section or regulations promulgated hereunder. The written notice shall include:~~

~~(i) A description of the conduct and the issues related thereto that have been identified as failure of compliance; and~~

~~(ii) the time frame of the conduct that fails compliance]~~ A fiscal intermediary's authorization may be revoked, suspended, limited or

annulled upon thirty days written notice to the fiscal intermediary, if the commissioner finds that the fiscal intermediary has failed to comply with the provisions of this subdivision or regulations promulgated hereunder.

(b) Notwithstanding the foregoing, upon determining that the public health or safety would be imminently endangered by the continued operation or actions of the fiscal intermediary, the commissioner may ~~terminate~~ revoke, suspend, limit or annul the fiscal intermediary's ~~[contract or suspend or limit the fiscal intermediary's rights and privileges under the contract]~~ authorization immediately ~~[upon written notice]~~.

(c) All orders or determinations under this subdivision shall be subject to review as provided in article seventy-eight of the civil practice law and rules.

§ 11. Paragraph (c) of subdivision 4-d of section 365-f of the social services law, as added by section 7 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

(c) Where a fiscal intermediary is suspending or ceasing operation pursuant to an order under subdivision four-b of this section, ~~[or has failed to submit an offer for a contract, or has been denied a contract under this section,]~~ all the provisions of this subdivision shall apply except subparagraph (i) of paragraph (a) of this subdivision, notice of which to all parties shall be provided by the department as appropriate.

§ 12. Paragraph (d) of subdivision 4-d of section 365-f of the social services law, as added by section 3 of part LL of chapter 57 of the laws of 2021 is REPEALED.

§ 13. Part I of chapter 57 of the laws of 2022, providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, is amended by adding two new sections 1-a and 1-b to read as follows:

§ 1-a. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of residential health care facilities services shall be subject to a uniform rate increase of five percent in addition to the increase contained in subdivision 1 of section 1 of this part, subject to the approval of the commissioner of the department of health and the director of the budget. Such rate increase shall be subject to federal financial participation.

§ 1-b. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of assisted living programs as defined by paragraph (a) of subdivision one of section 461-1 of the social services law shall be subject to a uniform rate increase of five percent in addition to the increase contained in section one of this part, subject to the approval of the commissioner of the department of health and the director of the budget. Such rate increase shall be subject to federal financial participation.

§ 14. Paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4, 5, 5-a, 6, 6-a, 7, 7-a, 9 and 10 of section 3614-c of the public health law, paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4, 5, 6, 7, 9 and 10 as amended and subdivisions 6-a and 7-a as added by section 1 and subdivision 5-a as added by section 1-a of part 00 of chapter 56 of the laws of 2020, are amended to read as follows:

(d) "Home care aide" means a home health aide, personal care aide, home attendant, ~~[personal assistant performing consumer directed personal assistance services pursuant to section three hundred sixty~~

1 ~~five-f of the social services law,~~] or other licensed or unlicensed
2 person whose primary responsibility includes the provision of in-home
3 assistance with activities of daily living, instrumental activities of
4 daily living or health-related tasks; provided, however, that home care
5 aide does not include any individual (i) working on a casual basis, or
6 (ii) [~~except for a person employed under the consumer directed personal~~
7 ~~assistance program under section three hundred sixty-five-f of the~~
8 ~~social services law)~~] who is a relative through blood, marriage or
9 adoption of: (1) the employer; or (2) the person for whom the worker is
10 delivering services, under a program funded or administered by federal,
11 state or local government.

12 [~~(i) "Fiscal intermediary" means a fiscal intermediary in the consumer~~
13 ~~directed personal assistance program under section three hundred sixty-~~
14 ~~five-f of the social services law.~~]

15 2. Notwithstanding any inconsistent provision of law, rule or regu-
16 lation, no payments by government agencies shall be made to certified
17 home health agencies, long term home health care programs, managed care
18 plans, [~~fiscal intermediaries,~~] the nursing home transition and diver-
19 sion waiver program under section three hundred sixty-six of the social
20 services law, or the traumatic brain injury waiver program under section
21 twenty-seven hundred forty of this chapter for any episode of care
22 furnished, in whole or in part, by any home care aide who is compensated
23 at amounts less than the applicable minimum rate of home care aide total
24 compensation established pursuant to this section.

25 4. The terms of this section shall apply equally to services provided
26 by home care aides who work on episodes of care as direct employees of
27 certified home health agencies, long term home health care programs, or
28 managed care plans, or as employees of licensed home care services agen-
29 cies, limited licensed home care services agencies, [~~or fiscal interme-~~
30 ~~diaries,~~] or under any other arrangement.

31 5. No payments by government agencies shall be made to certified home
32 health agencies, licensed home care services agencies, long term home
33 health care programs, managed care plans, [~~fiscal intermediaries~~] for
34 any episode of care without the certified home health agency, licensed
35 home care services agency, long term home health care program, or
36 managed care plan [~~or the fiscal intermediary,~~] having delivered prior
37 written certification to the commissioner annually, at a time prescribed
38 by the commissioner, on forms prepared by the department in consultation
39 with the department of labor, that all services provided under each
40 episode of care during the period covered by the certification are in
41 full compliance with the terms of this section and any regulations
42 promulgated pursuant to this section and that no portion of the dollars
43 spent or to be spent to satisfy the wage or benefit portion under this
44 section shall be returned to the certified home health agency, licensed
45 home care services agency, long term home health care program, or
46 managed care plan, [~~or fiscal intermediary,~~] related persons or enti-
47 ties, other than to a home care aide as defined in this section to whom
48 the wage or benefits are due, as a refund, dividend, profit, or in any
49 other manner. Such written certification shall also verify that the
50 certified home health agency, long term home health care program, or
51 managed care plan has received from the licensed home care services
52 agency, [~~fiscal intermediary,~~] or other third party an annual statement
53 of wage parity hours and expenses on a form provided by the department
54 of labor accompanied by an independently-audited financial statement
55 verifying such expenses.

1 5-a. No portion of the dollars spent or to be spent to satisfy the
2 wage or benefit portion under this section shall be returned to the
3 certified home health agency, licensed home care services agency, long
4 term home health care program, ~~or~~ managed care plan, [~~or fiscal interme-~~
5 ~~diary,~~] related persons or entities, other than to a home care aide as
6 defined in this section to whom the wage or benefits are due, as a
7 refund, dividend, profit, or in any other manner.

8 6. If a certified home health agency, long term home health care
9 program or managed care plan elects to provide home care aide services
10 through contracts with licensed home care services agencies, [~~fiscal~~
11 ~~intermediaries,~~] or through other third parties, provided that the
12 episode of care on which the home care aide works is covered under the
13 terms of this section, the certified home health agency, long term home
14 health care program, or managed care plan shall include in its
15 contracts, a requirement that it be provided with a written certif-
16 ication, verified by oath, from the licensed home care services agency,
17 [~~fiscal intermediary,~~] or other third party, on forms prepared by the
18 department in consultation with the department of labor, which attests
19 to the licensed home care services agency's, [~~fiscal intermediary's,~~] or
20 other third party's compliance with the terms of this section. Such
21 contracts shall also obligate the licensed home care services agency,
22 [~~fiscal intermediary,~~] or other third party to provide the certified
23 home health agency, long term home health care program, or managed care
24 plan all information from the licensed home care services agency,
25 [~~fiscal intermediary~~] or other third party necessary to verify compli-
26 ance with the terms of this section, which shall include an annual
27 compliance statement of wage parity hours and expenses on a form
28 provided by the department of labor accompanied by an independently-au-
29 dited financial statement verifying such expenses. Such annual state-
30 ments shall be available no less than annually for the previous calendar
31 year, at a time as prescribed by the commissioner. Such certifications,
32 the information necessary to verify compliance, and the annual compli-
33 ance statement and financial statements shall be retained by all certi-
34 fied home health agencies, long term home health care programs, or
35 managed care plans, and all licensed home care services agencies,
36 [~~fiscal intermediaries,~~] or other third parties for a period of no less
37 than ten years, and made available to the department upon request. Any
38 licensed home care services agency, [~~fiscal intermediary,~~] or other
39 third party who shall upon oath verify any statement required to be
40 transmitted under this section and any regulations promulgated pursuant
41 to this section which is known by such party to be false shall be guilty
42 of perjury and punishable as provided by the penal law.

43 6-a. The certified home health agency, long term home health care
44 program, or managed care plan shall review and assess the annual compli-
45 ance statement of wage parity hours and expenses and make a written
46 referral to the department of labor for any reasonably suspected fail-
47 ures of licensed home care services agencies, [~~fiscal intermediaries,~~]
48 or third parties to conform to the wage parity requirements of this
49 section.

50 7. The commissioner shall distribute to all certified home health
51 agencies, long term home health care programs, managed care plans, ~~and~~
52 licensed home care services agencies[~~, and fiscal intermediaries~~] offi-
53 cial notice of the minimum rates of home care aide compensation at least
54 one hundred twenty days prior to the effective date of each minimum rate
55 for each social services district covered by the terms of this section.

1 7-a. Any certified home health agency, licensed home care services
2 agency, long term home health care program, managed care plan, [~~or~~
3 ~~fiscal intermediary,~~] or other third party that willfully pays less than
4 such stipulated minimums regarding wages and supplements, as established
5 in this section, shall be guilty of a misdemeanor and upon conviction
6 shall be punished, for a first offense by a fine of five hundred dollars
7 or by imprisonment for not more than thirty days, or by both fine and
8 imprisonment; for a second offense by a fine of one thousand dollars,
9 and in addition thereto the contract on which the violation has occurred
10 shall be forfeited; and no such person or corporation shall be entitled
11 to receive any sum nor shall any officer, agent or employee of the state
12 pay the same or authorize its payment from the funds under his or her
13 charge or control to any person or corporation for work done upon any
14 contract, on which the certified home health agency, licensed home care
15 services agency, long term home health care program, managed care plan,
16 [~~or fiscal intermediary,~~] or other third party has been convicted of a
17 second offense in violation of the provisions of this section.

18 9. Nothing in this section should be construed as applicable to any
19 service provided by certified home health agencies, licensed home care
20 services agencies, long term home health care programs, or managed care
21 plans[~~, or fiscal intermediaries~~] except for all episodes of care reim-
22 bursed in whole or in part by the New York Medicaid program.

23 10. No certified home health agency, managed care plan, or long term
24 home health care program shall be liable for recoupment of payments or
25 any other penalty under this section for services provided through a
26 licensed home care services agency, [~~fiscal intermediary,~~] or other
27 third party with which the certified home health agency, long term home
28 health care program, or managed care plan has a contract because the
29 licensed agency, [~~fiscal intermediary,~~] or other third party failed to
30 comply with the provisions of this section if the certified home health
31 agency, long term home health care program, or managed care plan has
32 reasonably and in good faith collected certifications and all informa-
33 tion required pursuant to this section and conducts the monitoring and
34 reporting required by this section.

35 § 15. Subdivision 1 of section 3614-f of the public health law, as
36 added by section 1 of part XX of chapter 56 of the laws of 2022, is
37 amended to read as follows:

38 1. For the purpose of this section, "home care aide" shall [~~have the~~
39 ~~same meaning as defined in section thirty-six hundred fourteen-c of this~~
40 ~~article~~] mean a home health aide, personal care aide, home attendant,
41 personal assistant performing consumer directed personal assistance
42 services pursuant to section three hundred sixty-five-f of the social
43 services law, or other licensed or unlicensed person whose primary
44 responsibility includes the provisions of in-home assistance with activ-
45 ities of daily living, instrumental activities of daily living or
46 health-related tasks; provided, however, that home care aide does not
47 include any individual (i) working on a casual basis, or (ii) (expect
48 for a person employed under the consumer directed personal assistance
49 program under section three hundred sixty-five-f of the social services
50 law) who is a relative through blood, marriage or adoption of: (1) the
51 employer; or (2) the person whom the worker is delivering services,
52 under a program funded or administered by federal, state or local
53 government.

54 § 16. The public health law is amended by adding a new section 3614-g
55 to read as follows:

1 § 3614-g. State supplemental premium assistance for consumer directed
2 personal assistants.

3 1. State supplemental assistance for the payment of qualified health
4 plan premiums shall be available to a personal assistant performing
5 consumer directed personal assistance services pursuant to section three
6 hundred sixty-five-f of the social services law, provided that such
7 personal assistant:

8 (a) attests on the NY State of Health Marketplace application that
9 they are providing such services on a full-time basis or part-time
10 basis, as defined in applicable regulation,

11 (b) is eligible for federal premium tax credits pursuant to section
12 36B(b)(3)(A) of the Internal Revenue Code,

13 (c) is not otherwise eligible for comprehensive coverage under
14 title 11 or 11-D of article five of the social services law; and

15 (d) is enrolled in a qualified health plan defined in 42 U.S.C.
16 18021(a), certified by the NY State of Health Marketplace, which does
17 not include a catastrophic plan described in 42 U.S.C. 18022(e).

18 2. The amount of the supplemental premium assistance shall be equal to
19 at least the contribution for the benchmark silver qualified health plan
20 available in such personal assistant's county of residence, and shall
21 account for the full-time or part-time status of the personal assistant.
22 Personal assistants working part-time shall be eligible for a minimum of
23 one-half of the state supplemental premium credit available for personal
24 assistants working full-time. Such credit shall be paid directly to the
25 qualified health plan issuer. Any subsidies provided pursuant to this
26 section shall be in accordance with a schedule or methodology published
27 by the commissioner, which may be based on a sliding scale in relation
28 to the household income of the personal assistant, or such other method-
29 ology as the commissioner deems appropriate.

30 3. Applicants for coverage through the NY State Marketplace who are
31 newly eligible for supplemental premium assistance pursuant to this
32 section shall be eligible for a special enrollment period through the NY
33 State of Health Marketplace.

34 4. The commissioner shall submit such applications to the secretary of
35 the department of health and human services or treasury as may be neces-
36 sary to receive federal financial participation in the costs of payments
37 made pursuant to this section; provided further, however, that nothing
38 in this section shall be deemed to affect the payment of the state
39 supplemental premium assistance pursuant to applicable law and regu-
40 lation if federal financial participation in the costs of such payments
41 is not available.

42 5. Fiscal intermediaries and personal assistants under section three
43 hundred sixty-five-f of the social services law shall be required to
44 provide such information as is necessary for the implementation and
45 operation of this section. The department shall specify the frequency
46 and format of such reporting and determine the type and amount of infor-
47 mation to be submitted, including any supporting documentation.

48 6. The commissioner shall promulgate any rules and regulations and
49 take such steps as may be necessary for the implementation and operation
50 of this section.

51 § 17. The state finance law is amended by adding a new section
52 97-bbbbbb to read as follows:

53 § 97-bbbbbb. CDPAP supplemental premium assistance fund. 1. CDPAP
54 supplemental premium assistance fund. There is hereby established in the
55 joint custody of the state comptroller and the commissioner of taxation

1 and finance a special fund to be known as the "CDPAP supplemental premi-
2 um assistance fund".

3 2. Such fund shall be kept separate and shall not be commingled with
4 any other funds in the custody of the state comptroller and the commis-
5 sioner of taxation and finance.

6 3. Such fund shall consist of moneys appropriated for State supple-
7 mental premium assistance for the payment of qualified health plan
8 premium of eligible enrollees performing consumer directed personal
9 assistance services, in accordance with section thirty-six hundred four-
10 teen-g of the social services law, or transferred to such account pursu-
11 ant to applicable law.

12 4. The moneys, when allocated in accordance with section thirty-six
13 hundred fourteen-g of the social services law, shall be paid out of the
14 fund to qualified health plans on behalf of eligible enrollees.

15 § 18. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2023; provided,
17 however, that:

18 (a) the amendments to section 4403-f of the public health law made by
19 sections two through six-a of this act shall not affect the repeal of
20 such section and shall be deemed repealed therewith;

21 (b) the amendments to subparagraph (i) of paragraph (g) of subdivision
22 7 of section 4403-f of the public health law made by section six of this
23 act shall be subject to the expiration and reversion of such subpara-
24 graph pursuant to subdivision (i) of section 111 of part H of chapter 59
25 of the laws of 2011, as amended, when upon such date the provisions of
26 section six-a of this act shall take effect;

27 (c) sections fourteen, sixteen, and seventeen of this act shall take
28 effect on and after the first of January next succeeding the date of
29 enactment of a state supplemental premium assistance program in accord-
30 ance with sections sixteen and seventeen of this act, takes effect;
31 provided, however, such sections fourteen, sixteen, and seventeen of
32 this act shall take effect no earlier than January 1, 2025; and
33 provided, further, the commissioner of health shall notify the legisla-
34 tive bill drafting commission upon the occurrence of the establishment
35 of such state supplemental premium assistance program in order that the
36 commission may maintain an accurate and timely effective data base of
37 the official text of the laws of the state of New York in furtherance of
38 effecting the provisions of section 44 of the legislative law and
39 section 70-b of the public officers law; and

40 (d) effective immediately, the commissioner of health shall promulgate
41 any rules and regulations and take such steps, including requiring the
42 submission of reports or surveys by fiscal intermediaries under the
43 consumer directed personal assistance program, as may be necessary for
44 the timely implementation of this act on or before such effective date.

45 PART J

46 Section 1. Subsection (a) of section 3224-a of the insurance law, as
47 amended by chapter 237 of the laws of 2009, is amended to read as
48 follows:

49 (a) Except in a case where the obligation of an insurer or an organ-
50 ization or corporation licensed or certified pursuant to article forty-
51 three or forty-seven of this chapter or article forty-four of the public
52 health law to pay a claim submitted by a policyholder or person covered
53 under such policy ("covered person") or make a payment to a health care
54 provider is not reasonably clear, or when there is a reasonable basis

1 supported by specific information available for review by the super-
2 intendent that such claim or bill for health care services rendered was
3 submitted fraudulently, such insurer or organization or corporation
4 shall pay the claim to a policyholder or covered person or make a
5 payment to a health care provider within thirty days of receipt of a
6 claim or bill for the services rendered that is transmitted via the
7 internet or electronic mail[7] or forty-five days of receipt of a claim
8 or bill for services rendered that is submitted by other means, such as
9 paper or facsimile.

10 (1) Where the obligation of an insurer or an organization or corpo-
11 ration licensed or certified pursuant to article forty-three or forty-
12 seven of this chapter or article forty-four of the public health law to
13 pay such a claim is clear, except for the desire of the insurer or
14 organization or corporation to review clinical documentation or, to the
15 extent agreed upon by a hospital and the insurer or organization or
16 corporation, electronic medical records, to confirm the medical necessi-
17 ty of emergency services or inpatient services following an emergency
18 department visit provided by a hospital that participates in the
19 network of the insurer or organization or corporation, which includes
20 whether the services provided were emergency services or that the site
21 of service or level of care billed was appropriate for the services
22 provided, the insurer or organization or corporation shall pay the claim
23 at the contracted rate for the services and site billed by the hospital
24 within the timeframes set forth in this subsection. The insurer or
25 organization or corporation may, within thirty days of paying the claim,
26 request that the hospital submit to the insurer or organization or
27 corporation only the clinical documentation or, to the extent agreed
28 upon by the hospital and the insurer or organization or corporation,
29 electronic medical records, necessary to confirm the medical necessity
30 of the emergency services or inpatient services following an emergency
31 department visit provided by the hospital, which includes whether the
32 services provided by the hospital were emergency services or that the
33 site of service or level of care billed was appropriate for the services
34 provided. The hospital shall provide the clinical documentation to the
35 insurer or organization or corporation within forty-five days of its
36 request.

37 (2) Unless otherwise agreed upon by the hospital and the insurer or
38 organization or corporation, an insurer or organization or corporation
39 may submit a claim, within ninety days of receipt of the clinical
40 documentation from the hospital, to a joint committee composed of clini-
41 cians from the insurer or organization or corporation and the hospital
42 for a post-payment audit. If the hospital fails to provide clinical
43 documentation to the insurer or organization or corporation within
44 forty-five days of the request, the insurer or organization or corpo-
45 ration may submit the claim to the joint committee for review within
46 ninety days after the end of the forty-five day period. The joint
47 committee shall meet at least quarterly to review such claims. Nothing
48 herein shall require the joint committee to be registered as a utiliza-
49 tion review agent under article forty-nine of the public health law or
50 file a utilization review report under article forty-nine of this chap-
51 ter.

52 (3) Within ninety days of the joint committee's receipt of the request
53 to review the claim from an insurer or organization or corporation, the
54 joint committee shall request the clinical documentation from the hospi-
55 tal, review the claim and information submitted by the parties, and make
56 a joint determination as to the medical necessity of the services

1 provided, which includes whether the services were emergency services or
2 that the site of service or level of care billed was appropriate for the
3 services; provided, however, the insurer or organization or corporation
4 and hospital may agree to meet more frequently than every ninety days,
5 so long as such frequency does not require the joint committee to meet
6 more frequently than every thirty days. Failure by the hospital to
7 provide the clinical documentation to the joint committee within sixty
8 days of request, or an alternative timeframe as may be agreed upon by
9 all parties, shall result in a final determination that the services
10 were not medically necessary by the joint committee, which shall not be
11 subject to review under article forty-nine of this chapter and article
12 forty-nine of the public health law.

13 (A) In the event a joint determination cannot be agreed upon within
14 the ninety-day period, the hospital or insurer or organization or corpo-
15 ration may refer the claim to a mutually agreed upon independent third-
16 party review agent within five business days from the end of the nine-
17 ty-day period, for a determination. The determination of the independent
18 third-party review agent shall be binding.

19 (B) The hospital and the insurer or organization or corporation shall
20 designate one or more mutually agreed upon independent third-party
21 review agents in the participating provider agreement. If the hospital
22 and the insurer or organization or corporation are unable to reach
23 agreement in the participating provider agreement on one or more inde-
24 pendent third-party review agents, then the insurer or organization or
25 corporation may select an independent third-party review agent that has
26 been certified by the superintendent as an external appeal agent pursu-
27 ant to article forty-nine of this chapter or as an independent dispute
28 resolution entity pursuant to article six of the financial services law.
29 If the independent third-party review agent determines that the services
30 provided were not medically necessary, in whole or in part, the insurer
31 or corporation or organization may recoup, offset, or otherwise require
32 the hospital to refund any overpayment resulting from its determination
33 consistent with subsection (b) of section three thousand two hundred
34 twenty-four-b of this article within thirty days. The insurer or organ-
35 ization or corporation shall provide written notification to the hospi-
36 tal of such recoup or offset, which shall include: (i) the claim number;
37 (ii) the amount of the overpayment; and (iii) the date of the joint
38 committee determination.

39 (C) During the entirety of the review process, the hospital shall pend
40 the imposition of any copayment, coinsurance or deductible until such
41 time as there is a final determination as to whether the services in
42 question were medically necessary. The hospital may thereafter bill the
43 insured for the amount of the copayment, coinsurance or deductible for
44 services determined to be medically necessary and shall hold the insured
45 harmless for any other amounts, including amounts for services deter-
46 mined to be not medically necessary.

47 (4) Nothing in this subsection shall in any way be deemed to limit the
48 ability of insurers or organizations or corporations and hospitals to
49 agree to establish parameters for referral or review of medical records,
50 including while the insured is in the hospital, or for insurers or
51 organizations or corporations to require preauthorization for services
52 that are not emergency services.

53 (5) For purposes of this subsection, "hospital" shall mean a general
54 hospital as defined in section two thousand eight hundred one of the
55 public health law and rural emergency hospitals as defined by 42 USC
56 1395x(kkk).

(6) Nothing in this subsection shall preclude an insurer or organization or corporation and a hospital from agreeing to other dispute resolution mechanisms, provided that the parties may not negotiate away the requirement that the insurer or organization or corporation pay the claim as billed by the hospital prior to reviewing such claim for medical necessity. When a hospital and an insurer or organization or corporation are parties to a participating provider agreement applicable to the inpatient hospital admission being reviewed by the joint committee, the definition of medical necessity set forth in such participating provider agreement shall apply for purposes of joint committee and independent third-party review.

§ 2. Subsection (b) of section 3224-a of the insurance law, as amended by chapter 694 of the laws of 2021, is amended to read as follows:

(b) In a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay a claim or make a payment for health care services rendered is not reasonably clear due to a good faith dispute regarding the eligibility of a person for coverage, the liability of another insurer or corporation or organization for all or part of the claim, the amount of the claim, the benefits covered under a contract or agreement, or the manner in which services were accessed or provided, an insurer or organization or corporation shall pay any undisputed portion of the claim in accordance with this subsection and notify the policyholder, covered person or health care provider in writing, and through the internet or other electronic means for claims submitted in that manner, within thirty calendar days of the receipt of the claim:

(1) whether the claim or bill has been denied or partially approved;

(2) which claim or medical payment that it is not obligated to pay the claim, stating the specific reasons why it is not liable; and

(3) to request all additional information needed to determine liability to pay the claim or make the health care payment; and

(4) of the specific type of plan or product the policyholder or covered person is enrolled in; provided that nothing in this section shall authorize discrimination based on the source of payment.

Upon receipt of the information requested in paragraph three of this subsection or an appeal of a claim or bill for health care services denied pursuant to this subsection, an insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law shall comply with subsection (a) of this section; provided, that if the insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law determines that payment or additional payment is due on ~~the~~ a claim~~,~~ as a result of an internal or external appeal determination made pursuant to section four thousand nine hundred four or title two of article forty-nine of this chapter or section four thousand nine hundred four or title two of article forty-nine of the public health law, such payment shall be made to the policyholder or covered person or health care provider within fifteen days of the determination. Any denial or partial approval of claim or payment and the specific reasons for such denial or partial approval pursuant to this subsection shall be prominently displayed on a written notice with at least twelve-point type. A partial approval of claim or payment shall state at the top of such written notice with at least fourteen-point type bold: "NOTICE OF PARTIAL APPROVAL OF MEDICAL COVERAGE". A denial of claim or

1 payment shall state at the top of such written notice with at least
2 fourteen-point type bold: "NOTICE OF DENIAL OF MEDICAL COVERAGE". Any
3 additional terms or conditions included on such notice of partial
4 approval or such notice of denial, such as but not limited to time
5 restraints to file an appeal, shall be included with at least twelve-
6 point type.

7 § 3. Paragraphs 4 and 5 of subsection (b) of section 3224-b of the
8 insurance law are renumbered paragraphs 6 and 7 and two new paragraphs 4
9 and 5 are added to read as follows:

10 (4) A review or audit of claims by or on behalf of a health plan shall
11 not reverse or otherwise alter a medical necessity determination, which
12 includes, a site of service or level of care determination made by a
13 utilization review agent or external appeal agent pursuant to article
14 forty-nine of this chapter or article forty-nine of the public health
15 law.

16 (5) A review or audit of claims by or on behalf of a health plan shall
17 not downgrade the coding of a claim if it has the effect of reversing or
18 altering a medical necessity determination, which includes, a level of
19 care determination made by or on behalf of the health plan; provided
20 however, that nothing in this paragraph shall limit a health plan's
21 ability to review or audit claims for fraud, waste or abuse.

22 § 4. The opening paragraph of subsection (c) of section 4904 of the
23 insurance law, as amended by section 18 of part YY of chapter 56 of the
24 laws of 2020, is amended to read as follows:

25 A utilization review agent shall establish a standard appeal process
26 which includes procedures for appeals to be filed in writing or by tele-
27 phone. A utilization review agent must establish a period of no less
28 than forty-five days after receipt of notification by the insured of the
29 initial utilization review determination and receipt of all necessary
30 information to file the appeal from said determination. The utilization
31 review agent must provide written acknowledgment of the filing of the
32 appeal to the appealing party within fifteen days of such filing and
33 shall make a determination with regard to the appeal within thirty days
34 of the receipt of necessary information to conduct the appeal and, upon
35 overturning the adverse decision, shall comply with subsection [~~(a)~~] (b)
36 of section three thousand two hundred twenty-four-a of this chapter as
37 applicable. The utilization review agent shall notify the insured, the
38 insured's designee and, where appropriate, the insured's health care
39 provider, in writing of the appeal determination within two business
40 days of the rendering of such determination.

41 § 5. The opening paragraph of subdivision 3 of section 4904 of the
42 public health law, as amended by section 17 of part YY of chapter 56 of
43 the laws of 2020, is amended to read as follows:

44 A utilization review agent shall establish a standard appeal process
45 which includes procedures for appeals to be filed in writing or by tele-
46 phone. A utilization review agent must establish a period of no less
47 than forty-five days after receipt of notification by the enrollee of
48 the initial utilization review determination and receipt of all neces-
49 sary information to file the appeal from said determination. The utili-
50 zation review agent must provide written acknowledgment of the filing of
51 the appeal to the appealing party within fifteen days of such filing and
52 shall make a determination with regard to the appeal within thirty days
53 of the receipt of necessary information to conduct the appeal and, upon
54 overturning the adverse determination, shall comply with subsection
55 [~~(a)~~] (b) of section three thousand two hundred twenty-four-a of the
56 insurance law as applicable. The utilization review agent shall notify

1 the enrollee, the enrollee's designee and, where appropriate, the
2 enrollee's health care provider, in writing, of the appeal determination
3 within two business days of the rendering of such determination. The
4 notice of the appeal determination shall include:

5 § 6. Nothing in this act shall limit the authority of the office of
6 the medicaid inspector general, the department of health, or the state
7 from conducting oversight activities, audits, recovering funds and
8 imposing penalties in accordance with any relevant rule, regulation,
9 provision of law or contract.

10 § 7. This act shall take effect January 1, 2024.

11 PART K

12 Section 1. Subparagraphs 1 and 2 of paragraph (e) of subdivision 1 of
13 section 366 of the social services law, as added by section 1 of part D
14 of chapter 56 of the laws of 2013, clause (iii) of subparagraph 2 as
15 amended by chapter 477 of the laws of 2022, are amended to read as
16 follows:

17 (1) is an inmate or patient in an institution or facility wherein
18 medical assistance may not be provided in accordance with applicable
19 federal or state requirements, except for persons described in subpara-
20 graph ten of paragraph (c) of this subdivision or subdivision one-a or
21 subdivision one-b of this section; or except for certain services
22 provided to persons in a correctional institution or facility permitted
23 by a waiver authorized pursuant to section eleven hundred fifteen of the
24 federal social security act; if, so long as, and to the extent federal
25 financial participation is available for such expenditures provided
26 pursuant to such waiver; or

27 (2) is a patient in a public institution operated primarily for the
28 treatment of tuberculosis or care of the mentally disabled, with the
29 exception of: (i) a person sixty-five years of age or older and a
30 patient in any such institution; (ii) a person under twenty-one years of
31 age and receiving in-patient psychiatric services in a public institu-
32 tion operated primarily for the care of the mentally disabled; (iii) a
33 patient in a public institution operated primarily for the care of indi-
34 viduals with developmental disabilities who is receiving medical care or
35 treatment in that part of such institution that has been approved pursu-
36 ant to law as a hospital or nursing home; (iv) a patient in an institu-
37 tion operated by the state department of mental hygiene, while under
38 care in a hospital on release from such institution for the purpose of
39 receiving care in such hospital; ~~(v)~~ (v) is a person residing in a
40 community residence or a residential care center for adults; or (vi)
41 certain services provided to persons in an institution for mental
42 diseases permitted by a waiver authorized pursuant to section eleven
43 hundred fifteen of the federal social security act; if, so long as, and
44 to the extent federal financial participation is available for such
45 expenditures provided pursuant to such waiver.

46 § 2. This act shall take effect immediately and shall be deemed to
47 have been in full force and effect on and after April 1, 2023.

48 PART L

49 Section 1. Section 3241 of the insurance law is amended by adding a
50 new subsection (d) to read as follows:

51 (d)(1) For purposes of this subsection:

1 (A) "Free-standing ambulatory surgical center" shall mean a diagnostic
2 and treatment center authorized pursuant to article twenty-eight of the
3 public health law and operated independently from a hospital.

4 (B) "Health care plan" shall mean an insurer, a corporation organized
5 pursuant to article forty-three of this chapter, a health maintenance
6 organization certified pursuant to article forty-four of the public
7 health law, a municipal cooperative health benefit plan certified pursu-
8 ant to article forty-seven of this chapter, and a student health plan
9 established or maintained pursuant to section one thousand one hundred
10 twenty-four of this chapter, that issues a health insurance policy or
11 contract or that arranges for care and services for members under a
12 contract with the department of health with a network of health care
13 providers and utilizes site of service review to determine coverage for
14 services delivered by participating providers.

15 (C) "Hospital-based outpatient clinic" shall mean a clinic authorized
16 pursuant to article twenty-eight of the public health law and listed on
17 a hospital's operating certificate.

18 (D) "Site of service review" shall mean criteria applied by a health
19 care plan for purposes of determining whether a procedure will be
20 covered for a given insured or enrollee when rendered by a network
21 provider at a hospital-based outpatient clinic rather than a free-stand-
22 ing ambulatory surgical center.

23 (2) Site of service review shall be deemed utilization review in
24 accordance with and subject to the requirements and protections of arti-
25 cle forty-nine of this chapter and article forty-nine of the public
26 health law, including the right to internal and external appeal of
27 denials related to site of service.

28 (3) Site of service review shall prioritize patient health and safety,
29 patient choice of health care provider, and access to care and shall not
30 be based solely on cost.

31 (4) A health care plan shall have adequate free-standing ambulatory
32 surgical center providers to meet the health needs of insureds and
33 enrollees and to provide an appropriate choice of providers sufficient
34 to render the services covered under the policy or contract.

35 (5) Except as provided in paragraph six of this subsection, starting
36 January first, two thousand twenty-four, a health care plan shall
37 provide notice disclosing and clearly explaining the site of service
38 review to:

39 (A) policyholders, contract holders, insureds, and enrollees and
40 prospective policyholders, contract holders, insureds, and enrollees at
41 the time of plan and policy or contract selection. This disclosure shall
42 include a statement that site of service review may limit the settings
43 in which services covered under the policy or contract may be provided
44 and render a participating provider unable to perform a service and
45 shall disclose to insureds or enrollees any quality or cost differen-
46 tial, including differences in out-of-pocket costs, between the hospi-
47 tal-based outpatient clinic and the free-standing ambulatory surgical
48 center when services at a hospital-based outpatient clinic are
49 requested, or at any other time upon the insured's or enrollee's
50 request. Provider directories shall also indicate when health care plan
51 site of service review may limit the scope of services that will be
52 covered when delivered by a participating provider;

53 (B) participating providers at least ninety days prior to implementa-
54 tion. A health care plan shall also inform providers of the process for
55 requesting coverage of a service in a hospital-based outpatient clinic

1 setting, including the right to request a real time clinical peer to
2 peer discussion as part of the authorization process; and

3 (C) the superintendent and, as applicable, to the commissioner of
4 health, at least forty-five days prior to notifying policyholders,
5 contract holders, insureds and enrollees and prospective policyholders,
6 contract holders, insureds and enrollees and participating providers in
7 accordance with this subsection. Such notice to the superintendent and,
8 as applicable, to the commissioner of health, shall include draft commu-
9 nications to the foregoing persons for purposes of complying with this
10 subsection.

11 (6) A health care plan that has implemented site of service review
12 prior to January first, two thousand twenty-four shall provide the
13 disclosures set forth in paragraph five of this subsection at the begin-
14 ning of the open enrollment period for individual health insurance poli-
15 cies and contracts, and for group health insurance policies and
16 contracts, prior to issuance, renewal, or January first, two thousand
17 twenty-four, whichever is earlier.

18 (7) Starting January first, two thousand twenty-four, at a minimum, a
19 health care plan shall approve a service covered under the policy or
20 contract and requested to be performed by a network provider at a hospi-
21 tal-based outpatient clinic in the following situations:

22 (A) the procedure cannot be safely performed in a free-standing ambu-
23 latory surgical center due to the insured's or enrollee's health condi-
24 tion or the health care services;

25 (B) there is not sufficient free-standing ambulatory surgical center
26 capacity in the insured's or enrollee's geographic area; or

27 (C) the provision of health care services at a free-standing ambulato-
28 ry surgical center would result in undue delay.

29 (8) Starting January first, two thousand twenty-four, site of service
30 clinical review criteria developed by health care plans shall also take
31 into consideration whether:

32 (A) the insured's or enrollee's in-network treating physician recom-
33 mends that the service be provided at a hospital-based outpatient clin-
34 ic;

35 (B) the insured's in-network treating physician is not credentialed or
36 does not have privileges at a free-standing ambulatory surgical center;
37 or

38 (C) the insured has an established relationship with an in-network
39 treating physician who performs the requested service in a hospital-
40 based outpatient clinic.

41 § 2. This act shall take effect April 1, 2023.

42 PART M

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

46 3. The public health and health planning council shall not approve a
47 certificate of incorporation, articles of organization or application
48 for establishment unless it is satisfied, insofar as applicable, as to
49 (a) the public need for the existence of the institution at the time and
50 place and under the circumstances proposed, provided, however, that in
51 the case of an institution proposed to be established or operated by an
52 organization defined in subdivision one of section one hundred seventy-
53 two-a of the executive law, the needs of the members of the religious
54 denomination concerned, for care or treatment in accordance with their

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

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

39 (b) ~~[(i)]~~ Any transfer, assignment or other disposition of ~~[ten~~
40 ~~percent or more of]~~ an interest, stock, or voting rights in a sole
41 proprietorship, partnership ~~[or]~~, limited liability company, or corpo-
42 ration which is the operator of a hospital ~~[to a new partner or member]~~
43 or any transfer, assignment or other disposition which results in the
44 ownership or control of an interest, stock, or voting rights in that
45 operator, shall be approved by the public health and health planning
46 council, in accordance with the provisions of subdivisions two ~~[and]~~,
47 three, and three-b of this section, except that: ~~[(A) any such change~~
48 ~~shall be subject to the approval by the public]~~

49 (i) Public health and health planning council approval in accordance
50 with paragraph (b) of ~~[subdivision]~~ subdivisions three and three-b of
51 this section shall be required only with respect to ~~[the new partner or~~
52 ~~member, and]~~ any ~~[remaining partners or members]~~ person, partner,
53 member, or stockholder who ~~[have]~~ has not been previously approved for
54 that ~~[facility]~~ operator in accordance with such ~~[paragraph, and (B)~~
55 ~~such]~~ paragraphs.

1 (ii) Such change shall not be subject to the public need assessment
2 described in paragraph (a) of subdivision three of this section.

3 ~~[(ii) With]~~ (iii) No prior approval of the public health and health
4 planning council shall be required with respect to a transfer, assign-
5 ment or disposition ~~[involving less than ten percent of]~~, directly or
6 indirectly, of: (A) an interest, stock, or voting rights of less than
7 ten percent in ~~[such partnership or limited liability company]~~ the oper-
8 ator, to ~~[a new]~~ any person, partner ~~[or]~~, member, ~~[no prior approval of~~
9 ~~the public health and health planning council shall be required]~~ or
10 stockholder who has not been previously approved by the public health
11 and health planning council, or its predecessor for that operator.

12 However, no such transaction shall be effective unless at least ninety
13 days prior to the intended effective date thereof, the ~~[partnership or~~
14 ~~limited liability company]~~ operator fully completes and files with the
15 public health and health planning council notice on a form, to be devel-
16 oped by the public health and health planning council, which shall
17 disclose such information as may reasonably be necessary for the depart-
18 ment to recommend and for the public health and health planning council
19 to determine whether it should bar the transaction for any of the
20 reasons set forth in item ~~[(A), (B), (C) or (D)]~~ one, two, three or four
21 below, and has fully responded to any request for additional information
22 by the department acting on behalf of the public health and health plan-
23 ning council during the review period. Such transaction will be final
24 upon completion of the review period, which shall be no longer than
25 ninety days from the date the department receives a complete response to
26 its final request for additional information, unless, prior thereto, the
27 public health and health planning council has notified each party to the
28 proposed transaction that it has barred such transactions. ~~[Within~~

29 ~~ninety days from the date of receipt of such notice, the]~~ The public
30 health and health planning council may bar, any transaction under this
31 subparagraph: ~~[(A)]~~ (1) if the equity position of the partnership [or],
32 limited liability company, or corporation that operates a hospital for
33 profit, determined in accordance with generally accepted accounting
34 principles, would be reduced as a result of the transfer, assignment or
35 disposition; ~~[(B)]~~ (2) if the transaction would result in the ownership
36 of a partnership or membership interest or stock by any persons who have
37 been convicted of a felony described in subdivision five of section
38 twenty-eight hundred six of this article; ~~[(C)]~~ (3) if there are reason-
39 able grounds to believe that the proposed transaction does not satisfy
40 the character and competence criteria set forth in subdivision three or
41 three-b of this section; or ~~[(D)]~~ (4) if the transaction, together with
42 all transactions under this subparagraph for the [partnership, or
43 successor,] operator during any five year period would, in the aggre-
44 gate, involve twenty-five percent or more of the interest in the ~~[part-~~
45 ~~nership]~~ operator. The public health and health planning council shall
46 state specific reasons for barring any transaction under this subpara-
47 graph and shall so notify each party to the proposed transaction~~[+]; or~~

48 ~~[(iii) With respect to a transfer, assignment or disposition of]~~ (B)
49 an interest, stock, or voting rights [in such partnership or limited
50 liability company] to any [remaining] person, partner ~~[or]~~, member,
51 ~~[which transaction involves the withdrawal of the transferor from the~~
52 ~~partnership or limited liability company, no prior approval of the~~
53 ~~public health and health planning council shall be required]~~ or stock-
54 holder, previously approved by the public health and health planning
55 council, or its predecessor, for that operator. However, no such trans-
56 action shall be effective unless at least ninety days prior to the

1 intended effective date thereof, the [~~partnership or limited liability~~
2 ~~company~~] operator fully completes and files with the public health and
3 health planning council notice on a form, to be developed by the public
4 health and health planning council, which shall disclose such informa-
5 tion as may reasonably be necessary for the department to recommend and
6 for the public health and health planning council to determine whether
7 it should bar the transaction for the reason set forth below, and has
8 fully responded to any request for additional information by the depart-
9 ment acting on behalf of the public health and health planning council
10 during the review period. Such transaction will be final upon completion
11 of the review period, which shall be no longer than ninety days from the
12 date the department receives a complete response to its final request
13 for additional information, unless, prior thereto, the public health and
14 health planning council has notified each party to the proposed trans-
15 action that it has barred such transactions. [~~Within ninety days from~~
16 ~~the date of receipt of such notice, the~~] The public health and health
17 planning council may bar any transaction under this subparagraph if the
18 equity position of the [~~partnership or limited liability company~~] opera-
19 tor, determined in accordance with generally accepted accounting princi-
20 ples, would be reduced as a result of the transfer, assignment or dispo-
21 sition. The public health and health planning council shall state
22 specific reasons for barring any transaction under this subparagraph and
23 shall so notify each party to the proposed transaction.

24 (c) [~~Any transfer, assignment or other disposition of ten percent or~~
25 ~~more of the stock or voting rights thereunder of a corporation which is~~
26 ~~the operator of a hospital or which is a member of a limited liability~~
27 ~~company which is the operator of a hospital to a new stockholder, or any~~
28 ~~transfer, assignment or other disposition of the stock or voting rights~~
29 ~~thereunder of such a corporation which results in the ownership or~~
30 ~~control of more than ten percent of the stock or voting rights there-~~
31 ~~under of such corporation by any person not previously approved by the~~
32 ~~public health and health planning council, or its predecessor, for that~~
33 ~~corporation shall be subject to approval by the public health and health~~
34 ~~planning council, in accordance with the provisions of subdivisions two~~
35 ~~and three of this section and rules and regulations pursuant thereto,~~
36 ~~except that: any such transaction shall be subject to the approval by~~
37 ~~the public health and health planning council in accordance with para-~~
38 ~~graph (b) of subdivision three of this section only with respect to a~~
39 ~~new stockholder or a new principal stockholder, and shall not be subject~~
40 ~~to paragraph (a) of subdivision three of this section. In the absence of~~
41 ~~such approval, the operating certificate of such hospital shall be~~
42 ~~subject to revocation or suspension. No prior approval of the public~~
43 ~~health and health planning council shall be required with respect to a~~
44 ~~transfer, assignment or disposition of ten percent or more of the stock~~
45 ~~or voting rights thereunder of a corporation which is the operator of a~~
46 ~~hospital or which is a member of a limited liability company which is~~
47 ~~the owner of a hospital to any person previously approved by the public~~
48 ~~health and health planning council, or its predecessor, for that corpo-~~
49 ~~ration. However, no such transaction shall be effective unless at least~~
50 ~~ninety days prior to the intended effective date thereof, the stockhold-~~
51 ~~er completes and files with the public health and health planning coun-~~
52 ~~cil notice on forms to be developed by the public health and health~~
53 ~~planning council, which shall disclose such information as may reason-~~
54 ~~ably be necessary for the public health and health planning council to~~
55 ~~determine whether it should bar the transaction. Such transaction will~~
56 ~~be final as of the intended effective date unless, prior thereto, the~~

~~public health and health planning council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.~~ Nothing in this ~~paragraph~~ subdivision shall be construed as permitting ~~[a] any person, partner, member, or stockholder~~ not previously approved by the public health and health planning council for that ~~[corporation] operator to [become the owner of]~~ own or control, directly or indirectly, ten percent or more of the interest, stock, or voting rights of ~~[a] any partnership, limited liability company, or~~ corporation which is the operator of a hospital or a corporation which is a member of a limited liability company which is the owner of a hospital without first obtaining the approval of the public health and health planning council. In the absence of approval by the public health and health planning council as required under this subdivision, the operating certificate of such hospital shall be subject to revocation or suspension. Failure to provide notice as required under this subdivision may subject the operating certificate of such operator to revocation or suspension.

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

§ 3611-a. Change in the operator or owner. 1. Any ~~[change in the person who, or any]~~ transfer, assignment, or other disposition of an interest, stock, or voting rights ~~[of ten percent or more]~~ in a sole proprietorship, partnership, limited liability company, or corporation which is the operator of a licensed home care services agency or a certified home health agency, or any transfer, assignment or other disposition which results in the ownership or control of an interest, stock, or voting rights ~~[of ten percent or more,]~~ in ~~[a limited liability company or a partnership which is the]~~ that operator ~~[of a licensed home care services agency or a certified home health agency],~~ shall be approved by the public health and health planning council, in accordance with the provisions of subdivision four of section thirty-six hundred five of this article relative to licensure or subdivision two of section thirty-six hundred six of this article relative to certificate of approval, except that:

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

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

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

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

(i) an interest, stock, or voting rights to any person, partner, member, or stockholder previously approved by the public health and health planning council, or its predecessor, for that operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the operator completes and files with the public health and health planning council notice on forms to be

1 developed by the public health and health planning council, which shall
2 disclose such information as may reasonably be necessary for the depart-
3 ment to recommend and for the public health and health planning council
4 to determine whether it should bar the transaction, and has fully
5 responded to any request for additional information by the department
6 acting on behalf of the public health and health planning council during
7 the review period. Such transaction will be final upon completion of the
8 review period, which shall be no longer than ninety days from the date
9 the department receives a complete response to its final request for
10 additional information, unless, prior thereto, the public health and
11 health planning council has notified each party to the proposed trans-
12 action that it has barred such transactions under this paragraph and has
13 stated specific reasons for barring such transactions; or

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

36 (iii) Nothing in this subdivision shall be construed as permitting any
37 person, partner, member, or stockholder not previously approved by the
38 public health and health planning council for that operator to own or
39 control, directly or indirectly, ten percent or more of the interest,
40 stock, or voting rights of any partnership, limited liability company,
41 or corporation which is the operator of a licensed home care services
42 agency or a certified home health agency without first obtaining the
43 approval of the public health and health planning council.

44 (iv) In the absence of approval by the public health and health plan-
45 ning council as required under this paragraph, the license or certif-
46 icate of approval of such operator shall be subject to revocation or
47 suspension. Failure to provide notice as required under this paragraph
48 may subject the license or certificate of approval of such operator to
49 revocation or suspension thereof.

50 2. ~~[Any transfer, assignment or other disposition of ten percent or~~
51 ~~more of the stock or voting rights thereunder of a corporation which is~~
52 ~~the operator of a licensed home care services agency or a certified home~~
53 ~~health agency, or any transfer, assignment or other disposition of the~~
54 ~~stock or voting rights thereunder of such a corporation which results in~~
55 ~~the ownership or control of more than ten percent of the stock or voting~~
56 ~~rights thereunder of such corporation by any person shall be subject to~~

~~approval by the public health and health planning council in accordance with the provisions of subdivision four of section thirty six hundred five of this article relative to licensure or subdivision two of section thirty six hundred six of this article relative to certificate of approval, except that:~~

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

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

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

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

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

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

(b) Any ~~[change in the person, principal stockholder or]~~ transfer, assignment or other disposition, of an interest, stock, or voting rights in a sole proprietorship, partnership, limited liability company, or corporation which is the operator of a hospice, or any transfer, assignment or other disposition which results in the direct or indirect ownership or control of an interest, stock or voting rights in that operator, shall be approved by the public health and health planning council in accordance with the provisions of subdivisions one and two of this section~~[-]; except that:~~

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

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

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

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

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

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

50 (v) In the absence of approval by the public health and health plan-
51 ning council as required under this paragraph, the certificate of
52 approval of such operator shall be subject to revocation or suspension.
53 Failure to provide notice as required under this paragraph may subject
54 the certificate of approval of such operator to revocation or suspen-
55 sion.

§ 5. The public health law is amended by adding a new article 45-A to read as follows:

ARTICLE 45-A

REVIEW AND OVERSIGHT OF MATERIAL TRANSACTIONS

Section 4550. Legislative purpose and intent.

4551. Definitions.

4552. Review and oversight of material transactions.

4553. Notice of material transaction; requirements.

4554. Material transaction review.

4555. Penalty for noncompliance; injunctive relief.

4556. Rules and regulations.

4557. Separability.

§ 4550. Legislative purpose and intent. While hospitals remain vital to the health system, services are increasingly being delivered through ambulatory care. This shift to ambulatory care is giving rise to new health care delivery structures that are not subject to the same facility licensure and oversight requirements. In particular, there has been a proliferation of large physician practices being managed by entities that are investor-backed. As a general matter, physician practices are subject to far less regulation and oversight than hospitals under article twenty-eight of this chapter, home care agencies under article thirty-six of this chapter, hospice providers, or providers of behavioral health services under articles thirty-one and thirty-two of the mental hygiene law, as well as managed care organizations or other insurers authorized under this chapter or the insurance law. Even as these investor-backed entities increasingly take on the characteristics associated with diagnostic and treatment centers under article twenty-eight of this chapter or other licensed provider types, or may assume more risk from managed care organizations and licensed insurers, they remain unregulated by the state outside of the licensure of the individual practitioners who practice at these sites and enrollment in Medicaid. Moreover, transactions involving the change of control, by virtue of a sale, merger or acquisition of these providers, are not subject to any state change of ownership or control review, such that the state is not able to track or monitor the impact of these transactions on cost, quality, access, equity, and competition.

This phenomenon may have a negative impact on patient care, health care costs, and ultimately access to services. These large investor-backed health care entities shift volume and business away from community hospitals and their ambulatory care networks and other safety net providers, undermining their financial sustainability, which must continue to provide essential services to the community. In addition, the concentration of these investor-backed physician practices is a significant contributor to health care cost inflation, which has also given rise to other legislation, including the no surprise billing provisions in the financial services law.

§ 4551. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a health care entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no person shall be deemed to control another person solely by reason of being an officer or director of a health care entity. "Control" shall be presumed to exist if any person directly or

1 indirectly owns, controls, or holds with the power to vote ten percent
2 or more of the voting securities of a health care entity.

3 2. "Health care entity" shall include but not be limited to a physi-
4 cian practice or management services organization or similar entity
5 providing all or substantially all administrative or management services
6 under contract with one or more physician practice, provider-sponsored
7 organization, health insurance plan, or any other kind of health care
8 facility, organization or plan providing health care services in this
9 state; provided, however, that a "health care entity" shall not include
10 an insurer directly authorized to do business in this state, or a phar-
11 macy benefit manager registered or licensed in this state. An "insurer"
12 shall not include non-insurance subsidiaries and affiliated entities of
13 insurance companies regulated under the insurance law or this chapter.

14 3. "Health equity" shall mean achieving the highest level of health
15 for all people and shall entail focused efforts to address avoidable
16 inequalities by equalizing those conditions for health for those that
17 have experienced injustices, socioeconomic disadvantages, and systemic
18 disadvantages.

19 4. "Material transaction" shall mean:

20 (a) any of the following, occurring during a single transaction or in
21 a series of related transactions, that take place within a time period
22 and meet or exceed thresholds, as determined by the commissioner in
23 regulation, for factors including but not limited to changes in revenue:

24 (i) a merger with a health care entity;

25 (ii) an acquisition of one or more health care entities, including but
26 not limited to the assignment, sale, or other conveyance of assets,
27 voting securities, membership, or partnership interest or the transfer
28 of control;

29 (iii) an affiliation or contract formed between a health care entity
30 and another person; or

31 (iv) the formation of a partnership, joint venture, accountable care
32 organization, parent organization, or management services organization
33 for the purpose of administering contracts with health plans, third-par-
34 ty administrators, pharmacy benefit managers, or health care providers
35 as prescribed by the commissioner by regulation.

36 (b) "Material transaction" shall not include a clinical affiliation of
37 health care entities formed for the purpose of collaborating on clinical
38 trials or graduate medical education programs and shall not include any
39 transaction that is already subject to review under article twenty-
40 eight, thirty, thirty-six, forty, forty-six, forty-six-A, or forty-six-B
41 of this chapter.

42 § 4552. Review and oversight of material transactions. 1. The depart-
43 ment shall have the authority to review and approve material trans-
44 actions, which may be further defined by the commissioner in regulation,
45 to assess such transactions' impact on cost, quality, access, health
46 equity and competition in the health care service market.

47 2. In accordance with this article, and with the rules and regulations
48 promulgated by the commissioner pursuant to section forty-five hundred
49 fifty-six of this article, the department shall adopt criteria for the
50 consideration of requests by health care entities to consummate a mate-
51 rial transaction. The criteria shall include the factors listed in
52 subdivision one of section forty-five hundred fifty-four of this arti-
53 cle.

54 3. Nothing in this article shall limit or restrict the authority of
55 the superintendent of financial services under article fifteen, sixteen,

1 seventeen, forty-two, forty-three, seventy-one, or seventy-three of the
2 insurance law, or regulations promulgated thereunder.

3 § 4553. Notice of material transaction; requirements. 1. A health care
4 entity shall not consummate a material transaction without obtaining
5 approval from the department for such material transaction.

6 2. In order to obtain approval of a material transaction by the
7 department, a health care entity shall submit to the department written
8 notice and application, with supporting documentation as described below
9 and further defined in regulation, which the department shall be in
10 receipt of at least thirty days before the desired closing date of the
11 transaction, in the form and manner prescribed by the department. Such
12 written notice shall include, but not be limited to:

13 (a) The names of the parties to the proposed material transaction and
14 their current addresses;

15 (b) Copies of any definitive agreements governing the terms of the
16 material transaction, including pre- and post-closing conditions;

17 (c) Identification of all locations where health care services are
18 currently provided by each party and the revenue generated in the state
19 from such locations;

20 (d) Any plans to reduce or eliminate services and/or participation in
21 specific plan networks;

22 (e) The desired closing date of the proposed material transaction;

23 (f) A brief description of the nature and purpose of the proposed
24 material transaction, which will be used to inform the review under
25 section forty-five hundred fifty-four of this article, including:

26 (i) the anticipated impact of the material transaction on cost, quali-
27 ty, access, health equity, and competition in the impacted markets,
28 which may be supported by data and a formal market impact analysis; and

29 (ii) any commitments by the health care entity to address anticipated
30 impacts; and

31 (g) a non-refundable application fee.

32 3. Except as provided in subdivision two of section forty-five hundred
33 fifty-four of this article, supporting documentation as described in
34 subdivision two of this section shall not be subject to disclosure under
35 article six of the public officers law.

36 § 4554. Material transaction review. 1. When reviewing a potential
37 material transaction, the department may consider the following:

38 (a) Whether the parties to the transaction can demonstrate that the
39 potential positive impacts of the material transaction outweigh the
40 potential negative impacts related to factors such as:

41 (i) patient costs;

42 (ii) access to services;

43 (iii) health equity; and

44 (iv) health outcomes;

45 (b) Whether there is a substantial likelihood of anticompetitive
46 effects from the transaction that outweigh the benefits of the trans-
47 action including by increasing or maintaining services to underserved
48 populations or stabilizing the operations of the existing delivery
49 system;

50 (c) The financial condition of the parties to the transaction;

51 (d) The character and competence of the parties or any officers or
52 directors thereof;

53 (e) The source of the funds or assets for the transaction;

54 (f) The fairness of any exchange of shares, assets, cash, or other
55 consideration for the shares or assets to be received; and

1 (g) Any other relevant information necessary to determine the impact
2 of the material transaction.

3 2. If the department does not act on the application as described in
4 subdivisions three and four of this section within thirty days of
5 receipt of written notice and application as described in subdivision
6 two of section forty-five hundred fifty-three of this article, then the
7 transaction shall be deemed approved. During such thirty-day period, the
8 department shall post in a manner determined by the department in regu-
9 lation for public notice and public comment which may help to inform
10 whether the department takes further actions as determined by this
11 section. At a minimum, the public notice shall include:

12 (a) a summary of the proposed transaction;

13 (b) an explanation of the groups or individuals likely to be impacted
14 by the transaction;

15 (c) information about services currently provided by the health care
16 entity, commitments by the health care entity to continue such services
17 and any services that will be reduced or eliminated; and

18 (d) details about how to submit comments, in a format that is easy to
19 find and easy to read.

20 3. The department shall notify the parties to the transaction within
21 thirty days of receipt of written notice and application as described in
22 subdivision two of section forty-five hundred fifty-three of this arti-
23 cle that it is withholding approval of the transaction if necessary to
24 conduct a thorough examination and complete analysis of whether the
25 transaction is consistent with the criteria established pursuant to
26 subdivision four of section forty-five hundred fifty-two of this arti-
27 cle, including the factors listed in subdivision one of this section.

28 (a) The department may request additional information from a health
29 care entity that is a party to the material transaction and such entity
30 shall promptly reply using the form of communication requested and such
31 reply shall be affirmed as true and accurate under penalty of perjury by
32 an officer of the entity, if required.

33 (b) A health care entity shall not refuse to provide documents or
34 other information requested pursuant to this article on the grounds that
35 such information is privileged or confidential.

36 (c) The department may retain actuaries, accountants or other profes-
37 sionals independent of the department as necessary to assist in conduct-
38 ing its analysis of a proposed material transaction. The department
39 shall designate the party or parties to the material transaction that
40 shall bear the cost of retaining such professionals.

41 (d) The department may take other actions to seek public input and
42 otherwise engage the public before making a determination on the
43 proposed material transaction.

44 4. (a) Unless the material transaction is approved pursuant to subdi-
45 vision two of this section, the department shall issue a final order
46 regarding the material transaction.

47 (b) If the department disapproves the material transaction or approves
48 the material transaction subject to conditions, the department may noti-
49 fy the attorney general of the department's findings and analysis so
50 that the attorney general may, if appropriate, conduct an investigation
51 into whether the health care entities have engaged in unfair competition
52 or anticompetitive behavior and, if necessary, take steps to protect
53 consumers in the health care services market.

54 (c) Pursuant to this subdivision, the department shall have the
55 authority to require undertakings as a condition of approving a material
56 transaction, including but not limited to, investments in the communi-

1 ties affected by such material transaction, competition protections, and
2 contributions to state-controlled funds, including the health care
3 transformation fund pursuant to section ninety-two-hh of the state
4 finance law, to preserve access or to otherwise mitigate the impact of
5 the material transaction on the health care delivery system.

6 5. A health care entity that is a party to an approved material trans-
7 action shall notify the department upon closing of the transaction in
8 the form and manner prescribed by the department.

9 § 4555. Penalty for noncompliance; injunctive relief. 1. The depart-
10 ment may impose a civil penalty in an amount of up to ten thousand
11 dollars per day for any violation of this article. All fees, fines, and
12 penalties derived from the operation of this article shall be paid to
13 the department and shall be deposited in the health care transformation
14 fund established pursuant to section ninety-two-hh of the state finance
15 law.

16 2. The attorney general may apply to the supreme court within the
17 judicial district in which a violation of this article is alleged to
18 have occurred for an order enjoining or restraining commission or
19 continuance of the acts complained of. Thereupon the court shall have
20 jurisdiction of the proceeding and shall have power to grant such tempo-
21 rary relief or restraining order as it deems just and proper. In any
22 such proceeding it shall be unnecessary to allege or prove that an
23 adequate remedy at law does not exist or that irreparable damage would
24 result if such order were not granted. The remedy provided by this
25 section shall be in addition to any other remedy provided by law.

26 § 4556. Rules and regulations. The department, in consultation with
27 the department of financial services, may promulgate rules and regu-
28 lations to implement the provisions of this article.

29 § 4557. Separability. If any clause, sentence, paragraph, subdivision,
30 section or part of this article shall be adjudged by any court of compe-
31 tent jurisdiction to be invalid, the judgment shall not affect, impair,
32 or invalidate the remainder thereof, but shall be confined in its opera-
33 tion to the clause, sentence, paragraph, subdivision, section or part
34 thereof directly involved in the controversy in which the judgment shall
35 have been rendered.

36 § 6. Paragraph (b) of subdivision 7 of section 2802 of the public
37 health law, as amended by section 87 of part C of chapter 58 of the laws
38 of 2009, is amended to read as follows:

39 (b) At such time as the commissioner's written approval of the
40 construction is granted, each applicant shall pay the following addi-
41 tional fee:

42 (i) for hospital, nursing home and diagnostic and treatment center
43 applications that require approval by the council, the additional fee
44 shall be [~~fifty-five~~ **sixty** hundredths of one percent of the total capi-
45 tal value of the application, provided however that applications for
46 construction of a safety net diagnostic and treatment center, as defined
47 in paragraph (c) of subdivision sixteen of section twenty-eight hundred
48 one-a of this article, shall be subject to a fee of forty-five
49 hundredths of one percent of the total capital value of the application;
50 and

51 (ii) for hospital, nursing home and diagnostic and treatment center
52 applications that do not require approval by the council, the additional
53 fee shall be [~~thirty~~ **thirty-five** hundredths of one percent of the total
54 capital value of the application, provided however that safety net diag-
55 nostic and treatment center applications, as defined in paragraph (c) of
56 subdivision sixteen of section twenty-eight hundred one-a of this arti-

cle, shall be subject to a fee of twenty-five hundredths of one percent of the total capital value of the application.

§ 7. Section 3605 of the public health law is amended by adding two new subdivisions 1-a and 1-b to read as follows:

1-a. Core public health services, as defined in section six hundred two of this chapter, when provided in the home by the local health department of a county or of the city of New York, shall not require licensure under this section, provided that such services shall not include: home health aide services; personal care services; or nursing services that require more than minimal patient contact. For the purposes of this subdivision the term "minimal patient contact" includes, but is not limited to, providing assessments of new mothers and infants, direct observation, and lead screening. Patient contact shall be considered more than minimal if it requires more than six patient visits. Core public health services that may be provided without a license pursuant to this subdivision include but are not limited to: immunizations; testing for tuberculosis and observation of tuberculosis self-directed therapy; verbal assessment, counseling and referral services; and such other services as may be determined by the department.

1-b. Core public health services, as defined in section six hundred two of this chapter, when provided by local health departments in the home as authorized under subdivision one-a of this section, may be eligible for reimbursement under title XIX of the federal Social Security Act provided that the services provided meet federal and state requirements for such reimbursement.

§ 8. Subdivision 2 of section 3611 of the public health law, as amended by section 66 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

2. The public health and health planning council shall not act upon an application for licensure or a certificate of approval for any agency referred to in subdivision one of this section unless it is satisfied as to the character, competence and standing in the community of the proposed incorporators, directors, sponsors, controlling persons, principal stockholders of the parent corporation, health related subsidiary corporation and the New York state corporation established pursuant to paragraph (a) of subdivision one of this section. Stockholders or members of third level or higher entities that will exercise no control of the agency functions shall not be considered controlling persons subject to character and competency review provided that an affidavit stating that such individuals will exercise no control over the agency functions is signed by such individuals and submitted to the department. For the purposes of this section the public health and health planning council may adopt rules and regulations relative to what constitutes parent and subsidiary corporations.

§ 9. This act shall take effect immediately; provided, however that section five of this act shall take effect on the ninetieth day after it shall have become a law and shall apply to material transactions, as defined by section 4551 of the public health law as added by section five of this act, closing on or after April 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

1 Section 1. Section 366 of the social services law is amended by adding
2 a new subdivision 16 to read as follows:

3 16. (a) The commissioner of health is authorized to submit the appro-
4 priate waivers and/or any other required requests for federal approval,
5 including but not limited to, those authorized in section eleven hundred
6 fifteen of the federal social security act, in order to establish
7 expanded medical assistance eligibility for working disabled individ-
8 uals. Such waiver applications shall be executed consistent with para-
9 graphs (b), (c), (d) and (e) of this subdivision, to the extent those
10 sections comply with the requirements of section eleven hundred fifteen
11 of the federal social security act. Notwithstanding subparagraphs five
12 and six of paragraph (c) of subdivision one of this section and subdivi-
13 sion twelve of section three hundred sixty-seven-a of this title, or any
14 other provision of law to the contrary, if granted such waiver, the
15 commissioner of health may authorize eligible persons to receive medical
16 assistance pursuant to the waiver if, for so long as, and to the extent
17 that, financial participation is available therefor. The waiver applica-
18 tion shall provide for thirty thousand persons to be eligible to partic-
19 ipate in such waiver.

20 (b) Individuals eligible for participation in such waiver shall:

21 (i) be a disabled individual, defined as having a medically determina-
22 ble impairment of sufficient severity and duration to qualify for bene-
23 fits under Titles II or XVI of the social security act;

24 (ii) be at least sixteen years of age;

25 (iii) be otherwise eligible for medical assistance benefits, but for
26 earnings and/or resources in excess of the allowable limit;

27 (iv) have net available income, determined in accordance with subdivi-
28 sion two of this section, that does not exceed two thousand two hundred
29 fifty percent of the applicable federal poverty line, as defined and
30 updated by the United States department of health and human services;

31 (v) have resources, as defined in paragraph (e) of subdivision two of
32 section three hundred sixty-six-c of this title, other than retirement
33 accounts, that do not exceed three hundred thousand dollars;

34 (vi) contribute to the cost of medical assistance provided pursuant to
35 this paragraph in accordance with paragraph (d) of this subdivision; and

36 (vii) meet such other criteria as may be established by the commis-
37 sioner as may be necessary to administer the provisions of this subdivi-
38 sion in an equitable manner.

39 (c) An individual at least sixteen years of age who: is employed;
40 ceases to be eligible for participation in such waiver pursuant to para-
41 graph (b) of this subdivision because the person, by reason of medical
42 improvement, is determined at the time of a regularly scheduled continu-
43 ing disability review to no longer be certified as disabled under the
44 social security act; continues to have a severe medically determinable
45 impairment, to be determined in accordance with applicable federal regu-
46 lations; and contributes to the cost of medical assistance provided
47 pursuant to this paragraph in accordance with paragraph (d) of this
48 subdivision, shall be eligible for participation in such waiver. For
49 purposes of this paragraph, a person is considered to be employed if the
50 person is earning at least the applicable minimum wage under section six
51 of the federal fair labor standards act and working at least forty hours
52 per month.

53 (d) Prior to receiving medical assistance pursuant to such waiver, a
54 person whose net available income is greater than or equal to two
55 hundred fifty percent of the applicable federal poverty line shall pay a
56 monthly premium, in accordance with a procedure to be established by the

1 commissioner. The amount of such premium for a person whose net avail-
2 able income is greater than or equal to two hundred fifty percent of the
3 applicable federal poverty line, but less than three hundred percent of
4 the applicable federal poverty line shall be three hundred and forty-
5 seven dollars. The amount of such premium for a person whose net avail-
6 able income is greater than or equal to three hundred percent of the
7 applicable federal poverty line, but less than four hundred percent of
8 the applicable federal poverty line shall be five hundred eighteen
9 dollars. The amount of such premium for a person whose net available
10 income is greater than or equal to four hundred percent of the applica-
11 ble federal poverty line, but less than five hundred percent of the
12 applicable federal poverty line shall be seven hundred and seventy-nine
13 dollars. The amount of such premium for a person whose net available
14 income is equal to or greater than five hundred percent of the applica-
15 ble federal poverty line shall be one thousand four hundred and forty-
16 eight dollars. No premium shall be required from a person whose net
17 available income is less than two hundred fifty percent of the applica-
18 ble federal poverty line.

19 (e) Notwithstanding any other provision of this section or any other
20 law to the contrary, for purposes of determining medical assistance
21 eligibility for persons specified in paragraph (b) or (c) of this subdi-
22 vision, the income and resources of responsible relatives shall not be
23 deemed available for as long as the person meets the criteria specified
24 in this subdivision.

25 § 2. This act shall take effect on January 1, 2025.

26 PART O

27 Section 1. Subdivisions 1, 15, 16, 17 and 18 of section 1399-aa of the
28 public health law, subdivision 1 as amended by chapter 13 of the laws of
29 2003, subdivisions 15, 16, 17 and 18 as added by section 2 of part EE of
30 chapter 56 of the laws of 2020, are amended and two new subdivisions 19
31 and 20 are added to read as follows:

32 1. "Enforcement officer" means the enforcement officer designated
33 pursuant to article thirteen-E of this chapter to enforce such article
34 and hold hearings pursuant thereto; provided that in a city with a popu-
35 lation of more than one million it shall also mean an officer or employ-
36 ee or any agency of such city that is authorized to enforce any local
37 law of such city related to the regulation of the sale of cigarettes,
38 tobacco products, or vapor products to minors.

39 15. "Listed or non-discounted price" means the price listed for ciga-
40 rettes, tobacco products, or vapor products [~~intended or reasonably~~
41 ~~expected to be used with or for the consumption of nicotine,~~] on their
42 packages or any related shelving, posting, advertising or display at the
43 location where the cigarettes, tobacco products, or vapor products
44 [~~intended or reasonably expected to be used with or for the consumption~~
45 ~~of nicotine,~~] are sold or offered for sale, including all applicable
46 taxes.

47 16. "Retail dealer" means a person licensed by the commissioner of
48 taxation and finance to sell cigarettes, tobacco products, or vapor
49 products [~~in this state,~~ or a person or business required to obtain
50 such license.

51 17. "Vapor products" means any noncombustible liquid or gel, regard-
52 less of the presence of nicotine therein, that is manufactured into a
53 finished product for use in an electronic [~~cigarette, including any~~
54 device that delivers vapor which is inhaled, including any refill,

cartridge, device or component thereof that contains or is intended to be used with such noncombustible liquid or gel. "Vapor product" shall not include any device, or any component thereof, that does not contain such noncombustible liquid or gel, or any product approved by the United States [~~food and drug administration~~] Food and Drug Administration as a drug or medical device, or manufactured and dispensed pursuant to [~~title five-A of article thirty-three of this chapter~~] article three, four or five of the cannabis law.

18. "Vapor products dealer" means a person licensed by the commissioner of taxation and finance to sell vapor products [~~in this state~~], or a person or business required to obtain such license.

19. "Tobacco or vapor seller" means a person, sole proprietorship, corporation, limited liability company, partnership or other enterprise that manufactures, distributes, sells or offers to sell, whether through retail or wholesale, or exchanges or offers to exchange, for any form of consideration, cigarettes, tobacco products, or vapor products. This definition is without regard to the quantity of cigarettes, tobacco products, or vapor products manufactured, distributed, sold, offered for sale, exchanged, or offered for exchange.

20. "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco.

§ 2. Subdivisions 1, 1-a, 2, 3, 4 and 5 of section 1399-bb of the public health law, subdivisions 1, 2, 3, 4 and 5 as amended and subdivision 1-a as added by section 4 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1. No retail dealer, or any agent or employee of [~~a~~] any retail dealer, engaged in the business of selling or otherwise distributing tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes for commercial purposes[~~, or any agent or employee of such retail dealer, or any agent or employee of a retail dealer~~], shall knowingly, in furtherance of such business:

(a) distribute without charge any tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes to any individual, provided that the distribution of a package containing tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes in violation of this subdivision shall constitute a single violation without regard to the number of items in the package; or

(b) distribute price reduction instruments which are redeemable for tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes to any individual, provided that this subdivision shall not apply to coupons contained in newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes or obtained at locations which sell tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes provided that such distribution is confined to a designated area or to coupons sent through the mail.

1-a. No retail dealer engaged in the business of selling or otherwise distributing tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption~~]

1 ~~of nicotine~~] for commercial purposes, or any agent or employee of such
2 retail dealer, shall knowingly, in furtherance of such business:

3 (a) honor or accept a price reduction instrument in any transaction
4 related to the sale of tobacco products, herbal cigarettes, or vapor
5 products [~~intended or reasonably expected to be used with or for the~~
6 ~~consumption of nicotine~~] to a consumer;

7 (b) sell or offer for sale any tobacco products, herbal cigarettes, or
8 vapor products [~~intended or reasonably expected to be used with or for~~
9 ~~the consumption of nicotine~~] to a consumer through any multi-package
10 discount or otherwise provide to a consumer any tobacco products, herbal
11 cigarettes, or vapor products [~~intended or reasonably expected to be~~
12 ~~used with or for the consumption of nicotine~~] for less than the listed
13 price or non-discounted price in exchange for the purchase of any other
14 tobacco products, herbal cigarettes, or vapor products [~~intended or~~
15 ~~reasonably expected to be used with or for the consumption of nicotine~~]
16 by such consumer;

17 (c) sell, offer for sale, or otherwise provide any product other than
18 a tobacco product, herbal cigarette, or vapor product [~~intended or~~
19 ~~reasonably expected to be used with or for the consumption of nicotine~~]
20 to a consumer for less than the listed price or non-discounted price in
21 exchange for the purchase of a tobacco product, herbal cigarette, or
22 vapor product [~~intended or reasonably expected to be used with or for~~
23 ~~the consumption of nicotine~~] by such consumer; or

24 (d) sell, offer for sale, or otherwise provide a tobacco product,
25 herbal cigarette, or vapor product [~~intended or reasonably expected to~~
26 ~~be used with or for the consumption of nicotine~~] to a consumer for less
27 than the listed price or non-discounted price.

28 2. The prohibitions contained in subdivision one of this section shall
29 not apply to the following locations:

30 (a) private social functions when seating arrangements are under the
31 control of the sponsor of the function and not the owner, operator,
32 manager or person in charge of such indoor area;

33 (b) conventions and trade shows; provided that the distribution is
34 confined to designated areas generally accessible only to persons over
35 the age of twenty-one;

36 (c) events sponsored by tobacco, vapor product [~~intended or reasonably~~
37 ~~expected to be used with or for the consumption of nicotine~~], or herbal
38 cigarette manufacturers provided that the distribution is confined to
39 designated areas generally accessible only to persons over the age of
40 twenty-one;

41 (d) bars as defined in subdivision one of section thirteen hundred
42 ninety-nine-n of this chapter;

43 (e) tobacco businesses as defined in subdivision eight of section
44 thirteen hundred ninety-nine-aa of this article;

45 (f) factories as defined in subdivision nine of section thirteen
46 hundred ninety-nine-aa of this article and construction sites; provided
47 that the distribution is confined to designated areas generally accessi-
48 ble only to persons over the age of twenty-one.

49 3. No retail dealer shall distribute tobacco products, vapor products
50 [~~intended or reasonably expected to be used with or for the consumption~~
51 ~~of nicotine~~], or herbal cigarettes at the locations set forth in para-
52 graphs (b), (c) and (f) of subdivision two of this section unless such
53 person gives five days written notice to the enforcement officer.

54 4. No retail dealer engaged in the business of selling or otherwise
55 distributing [~~electronic cigarettes or~~] vapor products [~~intended or~~
56 ~~reasonably expected to be used with or for the consumption of nicotine~~]

1 for commercial purposes, or any agent or employee of such person, shall
2 knowingly, in furtherance of such business, distribute without charge
3 any ~~[electronic cigarettes]~~ vapor products to any individual under twenty-one years of age.

4
5 5. The distribution of tobacco products, ~~[electronic cigarettes,]~~
6 vapor products ~~[intended or reasonably expected to be used with or for~~
7 ~~the consumption of nicotine]~~, or herbal cigarettes pursuant to subdivision
8 two of this section or the distribution without charge of ~~[electronic cigarettes, or]~~
9 vapor products ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~, shall be made only
10 to an individual who demonstrates, through (a) a driver's license or
11 non-driver identification card issued by the commissioner of motor vehicles,
12 the federal government, any United States territory, commonwealth,
13 or possession, the District of Columbia, a state government within the
14 United States, or a provincial government of the dominion of Canada, (b)
15 a valid passport issued by the United States government or the government
16 of any other country, or (c) an identification card issued by the
17 armed forces of the United States, indicating that the individual is at
18 least twenty-one years of age. Such identification need not be required
19 of any individual who reasonably appears to be at least twenty-five
20 years of age; provided, however, that such appearance shall not constitute
21 a defense in any proceeding alleging the sale of a tobacco product,
22 ~~[electronic cigarette,]~~ vapor product ~~[intended or reasonably expected~~
23 ~~to be used with or for the consumption of nicotine]~~, or herbal cigarette
24 or the distribution without charge of ~~[electronic cigarettes, or]~~ vapor
25 products ~~[intended or reasonably expected to be used with or for the~~
26 ~~consumption of nicotine to an individual]~~.

27
28 § 3. The section heading and subdivisions 1, 2, 3, 4 and 7 of section
29 1399-cc of the public health law, the section heading, subdivisions 1
30 and 4 as amended by chapter 542 of the laws of 2014, subdivisions 2, 3
31 and 7 as amended by chapter 100 of the laws of 2019, are amended to read
32 as follows:

33 Sale of tobacco products, herbal cigarettes, ~~[liquid nicotine,]~~
34 shisha, ~~[rolling papers or]~~ smoking paraphernalia, or vapor products to
35 minors prohibited. 1. As used in this section:

36 (a) "A device capable of deciphering any electronically readable
37 format" or "device" shall mean any commercial device or combination of
38 devices used at a point of sale or entry that is capable of reading the
39 information encoded on the bar code or magnetic strip of a driver's
40 license or non-driver identification card issued by the state commissioner of motor vehicles;

41
42 (b) "Card holder" means any person presenting a driver's license or
43 non-driver identification card to a licensee, or to the agent or employee
44 of such licensee under this chapter;

45 (c) ~~["Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco,]~~

46
47 ~~(d)]~~ "Transaction scan" means the process involving an automated bar
48 code reader by which a licensee, or agent or employee of a licensee
49 under this chapter reviews a driver's license or non-driver identification
50 card presented as a precondition for the purchase of ~~[a]~~ tobacco
51 ~~[product]~~ products, vapor products, or herbal cigarettes pursuant to
52 subdivision three of this section; and

53
54 ~~(e)]~~ (d) "Liquid nicotine", "electronic liquid" or "e-liquid" means a
55 liquid composed of nicotine and other chemicals, and which is sold as a
56 product that may be used in an electronic cigarette.

2. Any person operating a place of business wherein tobacco products, herbal cigarettes, [~~liquid nicotine~~] shisha or [~~electronic cigarettes~~] vapor products, are sold or offered for sale is prohibited from selling such tobacco or vapor products, herbal cigarettes, [~~liquid nicotine~~] shisha, [~~electronic cigarettes~~] or smoking paraphernalia to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA, VAPOR PRODUCTS, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, [~~LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS~~] OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height.

3. Sale of tobacco products, herbal cigarettes, [~~liquid nicotine~~] shisha [~~or electronic cigarettes~~], or vapor products in such places, other than by a vending machine, shall be made only to an individual who demonstrates, through (a) a valid driver's license or non-driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of [~~a~~] tobacco [~~product~~], products, vapor products, herbal cigarettes, [~~liquid nicotine~~] or shisha [~~or electronic cigarettes~~] to an individual under twenty-one years of age.

4. (a) Any person operating a place of business wherein tobacco products, vapor products, herbal cigarettes, [~~liquid nicotine~~] or shisha [~~or electronic cigarettes~~] are sold or offered for sale may perform a transaction scan as a precondition for such purchases.

(b) In any instance where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card, or if the transaction scan indicates that the information is false or fraudulent, the attempted transaction shall be denied.

(c) In any proceeding pursuant to section thirteen hundred ninety-nine-ee of this article, it shall be an affirmative defense that such person had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed that transaction scan, and that the tobacco product, vapor product, herbal cigarettes or [~~liquid nicotine~~] shisha had been sold, delivered or given to such person in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense the commissioner shall take into consideration any written policy adopted and implemented by the seller to effectuate the provisions of this chapter. Use of a transaction scan shall not excuse any person operating a place of business wherein tobacco products, vapor product, herbal cigarettes, [~~liquid nicotine~~] or shisha [~~or electronic cigarettes~~] are sold, or the agent or employee of such person, from the exercise of reasonable diligence otherwise required by this chapter. Notwithstanding the above provisions, any such affirmative defense shall

1 not be applicable in any civil or criminal proceeding, or in any other
2 forum.

3 7. No person operating a place of business wherein tobacco products,
4 vapor products, herbal cigarettes, [~~liquid nicotine~~] or shisha [~~or~~
5 ~~electronic cigarettes~~] are sold or offered for sale shall sell, permit
6 to be sold, offer for sale or display for sale any tobacco product,
7 vapor product, herbal cigarettes, [~~liquid nicotine~~] or shisha [~~or elec-~~
8 ~~tronic cigarettes~~] in any manner, unless such products and cigarettes
9 are stored for sale (a) behind a counter in an area accessible only to
10 the personnel of such business, or (b) in a locked container; provided,
11 however, such restriction shall not apply to tobacco businesses, as
12 defined in subdivision eight of section thirteen hundred ninety-nine-aa
13 of this article, and to places to which admission is restricted to
14 persons twenty-one years of age or older.

15 § 4. Section 1399-dd of the public health law, as amended by chapter
16 448 of the laws of 2012, subdivision (d) as amended by chapter 100 of
17 the laws of 2019, is amended to read as follows:

18 § 1399-dd. Sale of tobacco products, herbal cigarettes or [~~electronic~~
19 ~~cigarettes~~] vapor products in vending machines. No person, firm, part-
20 nership, company or corporation shall operate a vending machine which
21 dispenses tobacco products, herbal cigarettes or [~~electronic cigarettes~~]
22 vapor products unless such machine is located: (a) in a bar as defined
23 in subdivision one of section thirteen hundred ninety-nine-n of this
24 chapter, or the bar area of a food service establishment with a valid,
25 on-premises full liquor license; (b) in a private club; (c) in a tobacco
26 business as defined in subdivision eight of section thirteen hundred
27 ninety-nine-aa of this article; or (d) in a place of employment which
28 has an insignificant portion of its regular workforce comprised of
29 people under the age of twenty-one years and only in such locations that
30 are not accessible to the general public; provided, however, that in
31 such locations the vending machine is located in plain view and under
32 the direct supervision and control of the person in charge of the
33 location or [~~his or her~~] their designated agent or employee.

34 § 5. The section heading and subdivisions 1 and 2 of section 1399-dd-1
35 of the public health law, as added by section 13 of part EE of chapter
36 56 of the laws of 2020, are amended to read as follows:

37 Public display of tobacco and vapor product [~~and electronic cigarette~~]
38 advertisements and smoking paraphernalia prohibited. 1. For purposes of
39 this section[+]

40 (~~a~~) "~~Advertisement~~" [~~advertisement~~] means words, pictures, photo-
41 graphs, symbols, graphics or visual images of any kind, or any combina-
42 tion thereof, which bear a health warning required by federal statute,
43 the purpose or effect of which is to identify a brand of a tobacco or
44 vapor product, [~~electronic cigarette, or vapor product intended or~~
45 ~~reasonably expected to be used with or for the consumption of nicotine~~],
46 a trademark of a tobacco or vapor product, [~~electronic cigarette, or~~
47 ~~vapor product intended or reasonably expected to be used with or for the~~
48 ~~consumption of nicotine or~~] a trade name associated exclusively with a
49 tobacco or vapor product, [~~electronic cigarette, or vapor product~~
50 ~~intended or reasonably expected to be used with or for the consumption~~
51 ~~of nicotine~~] or to promote the use or sale of a tobacco or vapor prod-
52 uct[, ~~electronic cigarette, or vapor product intended or reasonably~~
53 ~~expected to be used with or for the consumption of nicotine.~~

54 (~~b~~) "~~Smoking paraphernalia~~" means any pipe, water pipe, hookah, roll-
55 ing papers, ~~electronic cigarette, vaporizer or any other device, equip-~~
56 ~~ment or apparatus designed for the inhalation of tobacco or nicotine.~~

~~(c) "Vapor product" means any vapor product, as defined by section thirteen hundred ninety-nine aa of this article, intended or reasonably expected to be used with or for the consumption of nicotine.~~

~~(d) "Tobacco products" shall have the same meaning as in subdivision five of section thirteen hundred ninety-nine aa of this article.~~

~~(e) "Electronic cigarette" shall have the same meaning as in subdivision thirteen of section thirteen hundred ninety-nine aa of this article.~~

2. (a) No person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity may place, cause to be placed, maintain or to cause to be maintained, smoking paraphernalia ~~[or]~~, tobacco product, ~~[electronic cigarette]~~ or vapor product ~~[intended or reasonably expected to be used with or for the consumption of nicotine]~~ advertisements in a store front or exterior window or any door which is used for entry or egress by the public to the building or structure containing a place of business within one thousand five hundred feet of a school, provided that within New York city such prohibitions shall only apply within five hundred feet of a school.

(b) Any person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity in violation of this section shall be subject to a civil penalty of not more than five hundred dollars for a first violation and not more than one thousand dollars for a second or subsequent violation.

§ 6. Subdivisions 2, 3 and 4 of section 1399-ee of the public health law, subdivision 2 and paragraphs (e) and (f) of subdivision 3 as amended by section 6 of part EE of chapter 56 of the laws of 2020 and subdivisions 3 and 4 as amended by chapter 162 of the laws of 2002, are amended to read as follows:

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, ~~[he or she]~~ or that a state or local health official was denied access to a retail store including all product display and storage areas, for the purpose of evaluating compliance with this article, they shall impose a civil penalty of a minimum of three hundred dollars, but not to exceed one thousand five hundred dollars for a first violation, and a minimum of one thousand dollars, but not to exceed two thousand five hundred dollars for each subsequent violation, unless a different penalty is otherwise provided in this article. The enforcement officer shall advise the retail dealer that upon the accumulation of three or more points pursuant to this section the department of taxation and finance shall suspend the dealer's registration. If the enforcement officer determines after a hearing that a retail dealer was selling tobacco or vapor products while their registration was suspended or permanently revoked pursuant to subdivision three or four of this section, ~~[he or she]~~ they shall impose a civil penalty of twenty-five hundred dollars.

3. (a) Imposition of points. If the enforcement officer determines, after a hearing, that the retail dealer violated subdivision ~~[one]~~ two of section thirteen hundred ninety-nine-cc of this article with respect to a prohibited sale to a minor, ~~[he or she]~~ they shall, in addition to imposing any other penalty required or permitted pursuant to this section, assign two points to the retail dealer's record where the individual who committed the violation did not hold a certificate of completion from a state certified tobacco sales training program and one point where the retail dealer demonstrates that the person who committed the violation held a certificate of completion from a state certified tobacco sales training program.

1 (b) Revocation. If the enforcement officer determines, after a hear-
2 ing, that a retail dealer has violated this article four times within a
3 three year time frame [~~he or she~~ they] shall, in addition to imposing
4 any other penalty required or permitted by this section, direct the
5 commissioner of taxation and finance to revoke the dealer's registration
6 for one year.

7 (c) Duration of points. Points assigned to a retail dealer's record
8 shall be assessed for a period of thirty-six months beginning on the
9 first day of the month following the assignment of points.

10 (d) Reinspection. Any retail dealer who is assigned points pursuant to
11 paragraph (a) of this subdivision shall be reinspected at least two
12 times a year by the enforcement officer until points assessed are
13 removed from the retail dealer's record.

14 (e) Suspension. If the department determines that a retail dealer has
15 accumulated three points or more, the department shall direct the
16 commissioner of taxation and finance to suspend such dealer's registra-
17 tion for one year. The three points serving as the basis for a suspen-
18 sion shall be erased upon the completion of the one year penalty.

19 (f) Surcharge. A two hundred fifty dollar surcharge to be assessed for
20 every violation will be made available to enforcement officers and shall
21 be used solely for compliance checks to be conducted to determine
22 compliance with this section.

23 4. (a) If the enforcement officer determines, after a hearing, that a
24 retail dealer has violated this article while their registration was
25 suspended pursuant to subdivision three of this section, [~~he or she~~ the
26 enforcement officer] shall, in addition to imposing any other penalty
27 required or permitted by this section, direct the commissioner of taxa-
28 tion and finance to permanently revoke the dealer's registration and not
29 permit the dealer to obtain a new registration.

30 (b) If the enforcement officer determines, after a hearing, that a
31 vending machine operator has violated this article three times within a
32 two year period, or four or more times cumulatively [~~he or she~~ they]
33 shall, in addition to imposing any other penalty required or permitted
34 by this section, direct the commissioner of taxation and finance to
35 suspend the vendor's registration for one year and not permit the vendor
36 to obtain a new registration for such period.

37 § 7. Subdivision 1 of section 1399-ff of the public health law, as
38 amended by chapter 100 of the laws of 2019, is amended to read as
39 follows:

40 1. Where a civil penalty for a particular incident has not been
41 imposed or an enforcement action regarding an alleged violation for a
42 particular incident is not pending under section thirteen hundred nine-
43 ty-nine-ee of this article, a parent or guardian of a person under twen-
44 ty-one years of age to whom tobacco products, herbal cigarettes [~~or~~
45 ~~electronic cigarettes~~], or vapor products are sold or distributed in
46 violation of this article may submit a complaint to an enforcement offi-
47 cer setting forth the name and address of the alleged violator, the date
48 of the alleged violation, the name and address of the complainant and
49 the person under twenty-one years of age, and a brief statement describ-
50 ing the alleged violation. The enforcement officer shall notify the
51 alleged violator by certified or registered mail, return receipt
52 requested, that a complaint has been submitted, and shall set a date, at
53 least fifteen days after the mailing of such notice, for a hearing on
54 the complaint. Such notice shall contain the information submitted by
55 the complainant.

§ 8. Subdivision 1 of section 1399-gg of the public health law, as amended by chapter 513 of the laws of 2004, is amended to read as follows:

1. All tobacco cigarettes or vapor products sold or offered for sale by a retail dealer shall be sold or offered for sale in the package, box, carton or other container provided by the manufacturer, importer, or packager which bears all health warnings required by applicable law.

§ 9. The opening paragraph and subdivision 3 of section 1399-hh of the public health law, as amended by section 8 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco ~~[use, and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ and vapor product use particularly among persons less than twenty-one years of age. This program shall include, but not be limited to, support for enforcement of this article.

3. Monies made available to enforcement officers pursuant to this section shall only be used for local tobacco and vapor product~~[, intended or reasonably expected to be used with or for the consumption of nicotine,]~~ enforcement activities approved by the commissioner.

§ 10. Subdivision 2 of section 1399-ii of the public health law, as amended by section 12 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

2. The department shall support tobacco and vapor product use prevention and control activities including, but not limited to:

(a) Community programs to prevent and reduce tobacco use through local involvement and partnerships;

(b) School-based programs to prevent and reduce tobacco use and use of vapor products;

(c) Marketing and advertising to discourage tobacco and vapor product ~~[and liquid nicotine]~~ use;

(d) Nicotine cessation programs for youth and adults;

(e) Special projects to reduce the disparities in smoking prevalence among various populations;

(f) Restriction of youth access to tobacco products and vapor products;

(g) Surveillance of smoking and vaping rates; and

(h) Any other activities determined by the commissioner to be necessary to implement the provisions of this section.

Such programs shall be selected by the commissioner through an application process which takes into account whether a program utilizes methods recognized as effective in reducing ~~[nicotine]~~ tobacco or vapor product use. Eligible applicants may include, but not be limited to, a health care provider, schools, a college or university, a local public health department, a public health organization, a health care provider organization, association or society, municipal corporation, or a professional education organization.

§ 11. Section 1399-ii-1 of the public health law, as added by section 11 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

§ 1399-ii-1. ~~[Electronic cigarette and vaping]~~ Vapor product prevention, awareness and control program. The commissioner shall, in consultation and collaboration with the commissioner of education, establish and develop ~~[an electronic cigarette and vaping]~~ a vapor product prevention, control and awareness program within the department. Such program shall be designed to educate students, parents and school

1 personnel about the health risks associated with vapor product use and
2 control measures to reduce the prevalence of vaping, particularly among
3 persons less than twenty-one years of age. Such program shall include,
4 but not be limited to, the creation of age-appropriate instructional
5 tools and materials that may be used by all schools, and marketing and
6 advertising materials to discourage [~~electronic cigarette~~] vapor product
7 use.

8 § 12. Subdivisions 1, 2 and 3 of section 1399-jj of the public health
9 law, as amended by section 9 of part EE of chapter 56 of the laws of
10 2020, are amended to read as follows:

11 1. The commissioner shall evaluate the effectiveness of the efforts by
12 state and local governments to reduce the use of tobacco products and
13 vapor products[~~, intended or reasonably expected to be used with or for~~
14 ~~the consumption of nicotine,~~] among minors and adults. The principal
15 measurements of effectiveness shall include negative attitudes toward
16 tobacco and vapor products[~~, intended or reasonably expected to be used~~
17 ~~with or for the consumption of nicotine,~~] use and reduction of tobacco
18 and vapor products[~~, intended or reasonably expected to be used with or~~
19 ~~for the consumption of nicotine,~~] use among the general population, and
20 given target populations.

21 2. The commissioner shall ensure that, to the extent practicable, the
22 most current research findings regarding mechanisms to reduce and change
23 attitudes toward tobacco and vapor products[~~, intended or reasonably~~
24 ~~expected to be used with or for the consumption of nicotine,~~] use are
25 used in tobacco and vapor product[~~, intended or reasonably expected to~~
26 ~~be used with or for the consumption of nicotine,~~] education programs
27 administered by the department.

28 3. To diminish tobacco and vapor product[~~, intended or reasonably~~
29 ~~expected to be used with or for the consumption of nicotine,~~] use among
30 minors and adults, the commissioner shall ensure that, to the extent
31 practicable, the following is achieved: The department shall conduct an
32 independent evaluation of the statewide tobacco use prevention and
33 control program under section thirteen hundred ninety-nine-ii of this
34 article. The purpose of this evaluation is to direct the most efficient
35 allocation of state resources devoted to tobacco and vapor product[~~,~~
36 ~~intended or reasonably expected to be used with or for the consumption~~
37 ~~of nicotine~~], education and cessation to accomplish the maximum
38 prevention and reduction of tobacco and vapor product[~~, intended or~~
39 ~~reasonably expected to be used with or for the consumption of nicotine,~~]
40 use among minors and adults. Such evaluation shall be provided to the
41 governor, the majority leader of the senate and the speaker of the
42 assembly on or before September first, two thousand one, and annually on
43 or before such date thereafter. The comprehensive evaluation design
44 shall be guided by the following:

45 (a) sound evaluation principles including, to the extent feasible,
46 elements of controlled experimental methods;

47 (b) an evaluation of the comparative effectiveness of individual
48 program designs which shall be used in funding decisions and program
49 modifications; and

50 (c) an evaluation of other programs identified by state agencies,
51 local lead agencies, and federal agencies.

52 § 13. The opening paragraph and subdivision 2 of section 1399-kk of
53 the public health law, as amended by section 10 of part EE of chapter 56
54 of the laws of 2020, are amended to read as follows:

55 The commissioner shall submit to the governor and the legislature an
56 interim tobacco control report and annual tobacco control reports which

1 shall describe the extent of the use of tobacco products and vapor
2 products[~~, intended or reasonably expected to be used with or for the~~
3 ~~consumption of nicotine,~~] by those under twenty-one years of age in the
4 state and document the progress state and local governments have made in
5 reducing such use among those under twenty-one years of age.

6 2. The commissioner shall submit to the governor and the legislature
7 an annual tobacco and vapor products[~~, intended or reasonably expected~~
8 ~~to be used with or for the consumption of nicotine,~~] control report
9 which shall describe the extent of the use of tobacco products and vapor
10 products[~~, intended or reasonably expected to be used with or for the~~
11 ~~consumption of nicotine,~~] by those under twenty-one years of age in the
12 state and document the progress state and local governments have made in
13 reducing such use among those under twenty-one years of age. The annual
14 report shall be submitted to the governor and the legislature on or
15 before March thirty-first of each year beginning on March thirty-first,
16 nineteen hundred ninety-nine. The annual report shall, to the extent
17 practicable, include the following information on a county by county
18 basis:

19 (a) number of licensed and registered tobacco retailers and vendors
20 and licensed vapor products dealers;

21 (b) the names and addresses of retailers and vendors who have paid
22 fines, or have been otherwise penalized, due to enforcement actions;

23 (c) the number of complaints filed against licensed and registered
24 tobacco retailers and licensed vapor products dealers;

25 (d) the number of fires caused or believed to be caused by tobacco
26 products and vapor products[~~, intended or reasonably expected to be used~~
27 ~~with or for the consumption of nicotine,~~] and deaths and injuries
28 resulting therefrom;

29 (e) the number and type of compliance checks conducted;

30 (f) a survey of attitudes and behaviors regarding tobacco use among
31 those under twenty-one years of age. The initial such survey shall be
32 deemed to constitute the baseline survey;

33 (g) the number of tobacco and vapor product[~~, intended or reasonably~~
34 ~~expected to be used with or for the consumption of nicotine,~~] users and
35 estimated trends in tobacco and vapor product[~~, intended or reasonably~~
36 ~~expected to be used with or for the consumption of nicotine,~~] use among
37 those under twenty-one years of age;

38 (h) annual tobacco and vapor product[~~, intended or reasonably expected~~
39 ~~to be used with or for the consumption of nicotine,~~] sales;

40 (i) tax revenue collected from the sale of tobacco products and vapor
41 products[~~, intended or reasonably expected to be used with or for the~~
42 ~~consumption of nicotine,~~];

43 (j) the number of licensed tobacco retail outlets and licensed vapor
44 products dealers;

45 (k) the number of cigarette vending machines;

46 (l) the number and type of compliance checks;

47 (m) the names of entities that have paid fines due to enforcement
48 actions; and

49 (n) the number of complaints filed against licensed tobacco retail
50 outlets and licensed vapor products dealers.

51 The annual tobacco and vapor product[~~, intended or reasonably expected~~
52 ~~to be used with or for the consumption of nicotine,~~] control report
53 shall, to the extent practicable, include the following information:

54 (a) tobacco and vapor product[~~, intended or reasonably expected to be~~
55 ~~used with or for the consumption of nicotine,~~] control efforts sponsored
56 by state government agencies including money spent to educate those

1 under twenty-one years of age on the hazards of tobacco and vapor prod-
2 uct[~~, intended or reasonably expected to be used with or for the~~
3 ~~consumption of nicotine,~~] use;

4 (b) recommendations for improving tobacco and vapor product[~~, intended~~
5 ~~or reasonably expected to be used with or for the consumption of nico-~~
6 ~~tine,~~] control efforts in the state; and

7 (c) such other information as the commissioner deems appropriate.

8 § 14. Subdivisions 1-a, 2, 3, 4, 5 and 6 of section 1399-11 of the
9 public health law, subdivisions 2, 3, 4, 5 and 6 as amended and subdivi-
10 sion 1-a as added by section 3 of part EE of chapter 56 of the laws of
11 2020, are amended to read as follows:

12 1-a. It shall be unlawful for any person engaged in the business of
13 selling vapor products to ship or cause to be shipped any vapor products
14 [~~intended or reasonably expected to be used with or for the consumption~~
15 ~~of nicotine~~] to any person in this state who is not: (a) a person that
16 receives a certificate of registration as a vapor products dealer under
17 article [~~twenty-eight-C~~] twenty-eight-C of the tax law; (b) an export
18 warehouse proprietor pursuant to chapter 52 of the internal revenue code
19 or an operator of a customs bonded warehouse pursuant to section 1311 or
20 1555 of title 19 of the United States Code; or (c) a person who is an
21 officer, employee or agent of the United States government, this state
22 or a department, agency, instrumentality or political subdivision of the
23 United States or this state and presents [~~himself or herself~~] themselves
24 as such, when such person is acting in accordance with [~~his or her~~]
25 their official duties. For purposes of this subdivision, a person is a
26 licensed or registered agent or dealer described in paragraph (a) of
27 this subdivision if [~~his or her~~] their name appears on a list of
28 licensed or registered agents or vapor product dealers published by the
29 department of taxation and finance, or if such person is licensed or
30 registered as an agent or dealer under article [~~twenty-eight-C~~] twenty-
31 eight-C of the tax law.

32 2. It shall be unlawful for any common or contract carrier to knowing-
33 ly transport cigarettes to any person in this state reasonably believed
34 by such carrier to be other than a person described in paragraph (a),
35 (b) or (c) of subdivision one of this section. For purposes of the
36 preceding sentence, if cigarettes are transported to a home or resi-
37 dence, it shall be presumed that the common or contract carrier knew
38 that such person was not a person described in paragraph (a), (b) or (c)
39 of subdivision one of this section. It shall be unlawful for any other
40 person to knowingly transport cigarettes to any person in this state,
41 other than to a person described in paragraph (a), (b) or (c) of subdivi-
42 sion one of this section. Nothing in this subdivision shall be
43 construed to prohibit a person other than a common or contract carrier
44 from transporting not more than eight hundred cigarettes at any one time
45 to any person in this state. It shall be unlawful for any common or
46 contract carrier to knowingly transport vapor products [~~intended or~~
47 ~~reasonably expected to be used with or for the consumption of nicotine~~]
48 to any person in this state reasonably believed by such carrier to be
49 other than a person described in paragraph (a), (b) or (c) of subdivi-
50 sion one-a of this section. For purposes of the preceding sentence, if
51 vapor products [~~intended or reasonably expected to be used with or for~~
52 ~~the consumption of nicotine~~] are transported to a home or residence, it
53 shall be presumed that the common or contract carrier knew that such
54 person was not a person described in paragraph (a), (b) or (c) of subdivi-
55 sion one-a of this section. It shall be unlawful for any other person
56 to knowingly transport vapor products [~~intended or reasonably expected~~

1 ~~to be used with or for the consumption of nicotine~~] to any person in
2 this state, other than to a person described in paragraph (a), (b) or
3 (c) of subdivision one of this section. Nothing in this subdivision
4 shall be construed to prohibit a person other than a common or contract
5 carrier from transporting vapor products, provided that the amount of
6 vapor products ~~[intended or reasonably expected to be used with or for~~
7 ~~the consumption of nicotine]~~ shall not exceed the lesser of 500 millili-
8 ters, or a total nicotine content of 3 grams at any one time to any
9 person in this state.

10 3. When a person engaged in the business of selling cigarettes ships
11 or causes to be shipped any cigarettes to any person in this state,
12 other than in the cigarette manufacturer's original container or wrap-
13 ping, the container or wrapping must be plainly and visibly marked with
14 the word "cigarettes". When a person engaged in the business of selling
15 vapor products ships or causes to be shipped any vapor products
16 ~~[intended or reasonably expected to be used with or for the consumption~~
17 ~~of nicotine]~~ to any person in this state, other than in the vapor
18 products manufacturer's original container or wrapping, the container or
19 wrapping must be plainly and visibly marked with the words "vapor
20 products".

21 4. Whenever a police officer designated in section 1.20 of the crimi-
22 nal procedure law or a peace officer designated in subdivision four of
23 section 2.10 of such law, acting pursuant to ~~[his or her]~~ their special
24 duties, shall discover any cigarettes or vapor products ~~[intended or~~
25 ~~reasonably expected to be used with or for the consumption of nicotine]~~
26 which have been or which are being shipped or transported in violation
27 of this section, such person is hereby empowered and authorized to seize
28 and take possession of such cigarettes or vapor products ~~[intended or~~
29 ~~reasonably expected to be used with or for the consumption of nicotine]~~,
30 and such cigarettes or vapor products ~~[intended or reasonably expected~~
31 ~~to be used with or for the consumption of nicotine]~~ shall be subject to
32 a forfeiture action pursuant to the procedures provided for in article
33 thirteen-A of the civil practice law and rules, as if such article
34 specifically provided for forfeiture of cigarettes or vapor products
35 ~~[intended or reasonably expected to be used with or for the consumption~~
36 ~~of nicotine]~~ seized pursuant to this section as a pre-conviction forfei-
37 ture crime.

38 5. Any person who violates the provisions of subdivision one, one-a,
39 or two of this section shall be guilty of a class A misdemeanor and for
40 a second or subsequent violation shall be guilty of a class E felony. In
41 addition to the criminal penalty, any person who violates the provisions
42 of subdivision one, one-a, two or three of this section shall be subject
43 to a civil penalty not to exceed the greater of (a) five thousand
44 dollars for each such violation; (b) one hundred dollars for each pack
45 of cigarettes shipped, caused to be shipped or transported in violation
46 of such subdivision; or (c) one hundred dollars for each vapor product
47 ~~[intended or reasonably expected to be used with or for the consumption~~
48 ~~of nicotine]~~ shipped, caused to be shipped or transported in violation
49 of such subdivision.

50 6. The attorney general may bring an action to recover the civil
51 penalties provided by subdivision five of this section and for such
52 other relief as may be deemed necessary. In addition, the corporation
53 counsel of any political subdivision that imposes a tax on cigarettes or
54 vapor products ~~[intended or reasonably expected to be used with or for the~~
55 ~~consumption of nicotine]~~ may bring an action to recover the civil penal-
56 ties provided by subdivision five of this section and for such other

1 relief as may be deemed necessary with respect to any cigarettes or
2 vapor products [~~intended or reasonably expected to be used with or for~~
3 ~~the consumption of nicotine~~] shipped, caused to be shipped or trans-
4 ported in violation of this section to any person located within such
5 political subdivision. All civil penalties obtained in any such action
6 shall be retained by the state or political subdivision bringing such
7 action, provided that no person shall be required to pay civil penalties
8 to both the state and a political subdivision with respect to the same
9 violation of this section.

10 § 15. Paragraph (a) of subdivision 2 of section 1399-mm of the public
11 health law, as added by chapter 549 of the laws of 2003, is amended to
12 read as follows:

13 (a) The provisions of subdivision one of this section shall not apply
14 to a tobacco business, as defined in subdivision eight of section thir-
15 teen hundred [~~ninety-nine-n~~] ninety-nine-aa of this [~~chapter~~] article.

16 § 16. Section 1399-mm-1 of the public health law, as added by section
17 1 of part EE of chapter 56 of the laws of 2020, is amended to read as
18 follows:

19 § 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes
20 of this section "flavored" shall mean any vapor or tobacco product
21 [~~intended or reasonably expected to be used with or for the consumption~~
22 ~~of nicotine,~~] with a [~~distinguishable~~] taste [~~or~~], aroma, or sensation,
23 distinguishable by an ordinary consumer, other than the taste or aroma
24 of tobacco, imparted either prior to or during consumption of such prod-
25 uct or a component part thereof, including but not limited to tastes or
26 aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa,
27 dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice,
28 or any concept flavor that imparts a taste or aroma that is distinguish-
29 able from tobacco flavor but may not relate to any particular known
30 flavor, or a cooling or numbing sensation imparted during consumption of
31 a tobacco or vapor product. This shall not include any product approved
32 by the United States Food and Drug Administration as a drug or medical
33 device. A vapor or tobacco product [~~intended or reasonably expected to~~
34 ~~be used with or for the consumption of nicotine,~~] shall be presumed to
35 be flavored if a product's packaging or labeling, or if the product's
36 retailer, manufacturer, or a manufacturer's agent or employee, has made
37 a statement or claim directed to consumers or the public, whether
38 expressed or implied, that such product or device has a [~~distinguish-~~
39 ~~able~~] taste [~~or~~], aroma, or sensation, as distinguishable by the ordi-
40 nary consumer, other than the taste [~~or~~], aroma, or sensation of tobac-
41 co.

42 2. No vapor products dealer, or retail dealer, or tobacco or vapor
43 seller, or any agent or employee of a vapor products dealer, retail
44 dealer, or a tobacco or vapor seller, shall sell or offer for sale [~~at~~
45 ~~retail in the state~~], or exchange or offer for exchange, for any form of
46 consideration, any flavored vapor or tobacco product [~~intended or~~
47 ~~reasonably expected to be used with or for the consumption of nicotine~~],
48 whether through retail or wholesale.

49 3. No vapor products dealer, retail dealer, or tobacco or vapor sell-
50 er or any agent or employee of a vapor products dealer, retail dealer,
51 or tobacco or vapor seller, acting in the capacity thereof, shall keep
52 in inventory, store, stow, warehouse, process, package, ship, or
53 distribute flavored vapor or tobacco products anywhere in, or adjacent
54 to, a place of business where vapor or tobacco products are sold,
55 offered for sale, exchanged, or offered for exchange, for any form of
56 consideration, at retail.

1 4. Any vapor products dealer, retail dealer, or tobacco or vapor sell-
2 er, or any agent or employee of a vapor products dealer, retail dealer,
3 or tobacco or vapor seller, who violates the provisions of this section
4 shall be subject to a civil penalty of not more than one hundred dollars
5 for each individual package of flavored vapor or tobacco product
6 [intended or reasonably expected to be used with or for the consumption
7 of nicotine sold or offered for sale, provided, however, that with
8 respect to a manufacturer, it shall be an affirmative defense to a find-
9 ing of violation pursuant to this section that such sale or offer of
10 sale, as applicable, occurred without the knowledge, consent, authori-
11 zation, or involvement, direct or indirect, of such manufacturer] sold
12 or offered for sale, or exchanged or offered for exchange, for any form
13 of consideration, whether through retail or wholesale, or kept in inven-
14 tory, stored, stowed, warehoused, processed, packaged, shipped, or
15 distributed anywhere in, or adjacent to, a place of business where vapor
16 or tobacco products are sold, offered for sale, exchanged, or offered
17 for exchange, for any form of consideration, at retail. Violations of
18 the provisions of this section shall be enforced pursuant to [~~section~~]
19 sections thirteen hundred ninety-nine-ff and thirteen hundred ninety-
20 nine-ee of this article, [~~except that any~~] provided, however, that
21 violations of the provisions of this section may also be enforced by the
22 commissioner. Any person may submit a complaint to an enforcement offi-
23 cer that a violation of this section has occurred.

24 [~~4. The provisions of this section shall not apply to any vapor~~
25 ~~products dealer, or any agent or employee of a vapor products dealer,~~
26 ~~who sells or offers for sale, or who possess with intent to sell or~~
27 ~~offer for sale, any flavored vapor product intended or reasonably~~
28 ~~expected to be used with or for the consumption of nicotine that the~~
29 ~~U.S. Food and Drug Administration has authorized to legally market as~~
30 ~~defined under 21 U.S.C. § 387j and that has received a premarket review~~
31 ~~approval order under 21 U.S.C. § 387j(e) et seq.~~] 5. Nothing in this
32 section shall be construed to penalize the purchase, use, or possession
33 of a tobacco product or vapor product by any person not engaged as a
34 vapor products dealer, retail dealer, tobacco or vapor seller, or any
35 agent or employee of a vapor products dealer, retail dealer, or tobacco
36 or vapor seller.

37 § 17. Subdivision 1 of section 1399-mm-2 of the public health law, as
38 added by section 1 of part EE of chapter 56 of the laws of 2020, is
39 amended to read as follows:

40 1. No tobacco product, herbal cigarette, or vapor product [~~intended or~~
41 ~~reasonably expected to be used with or for the consumption of nicotine,~~]
42 shall be sold in a pharmacy or in a retail establishment that contains a
43 pharmacy operated as a department as defined by paragraph f of subdivi-
44 sion two of section sixty-eight hundred eight of the education law.
45 Provided, however, that such prohibition on the sale of tobacco
46 products, herbal cigarettes, or vapor products [~~intended or reasonably~~
47 ~~expected to be used with or for the consumption of nicotine,~~] shall not
48 apply to any other business that owns or leases premises within any
49 building or other facility that also contains a pharmacy or a retail
50 establishment that contains a pharmacy operated as a department as
51 defined by paragraph f of subdivision two of section sixty-eight hundred
52 eight of the education law.

53 § 18. Subdivision 1 of section 1399-mm-3 of the public health law, as
54 added by section 1 of part EE of chapter 56 of the laws of 2020, is
55 amended to read as follows:

1 1. For the purposes of this section "carrier oils" shall mean any
2 ingredient of a vapor product intended to control the consistency or
3 other physical characteristics of such vapor product, to control the
4 consistency or other physical characteristics of vapor, or to facilitate
5 the production of vapor when such vapor product is used in an electronic
6 [~~cigarette~~] device. "Carrier oils" shall not include any product
7 approved by the United States [~~food and drug administration~~] Food and
8 Drug Administration as a drug or medical device or manufactured and
9 dispensed pursuant to title five-A of article thirty-three of this chap-
10 ter.

11 § 19. This act shall take effect September 1, 2023.

12 PART P

13 Section 1. The public health law is amended by adding a new section
14 2825-h to read as follows:

15 § 2825-h. Health care facility transformation program: statewide V.
16 1. A statewide health care facility transformation program is hereby
17 established within the department for the purpose of transforming, rede-
18 signing, and strengthening quality health care services in alignment
19 with statewide and regional health care needs, and in the ongoing
20 pandemic response. The program shall also provide funding, subject to
21 lawful appropriation, in support of capital projects that facilitate
22 furthering such transformational goals.

23 2. The commissioner shall enter into an agreement with the president
24 of the dormitory authority of the state of New York pursuant to section
25 sixteen hundred eighty-r of the public authorities law, which shall
26 apply to this agreement, subject to the approval of the director of the
27 division of the budget, for the purposes of the distribution and admin-
28 istration of available funds pursuant to such agreement, and made avail-
29 able pursuant to this section and appropriation. Such funds may be
30 awarded and distributed by the department for grants to health care
31 providers including but not limited to, hospitals, residential health
32 care facilities, adult care facilities licensed under title two of arti-
33 cle seven of the social services law, diagnostic and treatment centers
34 licensed or granted an operating certificate under this chapter, clin-
35 ics, including but not limited to those licensed or granted an operating
36 certificate under this chapter or the mental hygiene law, children's
37 residential treatment facilities licensed under article thirty-one of
38 the mental hygiene law, assisted living programs approved by the depart-
39 ment pursuant to section four hundred sixty-one-1 of the social services
40 law, behavioral health facilities licensed or granted an operating
41 certificate pursuant to articles thirty-one and thirty-two of the mental
42 hygiene law, home care providers certified or licensed under article
43 thirty-six of this chapter, primary care providers, hospices licensed or
44 granted an operating certificate pursuant to article forty of this chap-
45 ter, community-based programs funded under the office of mental health,
46 the office of addiction services and supports, the office for people
47 with developmental disabilities, or through local governmental units as
48 defined under article forty-one of the mental hygiene law, independent
49 practice associations or organizations, and residential facilities or
50 day program facilities licensed or granted an operating certificate
51 under article sixteen of the mental hygiene law. A copy of such agree-
52 ment, and any amendments thereto, shall be provided by the department to
53 the chair of the senate finance committee, the chair of the assembly
54 ways and means committee, and the director of the division of the budget

1 no later than thirty days after such agreement is finalized. Projects
2 awarded, in whole or part, under sections twenty-eight hundred twenty-
3 five-a and twenty-eight hundred twenty-five-b of this article shall not
4 be eligible for grants or awards made available under this section.

5 3. Notwithstanding section one hundred sixty-three of the state
6 finance law, sections one hundred forty-two and one hundred forty-three
7 of the economic development law, or any inconsistent provision of law to
8 the contrary, up to five hundred million dollars of the funds appropri-
9 ated for this program shall be awarded, without a competitive bid or
10 request for proposal process, for grants to health care providers, as
11 defined in subdivision two of this section. Awards made pursuant to this
12 subdivision shall provide funding only for capital projects, to the
13 extent lawful appropriation and funding is available, to build innova-
14 tive, patient-centered models of care, increase access to care, to
15 improve the quality of care and to ensure financial sustainability of
16 health care providers.

17 4. Notwithstanding section one hundred sixty-three of the state
18 finance law, sections one hundred forty-two and one hundred forty-three
19 of the economic development law, or any inconsistent provision of law to
20 the contrary, up to five hundred million dollars of the funds appropri-
21 ated for this program shall be awarded, without a competitive bid or
22 request for proposal process, for technological and telehealth transfor-
23 mation projects.

24 5. Selection of awards made by the department pursuant to subdivisions
25 three and four of this section shall be contingent on an evaluation
26 process acceptable to the commissioner and approved by the director of
27 the division of the budget. Disbursement of awards may be contingent on
28 the health care provider as defined in subdivision two of this section
29 achieving certain process and performance metrics and milestones that
30 are structured to ensure that the goals of the project are achieved.

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

42 § 2. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after April 1, 2023.

44 PART Q

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

47 (kk) community health worker services for children under age twenty-
48 one, and for adults with health-related social needs, when such services
49 are recommended by a physician or other health care practitioner author-
50 ized under title eight of the education law, and provided by qualified
51 community health workers, as determined by the commissioner of health;
52 provided, however, that the provisions of this paragraph shall not take
53 effect unless all necessary approvals under federal law and regulation
54 have been obtained to receive federal financial participation in the

costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

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

(C) [~~individual psychotherapy~~] services provided by licensed social workers, licensed mental health counselors and licensed marriage and family therapists, in accordance with licensing criteria set forth in applicable regulations[~~, to persons under the age of twenty-one and to persons requiring such services as a result of or related to pregnancy or giving birth~~]; and

§ 3. This act shall take effect January 1, 2024.

PART R

Section 1. Subdivision 2 of section 365-a of the social services law is amended by adding two new paragraphs (kk) and (ll) to read as follows:

(kk) care and services of nutritionists and dietitians certified pursuant to article one hundred fifty-seven of the education law acting within their scope of practice.

(ll) Chronic Disease Self-Management Program for persons diagnosed with arthritis when such services are ordered by a physician, registered physician's assistant, registered nurse practitioner, or licensed midwife and provided by qualified educators, as determined by the commissioner of health, who is affiliated with an organization delivering the program under Self-Management Resource Center licensure, or a successor national organization, provided, however, that the provisions of this paragraph shall not apply unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

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

(A) services provided in accordance with the provisions of paragraphs (q) [~~and~~], (r), and (ll) of subdivision two of section three hundred sixty-five-a of the social services law; and

§ 3. This act shall take effect July 1, 2023; provided, however, that paragraph (ll) of subdivision 2 of section 365-a of the social services law added by section one of this act and section two of this act, shall take effect October 1, 2023.

PART S

Section 1. Subdivision 1 of section 3001 of the public health law, as amended by chapter 804 of the laws of 1992, is amended to read as follows:

1. "Emergency medical service" means [~~initial emergency medical assistance including, but not limited to, the treatment of trauma,~~

~~burns, respiratory, circulatory and obstetrical emergencies]~~ a coordinated system of healthcare delivery that responds to the needs of sick and injured adults and children, by providing: essential care at the scene of an emergency, non-emergency, specialty need or public event; community education and prevention programs; mobile integrated health-care programs; ground and air ambulance services; centralized access and emergency medical dispatch; training for emergency medical services practitioners; medical first response; mobile trauma care systems; mass casualty management; medical direction; or quality control and system evaluation procedures.

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

1-a. The state emergency medical services council shall advise and assist the commissioner on such issues as the commissioner may require related to the provision of emergency medical service, specialty care, designated facility care, and disaster medical care. This shall include, but shall not be limited to, the recommendation, periodic revision, and application of rules and regulations, appropriateness review standards, treatment protocols, workforce development, and quality improvement standards. The state emergency medical services council shall meet at least three times per year or more frequently at the request of the chairperson or department and approved by the commissioner.

§ 2-a. Subdivision 1 of section 3002-a of the public health law, as amended by chapter 567 of the laws of 2011, is amended to read as follows:

1. There shall be a state emergency medical advisory committee of the state emergency medical services council consisting of thirty-one members. Twenty-three members shall be physicians appointed by the commissioner, including one ~~nominated by~~ member from each regional emergency medical services council, an additional physician from the city of New York, one pediatrician, one trauma surgeon, one ~~psychiatrist~~ physician at large and the chairperson. Each of the physicians shall have demonstrated knowledge and experience in emergency medical services. There shall be eight non-physician non-voting members appointed by the chairperson of the state council, at least five of whom shall be members of the state emergency medical services council at the time of their appointment. At least one of the eight shall be an emergency nurse, at least one shall be an advanced emergency medical technician, at least one shall be a basic emergency medical technician, and at least one shall be employed in a hospital setting with administrative responsibility for a hospital emergency department or service.

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

1-a. Each regional emergency medical services council shall advise the state emergency medical services council and department on such issues as the state emergency medical services council or department may require, related to the provision of emergency medical service, specialty care, designated facility care, and disaster medical care, and shall carry out duties to assist in the regional coordination of such, as outlined by the state emergency medical services council with approval of the department.

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

§ 3004. Emergency medical services system and agency performance standards. 1. The state emergency medical services council, in collaboration

1 and with final approval of the department, shall create an emergency
2 medical services system and agency performance standards (hereinafter
3 referred to as "performance standards") for the purpose of sustaining
4 and evolving a reliable emergency medical services system including but
5 not limited to emergency medical services agencies and any facility or
6 agency that dispatches or accepts emergency medical services resources.

7 2. The performance standards may include but shall not be limited to:
8 safety initiatives, emergency vehicle operations, operational competen-
9 cies, planning, training, onboarding, workforce development and engage-
10 ment, survey responses, leadership and other standards and metrics as
11 determined by the state emergency medical services council, with
12 approval of the department, to promote positive patient outcomes, safe-
13 ty, provider retention and emergency medical services system sustaina-
14 bility throughout the state.

15 3. The performance standards shall require each emergency medical
16 services agency, dispatch agency or facility that accepts emergency
17 medical services resources to perform regular and periodic review of the
18 performance standards and its metrics, perform surveys, identification
19 of agency deficiencies and strengths, development of programs to improve
20 agency metrics, strengthen system sustainability and operations, and
21 improve the delivery of patient care.

22 4. The department, after consultation with the state emergency medical
23 services council, may contract for services with subject matter experts
24 to assist in the oversight of the performance standards statewide.

25 5. Emergency medical services agencies that do not meet the perform-
26 ance standards set forth in this section may be subject to enforcement
27 actions, including but not limited to revocation, suspension, perform-
28 ance improvement plans, or restriction from specific types of response
29 including but not limited to suspension of ability to respond to
30 requests for emergency medical assistance or to perform emergency
31 medical services.

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

34 § 3018. Statewide comprehensive emergency medical service system plan.
35 1. The state emergency medical services council, in collaboration and
36 with final approval of the department, shall develop and maintain a
37 statewide comprehensive emergency medical service system plan that shall
38 provide for a coordinated emergency medical services system in New York
39 state, including but not limited to:

40 (a) establishing a comprehensive statewide emergency medical service
41 system, consisting of facilities, transportation, workforce, communi-
42 cations, and other components, to improve the delivery of emergency
43 medical services and thereby decrease morbidity, hospitalization, disa-
44 bility, and mortality;

45 (b) improving the accessibility of high-quality emergency medical
46 service;

47 (c) coordinating professional medical organizations, hospitals, and
48 other public and private agencies in developing alternative delivery
49 models whereby persons who are presently using the existing emergency
50 department for routine, nonurgent, and primary medical care will be
51 served appropriately; and

52 (d) conducting, promoting, and encouraging programs of education and
53 training designed to upgrade the knowledge and skills of emergency
54 medical service practitioners training throughout New York state with
55 emphasis on regions with limited access to emergency medical services
56 training.

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

6 3. Each regional emergency medical services council shall develop and
7 maintain a comprehensive regional emergency medical service system plan
8 or adopt the statewide comprehensive emergency medical service system
9 plan, to provide for a coordinated emergency medical service system
10 within the region. Such plans shall be written in a format approved by
11 the state emergency medical services council. Further, such plans shall
12 be subject to review and approval by the state emergency medical
13 services council and final approval by the department.

14 4. Each county shall develop and maintain a comprehensive county emer-
15 gency medical service system plan that shall provide for a coordinated
16 emergency medical service system within the county, to provide essential
17 emergency medical services for all residents within the county. Such
18 plan shall be written in a format approved by the state emergency
19 medical services council. The county office of emergency medical
20 services shall be responsible for the development, implementation, and
21 maintenance of the comprehensive county emergency medical service system
22 plan. Such plans, as determined by the department and the state emer-
23 gency medical services council, may require review and approval by the
24 regional emergency medical services council, the state emergency medical
25 services council and the department. Such plan shall outline the
26 primary responding emergency medical services agency for requests for
27 service for each part of the county.

28 § 6. The public health law is amended by adding a new section 3019 to
29 read as follows:

30 § 3019. Emergency medical service training programs. 1. The state
31 emergency medical services council shall make recommendations to the
32 department for the department to implement standards related to the
33 establishment of training programs for emergency medical service systems
34 that includes but is not limited to students, emergency medical service
35 practitioners, emergency medical services agencies, approved educational
36 institutions, geographic areas, facilities, and personnel, and the
37 commissioner shall fund such training programs in full or in part based
38 on state appropriations. Until such time as the department announces the
39 standards for training programs pursuant to this section, all current
40 standards, curriculums, and requirements for students, emergency medical
41 service practitioners, agencies, facilities, and personnel shall remain
42 in effect.

43 2. The state emergency medical services council, with final approval
44 of the department, shall establish minimum education standards, curric-
45 ulums, performance metrics and requirements for all emergency medical
46 system educational institutions. No person or educational institution
47 shall profess to provide emergency medical services training without
48 meeting the requirements set forth in regulation and only after approval
49 of the department and in the geographical area determined by the depart-
50 ment.

51 3. The department is authorized to provide, either directly or through
52 contract, for local or statewide initiatives, emergency medical system
53 training for emergency medical service practitioners and emergency
54 medical services agency personnel, using funding including but not
55 limited to allocations to aid to localities for emergency medical
56 services training.

1 4. The department may visit and inspect any emergency medical system
2 training program or training center operating under this article to
3 ensure compliance with all applicable regulations and standards. The
4 department may request the state or regional emergency medical services
5 council's assistance to ensure the compliance, maintenance, and coordi-
6 nation of training programs. The department, in consultation with the
7 state emergency medical services council, may set standards and regu-
8 lations for emergency medical services educational institutions. Emer-
9 gency medical services educational institutions that fail to meet appli-
10 cable standards and regulations may be subject to enforcement action,
11 including but not limited to revocation, suspension, performance
12 improvement plans, or restriction from specific types of education.

13 5. Students of an emergency medical services educational institution
14 authorized pursuant to this section, shall be considered emergency
15 medical services students and subject to the standards established in
16 this article, regulations promulgated pursuant to this article and all
17 applicable standards, as if they were a licensed emergency medical
18 services practitioner and may be subject to enforcement action as such.

19 § 7. Section 3012 of the public health law is amended by adding a new
20 subdivision 5 to read as follows:

21 5. It shall be a violation of this chapter, subject to civil penal-
22 ties, for any person to hold themselves out as an emergency medical
23 services practitioner who is not designated by the department pursuant
24 to this article or otherwise lawfully authorized, to provide emergency
25 medical services, or to attempt to become an emergency medical practi-
26 tioner in an unlawful or unethical manner.

27 § 8. The public health law is amended by adding a new section 3020 to
28 read as follows:

29 § 3020. Recruitment and retention. 1. The commissioner shall estab-
30 lish and fund within amounts appropriated, a public service campaign to
31 recruit additional personnel into the emergency medical system fields.

32 2. The commissioner shall establish and fund within amounts appropri-
33 ated an emergency medical system mental health and wellness program that
34 provides resources to emergency medical service practitioners.

35 3. The commissioner may establish in regulation standards for the
36 licensure of emergency medical services practitioners by the department
37 of health.

38 4. The department, with the approval of the state emergency medical
39 services council, may create or adopt additional standards, training,
40 and criteria to become an emergency medical service practitioner creden-
41 tialed to provide specialized, advanced, or other services that further
42 support or advance the emergency medical system. The department, with
43 approval of the state emergency medical services council may also set
44 standards and requirements to require specialized credentials to perform
45 certain functions in the emergency medical services system.

46 5. The department, with approval of the state emergency medical
47 services council may also set standards for emergency medical system
48 agencies to become accredited in a specific area to increase system
49 performance and agency recognition.

50 § 9. Section 3008 of the public health law is REPEALED and a new
51 section 3008 is added to read as follows:

52 § 3008. Applications for new or modified operating authority. 1. Every
53 application for new or modified operating authority shall be made in
54 writing to the state emergency medical services council and shall speci-
55 fy the primary territory within which the applicant requests to operate,
56 be verified under oath, and shall be in such form and contain such

1 information as required by the rules and regulations promulgated pursu-
2 ant to this article.

3 2. Notice of the application shall be forwarded to the appropriate
4 regional emergency medical services council.

5 3. All determinations of new or modified operating authority shall be
6 made by the state emergency medical services council and shall be
7 consistent with the state emergency medical system plan, once estab-
8 lished pursuant to section three thousand eighteen of this article. The
9 department may promulgate regulations to provide for standards for eval-
10 uation of new or modified operating authority, and the process for
11 determination of operating authority shall be approved by the state
12 emergency medical services council and carried out thereafter.

13 4. The state emergency medical services council may create a new
14 committee to hear and make determinations on all requests for new or
15 modified operating authority. Such committee shall be comprised of one
16 state emergency medical council member from each regional emergency
17 medical services council.

18 5. If the state emergency medical services council proposes to disap-
19 prove an application under this section, it shall afford the applicant
20 an opportunity to request a public hearing. The state emergency medical
21 services council may hold a public hearing on the application on its own
22 motion. Any public hearing held pursuant to this subdivision may be
23 conducted by the state emergency medical services council, or by any
24 individual designated by the state emergency medical services council.

25 6. Notwithstanding the provisions of subdivisions one and three of
26 this section, during an emergency the commissioner may waive the
27 requirement for a determination of operating authority and issue a
28 temporary emergency medical system agency certificate.

29 7. Notwithstanding the provisions of subdivisions one and three of
30 this section, the commissioner may waive the requirement for a determi-
31 nation of operating authority and issue a municipality, special taxing
32 district, government agency or Native American tribal council, an emer-
33 gency medical system agency certificate, provided the issuance of such
34 certificate is financially supported by the municipality, special taxing
35 district, government agency or Native American tribal council.

36 § 10. Section 3032 of the public health law is REPEALED.

37 § 11. The public health law is amended by adding six new sections
38 3032, 3033, 3034, 3035, 3036 and 3037 to read as follows:

39 § 3032. Mobile integrated healthcare. 1. "Mobile integrated health-
40 care" means the provision of patient-centered mobile resources which
41 includes a well-organized system of services to address healthcare gaps
42 and decrease demand on portions of the healthcare system identified by a
43 community needs assessment, integrated into the local healthcare system
44 working in a collaborative manner as a patient care team that may
45 include, but not limited to, physicians, mid-level practitioners, nurs-
46 es, home care agencies, emergency medical services practitioners, emer-
47 gency medical services agencies and other community health team
48 colleagues, to meet the needs of the community.

49 2. Emergency medical service agencies may establish a mobile inte-
50 grated healthcare program, provided they meet all standards established
51 by the department, that the delivery of such services in full or in part
52 will not decrease the agency's ability to respond to requests for emer-
53 gency assistance and the agency receives express approval from the
54 department. The department may revoke or suspend an emergency medical
55 service agency's approval to provide a mobile integrated healthcare
56 program if the department finds that one or more standards established

1 by the department have not been met. The department, in collaboration
2 with the state emergency medical services council, shall establish
3 criteria and standards for the operation of mobile integrated healthcare
4 programs and mobile integrated healthcare programs shall adhere to such
5 criteria and standards.

6 3. Notwithstanding sections sixty-five hundred twenty-one and sixty-
7 nine hundred two of the education law, an emergency medical services
8 practitioner, licensed pursuant to this article, shall be authorized to
9 administer immunizations pursuant to a patient specific or non-patient
10 specific standing regimen ordered by a licensed physician and pursuant
11 to protocols adopted by the state emergency medical services council and
12 any standards established by the department.

13 4. Notwithstanding sections sixty-five hundred twenty-one and sixty-
14 nine hundred two of the education law, an emergency medical services
15 practitioner, licensed pursuant to this article, may be authorized by
16 the department to administer buprenorphine pursuant to a non-patient
17 specific standing regimen ordered by a licensed physician and pursuant
18 to protocols adopted by the state emergency medical services council and
19 any standards established by the department.

20 § 3033. Regional emergency medical service district. 1. A "regional
21 emergency medical service district" means a special district as defined
22 in subdivision sixteen of section one hundred two of the real property
23 tax law created for the purpose of ensuring the essential services of
24 emergency medical care, coordinating the emergency medical system within
25 the district and providing when needed emergency medical services on a
26 regional basis either directly or through contract with but not limited
27 to towns, counties, municipalities, licensed ambulance and first
28 response agencies, air medical providers and others as determined by the
29 district council. There shall be ten regional service districts which
30 will correspond to economic development regions as established in
31 section two hundred thirty of the economic development law that are
32 established in all areas of the state and operate under the direction of
33 the department.

34 2. A group of five emergency medical service providers in each region,
35 with nominations made from anyone in the district and appointment by the
36 commissioner, shall act as a council to direct the operations of the
37 emergency medical services system in their region. No less than one
38 member of the council shall be a licensed physician who is board certi-
39 fied in emergency medicine or emergency medical services and has experi-
40 ence working with emergency medical services organizations, unless
41 otherwise determined by the commissioner. The department shall establish
42 term limits in regulation.

43 3. An emergency medical service practitioner, nominated by the
44 regional emergency medical service district council and appointed by the
45 commissioner, shall be the regional emergency medical service district
46 director and shall be charged with carrying out the administration of
47 the regional emergency medical service district when the council is not
48 in session.

49 4. A physician board certified in emergency medicine or emergency
50 medical services and who has experience working with emergency medical
51 services organizations, nominated by the regional emergency medical
52 service district council and appointed by the commissioner, shall be the
53 regional emergency medical services medical director. The regional emer-
54 gency medical services medical director shall report to the district
55 director or their designee, and shall be charged with providing medical

1 direction oversight and quality assurance to the regional emergency
2 medical service district.

3 5. The regional emergency medical services districts shall operate
4 under the direction and oversight of the department to ensure the emer-
5 gency medical services system is reliable, sustainable and provides
6 quality care to the residents, commuters and visitors of the district.

7 § 3034. State emergency medical services task force. 1. The department
8 shall develop a state emergency medical services (EMS) task force, oper-
9 ated by the department, that may coordinate and operate resources that
10 are needed around the state in situations such as but not limited to a
11 disaster, large event, specialized response, community need, or other
12 need as determined by the commissioner.

13 2. The state EMS task force shall be made up of non-government and
14 government agencies, that are licensed to provide emergency medical
15 services in the state including but not limited to commercial agencies,
16 nonprofits, fire departments and third services.

17 3. The department will allocate funds to effectuate the delivery of
18 the state EMS task force that will allow for contracting with licensed
19 emergency medical services agencies, the purchase of specialized
20 response equipment, staff to carry out the daily functions of the state
21 EMS task force either directly or by contract and other functions as
22 determined by the department.

23 4. The state emergency medical services council shall make recommenda-
24 tions to the department to effectuate the development and delivery of
25 care by the state EMS task force.

26 5. The state EMS task force shall have the authority to operate
27 throughout New York state or outside of the state with prior permission
28 of the commissioner. Notwithstanding any law to the contrary, contracts
29 let by the state EMS task force shall be exempt from sections one
30 hundred twelve and one hundred sixty-three of the state finance law.

31 § 3035. Demonstration projects. The department, in consultation with
32 the state emergency medical services council, may allow demonstration
33 projects related to the emergency medical system. Such demonstration
34 projects may allow for waivers of certain parts of this article, article
35 thirty-A of this chapter, and applicable regulations, provided the
36 demonstration project meets any applicable standards set forth by the
37 department.

38 § 3036. Emergency medical system support services. The commissioner
39 may promulgate regulations, with the approval of the state emergency
40 medical services council, to set standards and criteria for basic life
41 support first response agencies, emergency medical dispatch, and special
42 event services, to strengthen the emergency medical service system.
43 These organizations shall not be required to meet the standards set for
44 determination of operating authority as outlined in section three thou-
45 sand eight of this article unless otherwise determined by the state
46 emergency medical services council and approved by the department.

47 § 3037. Rules and regulations. The commissioner, upon approval of the
48 state emergency medical services council, may promulgate rules and regu-
49 lations to effectuate the purposes of this article.

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

52 11. A certified nurse practitioner may prescribe and order a non-pa-
53 tient specific regimen to an emergency medical services practitioner
54 licensed by the department of health pursuant to article thirty of the
55 public health law, pursuant to regulations promulgated by the commis-
56 sioner, and consistent with the public health law, for administering

1 immunizations. Nothing in this subdivision shall authorize unlicensed
2 persons to administer immunizations, vaccines or other drugs.

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

5 11. A licensed physician may prescribe and order a non-patient specif-
6 ic regimen to an emergency medical services practitioner licensed by the
7 department of health pursuant to article thirty of the public health
8 law, pursuant to regulations promulgated by the commissioner, and
9 consistent with the public health law, for administering immunizations.
10 Nothing in this subdivision shall authorize unlicensed persons to admin-
11 ister immunizations, vaccines or other drugs.

12 § 14. This act shall take effect immediately; provided, however, that
13 section 3033 of the public health law, as added by section eleven of
14 this act, shall take effect on the ninetieth day after it shall have
15 become a law.

16 PART T

17 Section 1. The public health law is amended by adding a new section
18 1377 to read as follows:

19 § 1377. State rental registry and proactive inspections to identify
20 lead hazards. 1. The department shall develop a registry for all resi-
21 dential dwellings with two or more units built prior to nineteen hundred
22 eighty which, by virtue of their municipal zoning designation, are
23 potentially eligible for rental, lease, let or hiring out, and are
24 located within communities of concern as identified by the department.
25 Such registry shall only include qualifying residential dwellings
26 outside New York city.

27 2. All residential dwellings qualifying for registration in accord
28 with this section must be certified as free of lead paint hazards based
29 on inspections conducted on a tri-annual basis. Inspection certif-
30 ications must be submitted to the local health department or their
31 designee for recording in the rental registry.

32 3. The commissioner shall promulgate regulations as needed to adminis-
33 ter, coordinate, and enforce this section, including the establishment
34 of fines to be levied in the event of non-compliance with the require-
35 ments of this section.

36 4. Inspection requirements shall be based on regulation and guidance
37 from the department and may include qualifications for inspectors, mini-
38 mum requirements of a compliant inspection and a process for reporting
39 inspection results to local health departments. Minimum inspection
40 requirements may include visual inspections for deteriorated paint and
41 outdoor soil conditions, as well as the collection of dust wipe samples
42 obtained in accordance with United States Environmental Protection Agen-
43 cy protocols for such procedures.

44 5. Remediation of lead-based paint hazards must be conducted in
45 compliance with all municipal requirements and specific requirements
46 specified in regulation.

47 § 2. Paragraphs h and i of subdivision 1 of section 381 of the execu-
48 tive law, as added by chapter 560 of the laws of 2010, are amended and a
49 new paragraph j is added to read as follows:

50 h. minimum basic training and in-service training requirements for
51 personnel charged with administration and enforcement of the state ener-
52 gy conservation construction code; ~~and~~

i. standards and procedures for measuring the rate of compliance with the state energy conservation construction code, and provisions requiring that such rate of compliance be measured on an annual basis[~~redacted~~]; and

j. procedures requiring the documentation of compliance with regulations adopted pursuant to section thirteen hundred seventy-seven of the public health law as a condition to issuance of a certificate of occupancy or certificate of compliance following a periodic fire safety and property maintenance inspection for multiple dwellings.

§ 3. This act shall take effect immediately; provided, however, section one of this act shall take effect eighteen months after it shall have become a law; and provided further, however, section two of this act shall take effect two years after it shall have become a law. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the timely implementation of this act on or before its effective date are authorized to be made and completed on or before such effective date.

PART U

Section 1. The general business law is amended by adding a new section 394-f to read as follows:

§ 394-f. Warrants for reproductive health related electronic data. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system; provided, however, such term shall not include:

i. any telephonic or telegraphic communication.
ii. any communication made through a tone only paging device.
iii. any communication made through a tracking device consisting of an electronic or mechanical device which permits the tracking of the movement of a person or object.

iv. any communication that is disseminated by the sender through a method of transmission that is configured so that such communication is readily accessible to the public.

b. "Electronic communication services" means any service which provides to users thereof the ability to send or receive wire or electronic communications.

c. "Prohibited violation" means any civil or criminal offense defined under the laws of another state that creates civil or criminal liability or any theory of vicarious, joint, several or conspiracy liability for, in whole or in part based on or arising out of, either of the following, unless such out-of-state proceeding i. sounds in tort or contract; ii. is actionable, in an equivalent or similar manner, under the laws of this state; or iii. was brought by the patient who received reproductive health care, or the patient's legal representative:

(1) providing, facilitating, or obtaining reproductive health care services that are lawful under New York law; or

(2) intending or attempting to provide, facilitate, or obtain reproductive health care services that are lawful under New York law.

d. "Reproductive health care services" means any services related to the performance or aiding within the performance of an abortion performed within this state that is performed in accordance with the applicable law of this state, ending, seeking to end, or aiding another

1 in ending their pregnancy within this state, or procuring or aiding in
2 the procurement of an abortion within this state.

3 2. Any person or entity that is headquartered or incorporated in New
4 York that provides electronic communications services to the general
5 public, when served with a warrant issued by another state to produce
6 records that would reveal the identity of the customers using those
7 services, data stored by or on behalf of the customers, the customers'
8 usage of those services, the recipient or destination of communications
9 sent to or from those customers, or the content of those communications,
10 shall not produce those records when the corporation knows or should
11 know that the warrant relates to an investigation into, or enforcement
12 of, a prohibited violation.

13 3. Any person or entity that is headquartered or incorporated in New
14 York may comply with a warrant as described in subdivision two of this
15 section if the warrant is accompanied by an attestation made by the
16 entity seeking the records that the evidence sought is not related to an
17 investigation into, or enforcement of, a prohibited violation.

18 4. The attorney general may commence a civil action to compel any
19 corporation headquartered or incorporated in New York that provides
20 electronic communications services or remote computing services to the
21 general public to comply with the provisions of this section.

22 § 2. The general business law is amended by adding a new section 394-g
23 to read as follows:

24 § 394-g. Geofencing of health care facilities. 1. For the purposes of
25 this section, the following terms shall have the following meanings:

26 a. "Digital advertisement" means any communication delivered by elec-
27 tronic means that is intended to be used for the purposes of marketing,
28 solicitation, or dissemination of information related, directly or indi-
29 rectly, to goods or services provided by the digital advertiser or a
30 third party.

31 b. "Geofencing" means a technology that uses global positioning system
32 coordinates, cell tower connectivity, cellular data, radio frequency
33 identification, Wi-Fi data and/or any other form of location detection,
34 to establish a virtual boundary or "geofence" around a particular
35 location that allows a digital advertiser to track the location
36 of an individual user and electronically deliver targeted digital
37 advertisements directly to such user's mobile device upon such user's
38 entry into the geofenced area.

39 c. "Health care facility" means any governmental or private agency,
40 department, institution, clinic, laboratory, hospital, physician's
41 office, nursing care facility, health maintenance organization, associ-
42 ation or other similar entity that provides medical care or related
43 services pursuant to the provisions of the public health law or the
44 mental hygiene law, including the building or structure in which the
45 facility is located.

46 d. "User" means a natural person who owns or uses a mobile device or
47 any other connected electronic device capable of receiving digital
48 advertisements.

49 2. It shall be unlawful for any person, corporation, partnership, or
50 association to establish a geofence or similar virtual boundary around
51 any health care facility, as defined pursuant to paragraph c of subdivi-
52 sion one of this section, for the purpose of delivering by electronic
53 means a digital advertisement to a user at or within such health care
54 facility, and it shall be unlawful for any person, corporation, partner-
55 ship, or association to deliver by electronic means any digital adver-

tisement to a user at or within any such health care facility through the use of geofencing or similar virtual boundary.

§ 3. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity thereof shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

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

PART V

Section 1. Section 6801 of the education law is amended by adding a new subdivision 9 to read as follows:

9. A licensed pharmacist within their lawful scope of practice may prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the board of pharmacy in consultation with the department of health.

(a) The standardized procedure or protocol shall require that the patient use a self-screening tool that will identify patient risk factors for use of self-administered hormonal contraceptives and emergency contraceptive drug therapy, based on the current United States Medical Eligibility Criteria (USMEC) for Contraceptive Use developed by the federal Centers for Disease Control and Prevention, and that the pharmacist refer the patient to the patient's primary care provider or, if the patient does not have a primary care provider, to nearby clinics, upon furnishing a self-administered hormonal contraceptive or emergency contraceptive drug therapy pursuant to this subdivision, or if it is determined that use of a self-administered hormonal contraceptive or emergency contraceptive drug therapy is not recommended.

(b) Prior to prescribing self-administered hormonal contraceptives or emergency contraceptive drug therapy under this subdivision, a pharmacist shall complete a training program on self-administered hormonal contraceptives or emergency contraceptive drug therapy, as applicable, that consists of at least one hour of approved continuing education on self-administered hormonal contraceptives or emergency contraceptive drug therapy.

(c) A pharmacist, pharmacist's employer, or pharmacist's agent shall not directly charge a patient a separate consultation fee for self-administered hormonal contraceptives or emergency contraceptive drug therapy services initiated pursuant to this subdivision, but may charge an administrative fee not to exceed ten dollars above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for self-administered hormonal contraceptives or emergency contraceptive drug therapy. As used in this paragraph, total retail price includes providing the consumer with specific information regarding the price of the self-administered hormonal contraceptives or emergency contraceptive drug therapy and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of self-administered hormonal contraceptives or emergency contraceptive drug ther-

1 apy shall not be required to pay an administrative fee. Such patients
2 shall be required to pay copayments pursuant to the terms and conditions
3 of their coverage. This paragraph shall not apply to dedicated emergency
4 contraceptive drugs classified as over-the-counter products by the
5 federal Food and Drug Administration.

6 (d) For each emergency contraceptive drug therapy or self-administered
7 hormonal contraceptive initiated pursuant to this subdivision, the phar-
8 macist shall provide the recipient of the drug with a standardized
9 factsheet that includes, but is not limited to, the indications and
10 contraindications for use of the drug, the appropriate method for using
11 the drug, the need for medical follow-up, and other appropriate informa-
12 tion. The board of pharmacy shall develop this form in consultation with
13 the department of health. This section does not preclude the use of
14 existing publications developed by nationally recognized medical organ-
15 izations.

16 § 2. This act shall take effect immediately.

17 PART W

18 Section 1. Subdivision 7-a of section 6527 of the education law, as
19 added by chapter 502 of the laws of 2016, is amended to read as follows:

20 7-a. A licensed physician may prescribe and order a patient specific
21 order or non-patient specific order to a licensed pharmacist, pursuant
22 to regulations promulgated by the commissioner in consultation with the
23 commissioner of health, and consistent with the public health law, for
24 dispensing up to a seven day starter pack of HIV post-exposure prophylaxis
25 for the purpose of preventing human immunodeficiency virus
26 infection following a potential human immunodeficiency virus exposure.
27 A licensed physician may also prescribe and order a patient specific or
28 non-patient specific order to a licensed pharmacist, pursuant to regu-
29 lations promulgated by the commissioner in consultation with the commis-
30 sioner of health, and consistent with the public health law and section
31 sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis,
32 provided, however, that the regulations promulgated pursuant to this
33 subdivision shall require that the HIV pre-exposure prophylaxis author-
34 ized to be dispensed by a licensed pharmacist shall provide for at least
35 a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

36 § 2. Subdivision 8 of section 6909 of the education law, as added by
37 chapter 502 of the laws of 2016, is amended to read as follows:

38 8. A certified nurse practitioner may prescribe and order a patient
39 specific order or non-patient specific order to a licensed pharmacist,
40 pursuant to regulations promulgated by the commissioner in consultation
41 with the commissioner of health, and consistent with the public health
42 law, for dispensing up to a seven day starter pack of HIV post-exposure
43 prophylaxis for the purpose of preventing human immunodeficiency virus
44 infection following a potential human immunodeficiency virus exposure.
45 A certified nurse practitioner may also prescribe and order a patient
46 specific or non-patient specific order to a licensed pharmacist, pursu-
47 ant to regulations promulgated by the commissioner in consultation with
48 the commissioner of health, and consistent with the public health law
49 and section sixty-eight hundred one of this title, for HIV pre-exposure
50 prophylaxis, provided, however, that the regulations promulgated pursu-
51 ant to this subdivision shall require that the HIV pre-exposure prophy-
52 laxis authorized to be dispensed by a licensed pharmacist shall provide
53 for at least a thirty-day, but no more than a sixty-day, supply of such
54 prophylaxis.

§ 3. Subdivision 5 of section 6801 of the education law, as added by chapter 502 of the laws of 2016, is amended and a new subdivision 9 is added to read as follows:

5. A licensed pharmacist may execute a non-patient specific order, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis medications for the purpose of preventing human immunodeficiency virus infection, by a physician licensed in this state or nurse practitioner certified in this state, pursuant to rules and regulations promulgated by the commissioner in consultation with the commissioner of health following a potential human immunodeficiency virus exposure. The pharmacist shall also inform the patient of the availability of pre-exposure prophylaxis for persons who are at substantial risk of acquiring HIV.

9. A licensed pharmacist may execute a non-patient specific order, for dispensing HIV pre-exposure prophylaxis, pursuant to rules and regulations promulgated by the commissioner in consultation with the commissioner of health provided, however, that the rules and regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis. And provided further, that the following conditions shall be met before a pharmacist may dispense pre-exposure prophylaxis:

(a) The pharmacist has completed a training program created or approved by the department of health on the use of pre-exposure prophylaxis. The training program shall educate pharmacists about the requirements of this subdivision, the risks and side effects of the medication, patient insurance and cost burdens, and any other information the department of health deems necessary or important;

(b) The patient is HIV negative, as documented by a negative HIV test result obtained within the previous seven days from an HIV antigen/antibody test or antibody-only test or from a rapid, point-of-care fingerstick blood test approved by the federal food and drug administration. If the patient does not provide evidence of a negative HIV test in accordance with this paragraph, the pharmacist may recommend or order an HIV test. If the patient tests positive for HIV infection, the pharmacist shall direct the patient to a licensed physician and provide the patient with a list of health care service providers and clinics within the county where the pharmacist is located or adjacent counties;

(c) The patient does not report any signs or symptoms of acute HIV infection on a self-reported checklist of acute HIV infection signs and symptoms;

(d) The patient does not report taking any contraindicated medications;

(e) The pharmacist does not furnish more than a sixty-day supply of pre-exposure prophylaxis to a single patient more than once every year, unless directed otherwise by a prescriber;

(f) The pharmacist provides written information, published by the department of health, to the patient on the ongoing use of pre-exposure prophylaxis, which may include education about side effects, safety during pregnancy and breastfeeding, adherence to recommended dosing, and the importance of timely testing and treatment, as applicable, for HIV, renal function, hepatitis B, hepatitis C, sexually transmitted diseases, and pregnancy for individuals of child-bearing capacity. The pharmacist shall notify the patient that the patient must be seen by a licensed

physician to receive subsequent prescriptions for pre-exposure prophylaxis; and

(g) The pharmacist provides information, developed by the commissioner of health, to the patient, or when the patient lacks capacity to consent to a person authorized to consent to health care for such individual, on the importance of having a health care provider and if the patient does not have a health care provider the pharmacist shall provide the patient a list of licensed physicians, clinics, or other health care service providers within the county where the pharmacist is located or adjacent counties.

§ 4. Subdivision 6 of section 571 of the public health law, as amended by section 1 of part C of chapter 57 of the laws of 2022, is amended to read as follows:

6. "Qualified health care professional" means a physician, dentist, podiatrist, optometrist performing a clinical laboratory test that does not use an invasive modality as defined in section seventy-one hundred one of the education law, pharmacist administering [~~COVID-19 and influenza~~] tests pursuant to subdivision seven of section sixty-eight hundred one of the education law, physician assistant, specialist assistant, nurse practitioner, or midwife, who is licensed and registered with the state education department.

§ 5. Subdivision 7 of section 6801 of the education law, as amended by section 2 of part C of chapter 57 of the laws of 2022, is amended to read as follows:

7. A licensed pharmacist is a qualified health care professional under section five hundred seventy-one of the public health law for the purposes of directing a limited service laboratory and ordering and administering [~~COVID-19 and influenza~~] tests authorized by the Food and Drug Administration (FDA), subject to certificate of waiver requirements established pursuant to the federal clinical laboratory improvement act of nineteen hundred eighty-eight.

§ 6. Section 8 of part C of chapter 57 of the laws of 2022 amending the public health law and the education law relating to allowing pharmacists to direct limited service laboratories and order and administer COVID-19 and influenza tests and modernizing nurse practitioners, is amended to read as follows:

§ 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022; provided, however, that sections [~~one, two,~~] three[, and] four[, ~~six and seven~~] of this act shall expire and be deemed repealed two years after it shall have become a law.

§ 7. Section 6801 of the education law is amended by adding a new subdivision 10 to read as follows:

10. A licensed pharmacist within their lawful scope of practice may prescribe and order medications to treat nicotine dependence approved by the federal food and drug administration for smoking cessation.

§ 8. Section 6801 of the education law is amended by adding a new subdivision 11 to read as follows:

11. A licensed pharmacist within their lawful scope of practice may prescribe and order opioid antagonists, limited to naloxone and other medications approved by the department of health for such purpose pursuant to sections thirty-three hundred nine and thirty-three hundred nine-b of the public health law.

§ 9. Section 6801-a of the education law, as amended by chapter 238 of the laws of 2015, is amended to read as follows:

§ 6801-a. Collaborative drug therapy management [~~demonstration program~~]. 1. As used in this section, the following terms shall have the following meanings:

a. "Board" shall mean the state board of pharmacy as established by section sixty-eight hundred four of this article.

b. "Clinical services" shall mean the collection and interpretation of patient data for the purpose of [~~initiating, modifying and~~] monitoring drug therapy and prescribing in order to adjust or manage drug therapy with associated accountability and responsibility for outcomes in a direct patient care setting.

c. "Collaborative drug therapy management" shall mean the performance of clinical services by a pharmacist relating to the review, evaluation and management of drug therapy to a patient, who is being treated by a physician or nurse practitioner for a specific disease or associated disease states, in accordance with a written agreement or protocol with a voluntarily participating physician [~~and in accordance with the policies, procedures, and protocols of the facility~~] or nurse practitioner. Such agreement or protocol as entered into by the physician or nurse practitioner, and a pharmacist, may include[, ~~and shall be limited to~~]:

(i) [~~adjusting or managing~~] prescribing in order to adjust or manage a drug regimen of a patient, pursuant to a patient specific order or non-patient specific protocol made by the patient's physician, or nurse practitioner, which may include adjusting drug strength, frequency of administration or route of administration[~~, Adjusting the drug regimen shall not include substituting~~] or selecting a [~~different~~] drug which differs from that initially prescribed by the patient's physician [~~unless such substitution is expressly~~] or nurse practitioner as authorized in the written [~~order~~] agreement or protocol, provided, however, that the pharmacist shall appropriately consider clinical benefit and cost to the patient and/or payer in discharging these responsibilities. The pharmacist shall be required to immediately document in the patient record changes made to the patient's drug therapy and shall use any reasonable means or method established by the facility or practice to notify the patient's other treating physicians [~~with whom he or she does not have a written agreement or protocol regarding such changes. The patient's physician may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist~~], physician assistants, nurse practitioners and other professionals as required by the facility or the collaborative practice agreement;

(ii) evaluating and[, ~~only if specifically~~] as authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering disease state laboratory tests related to the drug therapy management for the specific disease or disease [~~state~~] states specified within the written agreement or protocol; and

(iii) [~~only if specifically~~] as authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering or performing routine patient monitoring functions as may be necessary in the drug therapy management[, ~~including the collecting and reviewing of patient histories, and ordering or checking patient vital signs, including pulse, temperature, blood pressure and respiration~~].

d. "Facility" shall mean[~~+(i)~~] a [~~teaching hospital or~~] general hospital, [~~including any~~] diagnostic center, treatment center, or hospital-based outpatient department as defined in section twenty-eight hundred one of the public health law[, ~~or (ii)~~], a residential health

1 care facility or a nursing home with an on-site pharmacy staffed by a
2 licensed pharmacist or any facility as defined in section twenty-eight
3 hundred one of the public health law or other entity that provides
4 direct patient care under the auspices of a medical director; provided,
5 however, for the purposes of this section the term "facility" shall not
6 include dental clinics, dental dispensaries, [~~residential health care~~
7 ~~facilities~~] and rehabilitation centers.

8 For the purposes of this section, [~~a "teaching hospital" shall mean a~~
9 ~~hospital licensed pursuant to article twenty-eight of the public health~~
10 ~~law that is eligible to receive direct or indirect graduate medical~~
11 ~~education payments pursuant to article twenty-eight of the public health~~
12 ~~law]~~ a "practice" shall mean a place or situation in which physicians,
13 and nurse practitioners either alone or in group practices provide diag-
14 nostic and treatment care for patients.

15 e. [~~"Physician"~~] "Physician or nurse practitioner" shall mean the
16 physician or nurse practitioner selected by or assigned to a patient,
17 who has primary responsibility for the treatment and care of the patient
18 for the disease and associated disease states that are the subject of
19 the collaborative drug therapy management.

20 f. "Written agreement or protocol" shall mean a written document,
21 pursuant to and consistent with any applicable state or federal require-
22 ments, that addresses a specific disease or associated disease states
23 and that describes the nature and scope of collaborative drug therapy
24 management to be undertaken by the pharmacists, in collaboration with
25 the participating physician, nurse practitioner or facility in accord-
26 ance with the provisions of this section.

27 2. a. A pharmacist who meets the experience requirements of paragraph
28 b of this subdivision and who is [~~employed by or otherwise affiliated~~
29 ~~with a facility]~~ certified by the department to engage in collaborative
30 drug therapy management and who is either employed by or otherwise
31 affiliated with a facility or is participating with a practicing physi-
32 cian or nurse practitioner shall be permitted to enter into a written
33 agreement or protocol with a physician, or nurse practitioner or facili-
34 ty authorizing collaborative drug therapy management, subject to the
35 limitations set forth in this section, within the scope of such employ-
36 ment [~~or~~], affiliation or participation. Only pharmacists so certified
37 may engage in collaborative drug therapy management as defined in this
38 section.

39 b. A participating pharmacist must[+
40 ~~(i)(A) have been awarded either a master of science in clinical phar-~~
41 ~~macy or a doctor of pharmacy degree,~~
42 ~~(B)]~~ maintain a current unrestricted license[+], and
43 [~~(C) have a minimum of two years experience, of which at least one~~
44 ~~year of such experience shall include clinical experience in a health~~
45 ~~facility, which involves consultation with physicians with respect to~~
46 ~~drug therapy and may include a residency at a facility involving such~~
47 ~~consultation; or~~
48 ~~(ii)(A) have been awarded a bachelor of science in pharmacy,~~
49 ~~(B) maintain a current unrestricted license, and~~
50 ~~(C) within the last seven years, have a minimum of three years experi-~~
51 ~~ence, of which at least one year of such experience shall include clin-~~
52 ~~ical experience in a health facility, which involves consultation with~~
53 ~~physicians with respect to drug therapy and may include a residency at a~~
54 ~~facility involving such consultation; and~~

~~(iii) meet any additional education, experience, or other requirements set forth by the department in consultation with the board]~~ shall satisfy any two of the following criteria:

(i) certification in a relevant area of practice including but not limited to ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutrition support pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric pharmacy, from a national accrediting body as approved by the department;

(ii) postgraduate residency through an accredited postgraduate program requiring at least fifty percent of the experience be in direct patient care services with interdisciplinary terms; or

(iii) have provided clinical services to patients for at least one year either:

(A) under a collaborative practice agreement or protocol with a physician, nurse practitioner or facility; or

(B) have documented experience in provision of clinical services to patients for at least one year or one thousand hours, and deemed acceptable to the department upon recommendation of the board of pharmacy.

c. Notwithstanding any provision of law, nothing in this section shall prohibit a licensed pharmacist from engaging in clinical services associated with collaborative drug therapy management, in order to gain experience necessary to qualify under ~~[clause (C) of subparagraph (i) or (ii) of paragraph b]~~ clause (B) of subparagraph (iii) of paragraph b of this subdivision, provided that such practice is under the supervision of a pharmacist that currently meets the referenced requirement, and that such practice is authorized under the written agreement or protocol with the physician or nurse practitioner or facility.

d. Notwithstanding any provision of this section, nothing herein shall authorize the pharmacist to diagnose disease. In the event that a treating physician or nurse practitioner may disagree with the exercise of professional judgment by a pharmacist, the judgment of the treating physician or nurse practitioner shall prevail.

3. ~~[The physician who is a party to a written agreement or protocol authorizing collaborative drug therapy management shall be employed by or otherwise affiliated with the same facility with which the pharmacist is also employed or affiliated.~~

4. ~~The existence of a written agreement or protocol on collaborative drug therapy management and the patient's right to choose to not participate in collaborative drug therapy management shall be disclosed to any patient who is eligible to receive collaborative drug therapy management. Collaborative drug therapy management shall not be utilized unless the patient or the patient's authorized representative consents, in writing, to such management. If the patient or the patient's authorized representative consents, it shall be noted on the patient's medical record. If the patient or the patient's authorized representative who consented to collaborative drug therapy management chooses to no longer participate in such management, at any time, it shall be noted on the patient's medical record. In addition, the existence of the written agreement or protocol and the patient's consent to such management shall be disclosed to the patient's primary physician and any other treating physician or healthcare provider.~~

~~5.]~~ A pharmacist who is certified by the department to engage in collaborative drug therapy management may enter into a written collaborative practice agreement or protocol with a physician, nurse practitioner or facility and may practice as an independent pharmacist or as an employee of a pharmacy or other health care provider. In a facility,

1 the physician or nurse practitioner and the pharmacist who are parties
2 to a written agreement or protocol authorizing collaborative drug thera-
3 py management shall be employed by or be otherwise affiliated with the
4 facility.

5 4. Participation in a written agreement or protocol authorizing colla-
6 borative drug therapy management shall be voluntary, and no patient,
7 physician, nurse practitioner, pharmacist, or facility shall be required
8 to participate.

9 ~~[6. Nothing in this section shall be deemed to limit the scope of~~
10 ~~practice of pharmacy nor be deemed to limit the authority of pharmacists~~
11 ~~and physicians to engage in medication management prior to the effective~~
12 ~~date of this section and to the extent authorized by law.]~~

13 § 10. Section 6601 of the education law, as amended by chapter 576 of
14 the laws of 2001, is amended to read as follows:

15 § 6601. Definition of practice of dentistry. The practice of the
16 profession of dentistry is defined as diagnosing, treating, operating,
17 or prescribing for any disease, pain, injury, deformity, or physical
18 condition of the oral and maxillofacial area related to restoring and
19 maintaining dental health. The practice of dentistry includes the
20 prescribing and fabrication of dental prostheses and appliances. The
21 practice of dentistry may include performing physical evaluations in
22 conjunction with the provision of dental treatment. The practice of
23 dentistry may also include ordering and administering HIV and hepatitis
24 C screening tests or diagnostic tests authorized by the Food and Drug
25 Administration (FDA) and subject to certificate of waiver requirements
26 established pursuant to the federal clinical laboratory improvement act
27 of nineteen hundred eighty-eight.

28 § 11. Subdivision 4 of section 6909 of the education law is amended by
29 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

30 (i) the ordering of asthma self-management education and home-based
31 asthma services.

32 (j) the urgent or emergency treatment of asthma.

33 (k) providing stool tests to screen for colorectal cancer.

34 (l) the ordering of diabetes self-management education and support.

35 § 12. Subdivision 6 of section 6527 of the education law is amended by
36 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

37 (i) the ordering of asthma self-management education and home-based
38 asthma services.

39 (j) the urgent or emergency treatment of asthma.

40 (k) providing stool tests to screen for colorectal cancer.

41 (l) the ordering of diabetes self-management education and support.

42 § 13. Section 6801 of the education law is amended by adding a new
43 subdivision 12 to read as follows:

44 12. A licensed pharmacist within their lawful scope of practice may
45 order diabetes self-management education and support and asthma self-
46 management education and home-based asthma services for patients, and
47 any other services authorized in regulation by the commissioner in
48 collaboration with the commissioner of health.

49 § 14. Paragraph (q) of subdivision 2 of section 365-a of the social
50 services law, as amended by section 35 of part B of chapter 58 of the
51 laws of 2010, is amended to read as follows:

52 (q) diabetes self-management training services for persons diagnosed
53 with diabetes when such services are ordered by a physician, registered
54 physician assistant, registered nurse practitioner, licensed pharmacist
55 or licensed midwife and provided by a licensed, registered, or certified
56 health care professional, as determined by the commissioner of health,

1 who is certified as a diabetes educator by the National Certification
2 Board for Diabetes Educators, or a successor national certification
3 board, or provided by such a professional who is affiliated with a
4 program certified by the American Diabetes Association, the American
5 Association of Diabetes Educators, the Indian Health Services, or any
6 other national accreditation organization approved by the federal
7 centers for medicare and medicaid services; provided, however, that the
8 provisions of this paragraph shall not take effect unless all necessary
9 approvals under federal law and regulation have been obtained to receive
10 federal financial participation in the costs of health care services
11 provided pursuant to this paragraph. Nothing in this paragraph shall be
12 construed to modify any licensure, certification or scope of practice
13 provision under title eight of the education law.

14 § 15. Paragraph (r) of subdivision 2 of section 365-a of the social
15 services law, as added by section 32 of part C of chapter 58 of the laws
16 of 2008, is amended to read as follows:

17 (r) asthma self-management training services for persons diagnosed
18 with asthma when such services are ordered by a physician, registered
19 physician's assistant, registered nurse practitioner, registered
20 professional nurse, licensed pharmacist or licensed midwife and provided
21 by a licensed, registered, or certified health care professional, as
22 determined by the commissioner of health, who is certified as an asthma
23 educator by the National Asthma Educator Certification Board, or a
24 successor national certification board; provided, however, that the
25 provisions of this paragraph shall not take effect unless all necessary
26 approvals under federal law and regulation have been obtained to receive
27 federal financial participation in the costs of health care services
28 provided pursuant to this paragraph. Nothing in this paragraph shall be
29 construed to modify any licensure, certification or scope of practice
30 provision under title eight of the education law.

31 § 16. Paragraph (v) of subdivision 2 of section 365-a of the social
32 services law, as added by section 4 of part B of chapter 58 of the laws
33 of 2010, is amended to read as follows:

34 (v) ordering and administration of vaccinations [~~in a pharmacy~~], medi-
35 cations, self-management education, and home-based services by a [~~certi-~~
36 ~~fied~~] licensed pharmacist within [~~his or her~~] their scope of practice.

37 § 17. Section 6542 of the education law, as amended by chapter 48 of
38 the laws of 2012, subdivisions 3 and 5 as amended by section 1 of part T
39 of chapter 57 of the laws of 2013, is amended to read as follows:

40 § 6542. Performance of medical services. 1. Notwithstanding any other
41 provision of law, a physician assistant may perform medical services,
42 but only when under the supervision of a physician and only when such
43 acts and duties as are assigned to him or her are within the scope of
44 practice of such supervising physician unless otherwise permitted by
45 this section.

46 1-a. A physician assistant may practice without the supervision of a
47 physician under the following circumstances:

48 a. Where the physician assistant, licensed under section sixty-five
49 hundred forty-one of this article has practiced for more than eight
50 thousand hours and:

51 (i) is practicing in primary care. For purposes of this paragraph,
52 "primary care" shall mean non-surgical care in the fields of general
53 pediatrics, general adult medicine, general geriatric medicine, general
54 internal medicine, obstetrics and gynecology, family medicine, or such
55 other related areas as determined by the commissioner of health; or

(ii) is employed by a health system or hospital established under article twenty-eight of the public health law, and the health system or hospital determines the physician assistant meets the qualifications of the medical staff bylaws and the health system or hospital gives the physician assistant privileges;

b. Where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

c. The department and the department of health are authorized to promulgate and update regulations pursuant to this section.

2. ~~[Supervision]~~ Where supervision is required by this section, it shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. ~~[No physician shall employ or supervise more than four physician assistants in his or her private practice.~~

4.] Nothing in this article shall prohibit a hospital from employing physician assistants provided they ~~[work under the supervision of a physician designated by the hospital and not beyond the scope of practice of such physician. The numerical limitation of subdivision three of this section shall not apply to services performed in a hospital.~~

5. ~~Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of corrections and community supervision under contract from supervising no more than six physician assistants in his or her practice for the department of corrections and community supervision.~~

6. ~~Notwithstanding any other provision of law, a trainee in an approved program may perform medical services when such services are performed within the scope of such program.]~~ meet the qualifications of the medical staff bylaws and are given privileges and otherwise meet the requirements of this section.

4. A physician assistant shall be authorized to prescribe, dispense, order, administer, or procure items necessary to commence or complete a course of therapy.

5. A physician assistant may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist or registered professional nurse, pursuant to regulations promulgated by the commissioner of health, and consistent with the public health law, for administering immunizations. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

6. Where a physician assistant licensed under section sixty-five hundred forty-one of this article has completed a program approved by the department of health, in consultation with the department, when such services are performed within the scope of such program.

7. Nothing in this article, or in article thirty-seven of the public health law, shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this chapter.

§ 18. Subdivision 1 of section 3701 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

1. to promulgate regulations defining and restricting the duties ~~[which may be assigned to] of physician assistants [by their supervising physician, the degree of supervision required and the manner in which~~

~~such duties may be performed]~~ consistent with section sixty-five hundred forty-two of the education law.;

§ 19. Section 3702 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3702. Special provisions. 1. Inpatient medical orders. A licensed physician assistant employed or extended privileges by a hospital may, if permissible under the bylaws, rules and regulations of the hospital, write medical orders, including those for controlled substances and durable medical equipment, for inpatients ~~[under the care of the physician responsible for his or her supervision. Countersignature of such orders may be required if deemed necessary and appropriate by the supervising physician or the hospital, but in no event shall countersignature be required prior to execution]~~.

2. Withdrawing blood. A licensed physician assistant or certified nurse practitioner acting within his or her lawful scope of practice may supervise and direct the withdrawal of blood for the purpose of determining the alcoholic or drug content therein under subparagraph one of paragraph (a) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law, notwithstanding any provision to the contrary in clause (ii) of such subparagraph.

3. Prescriptions for controlled substances. A licensed physician assistant, in good faith and acting within his or her lawful scope of practice, and to the extent assigned by his or her supervising physician as applicable by section sixty-five hundred forty-two of the education law, may prescribe controlled substances as a practitioner under article thirty-three of this chapter, to patients under the care of such physician responsible for his or her supervision. The commissioner, in consultation with the commissioner of education, may promulgate such regulations as are necessary to carry out the purposes of this section.

§ 20. Section 3703 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3703. Statutory construction. A physician assistant may perform any function in conjunction with a medical service lawfully performed by the physician assistant, in any health care setting, that a statute authorizes or directs a physician to perform and that is appropriate to the education, training and experience of the licensed physician assistant and within the ordinary practice of the supervising physician, as applicable pursuant to section sixty-five hundred forty-two of the education law. This section shall not be construed to increase or decrease the lawful scope of practice of a physician assistant under the education law.

§ 21. Paragraph a of subdivision 2 of section 902 of the education law, as amended by chapter 376 of the laws of 2015, is amended to read as follows:

a. The board of education, and the trustee or board of trustees of each school district, shall employ, at a compensation to be agreed upon by the parties, a qualified physician, a physician assistant, or a nurse practitioner to the extent authorized by the nurse practice act and consistent with subdivision three of section six thousand nine hundred two of this chapter, to perform the duties of the director of school health services, including any duties conferred on the school physician or school medical inspector under any provision of law, to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending the public schools in the city or district. The physicians, physicians assistants or nurse

1 practitioners so employed shall be duly licensed pursuant to applicable
2 law.

3 § 22. Subdivision 5 of section 6810 of the education law, as added by
4 chapter 881 of the laws of 1972, is amended to read as follows:

5 5. Records of all prescriptions filled or refilled shall be maintained
6 for a period of at least five years and upon request made available for
7 inspection and copying by a representative of the department. Such
8 records shall indicate date of filling or refilling, ~~[doctor's]~~
9 prescriber's name, patient's name and address and the name or initials
10 of the pharmacist who prepared, compounded, or dispensed the
11 prescription. Records of prescriptions for controlled substances shall
12 be maintained pursuant to requirements of article thirty-three of the
13 public health law.

14 § 23. Subdivision 27 of section 3302 of the public health law, as
15 amended by chapter 92 of the laws of 2021, is amended to read as
16 follows:

17 27. "Practitioner" means:

18 A physician, physician assistant, dentist, podiatrist, veterinarian,
19 scientific investigator, or other person licensed, or otherwise permit-
20 ted to dispense, administer or conduct research with respect to a
21 controlled substance in the course of a licensed professional practice
22 or research licensed pursuant to this article. Such person shall be
23 deemed a "practitioner" only as to such substances, or conduct relating
24 to such substances, as is permitted by ~~[his]~~ their license, permit or
25 otherwise permitted by law.

26 § 24. Paragraph b of subdivision 2 of section 6908 of the education
27 law, as added by chapter 471 of the laws of 2016, is amended to read as
28 follows:

29 b. provide that advanced tasks performed by advanced home health aides
30 may be performed only under the ~~[direct]~~ supervision of a registered
31 professional nurse licensed in New York state, as set forth in this
32 subdivision and subdivision eight of section sixty-nine hundred nine of
33 this article, where such nurse is employed by a home care services agen-
34 cy licensed or certified pursuant to article thirty-six of the public
35 health law, a hospice program certified pursuant to article forty of the
36 public health law, or an enhanced assisted living residence licensed
37 pursuant to article seven of the social services law and certified
38 pursuant to article forty-six-B of the public health law. Such nursing
39 supervision shall:

40 (i) include training and periodic assessment of the performance of
41 advanced tasks;

42 (ii) be determined by the registered professional nurse responsible
43 for supervising such advanced tasks based upon the complexity of such
44 advanced tasks, the skill and experience of the advanced home health
45 aide, and the health status of the individual for whom such advanced
46 tasks are being performed;

47 (iii) include a comprehensive initial and thereafter regular and ongo-
48 ing assessment of the individual's needs;

49 (iv) include as a requirement that the supervising registered profes-
50 sional nurse shall visit individuals receiving services for the purpose
51 of supervising the services provided by advanced home health aides ~~[no
52 less than once every two weeks]~~ and include as a requirement that a
53 registered professional nurse shall be available by telephone to the
54 advanced home health aide twenty-four hours a day, seven days a week,
55 provided that a registered professional nurse shall be available to

1 visit an individual receiving services as necessary to protect the
2 health and safety of such individual; and

3 (v) as shall be specified by the commissioner, be provided in a manner
4 that takes into account individual care needs, case mix complexity and
5 geographic considerations and provide that the number of individuals
6 served by a supervising registered professional nurse is reasonable and
7 prudent.

8 § 25. Subparagraph (i) of paragraph (c) of subdivision 8 of section
9 6909 of the education law, as added by chapter 471 of the laws of 2016,
10 is amended to read as follows:

11 (i) visit individuals receiving services for the purpose of supervis-
12 ing the services provided by advanced home health aides [~~no less than~~
13 ~~once every two weeks~~]; and

14 § 26. Subdivision (b) of section 12 of chapter 471 of the laws of 2016
15 amending the education law and the public health law relating to author-
16 izing certain advanced home health aides to perform certain advanced
17 tasks, is amended to read as follows:

18 b. this act shall expire and be deemed repealed March 31, [~~2023~~] 2029.

19 § 27. Section 6908 of the education law is amended by adding a new
20 subdivision 3 to read as follows:

21 3. This article shall not be construed as prohibiting medication
22 related tasks provided by a certified medication aide in accordance with
23 regulations developed by the commissioner, in consultation with the
24 commissioner of health. At a minimum, such regulations shall:

25 a. specify the medication-related tasks that may be performed by
26 certified medication aides pursuant to this subdivision. Such tasks
27 shall include the administration of medications which are routine and
28 pre-filled or otherwise packaged in a manner that promotes relative ease
29 of administration, provided that administration of medications by
30 injection, sterile procedures, and central line maintenance shall be
31 prohibited. Provided, however, such prohibition shall not apply to
32 injections of insulin or other injections for diabetes care, to
33 injections of low molecular weight heparin, and to pre-filled auto-in-
34 jections of naloxone and epinephrine for emergency purposes, and
35 provided, further, that entities employing certified medication aides
36 pursuant to this subdivision shall establish a systematic approach to
37 address drug diversion;

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

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

48 (i) allowing assignment of medication-related tasks to a certified
49 medication aide only where such certified medication aide has demon-
50 strated to the satisfaction of the supervising registered professional
51 nurse competency in every medication-related task that such certified
52 medication aide is authorized to perform, a willingness to perform such
53 medication-related tasks, and the ability to effectively and efficiently
54 communicate with the individual receiving services and understand such
55 individual's needs;

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

4 (iii) authorizing multiple registered professional nurses to jointly
5 agree to assign medication-related tasks to a certified medication aide,
6 provided further that only one registered professional nurse shall be
7 required to determine if the certified medication aide has demonstrated
8 competency in the medication-related task to be performed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 11. A registered professional nurse, while working for a residential
49 health care facility licensed pursuant to article twenty-eight of the
50 public health law, may, in accordance with this subdivision, assign
51 certified medication aides to perform medication-related tasks for indi-
52 viduals pursuant to the provisions of subdivision three of section
53 sixty-nine hundred eight of this article and supervise certified medica-
54 tion aides who perform assigned medication-related tasks.

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

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

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

ARTICLE 169

INTERSTATE MEDICAL LICENSURE COMPACT

Section 8860. Short title.

8861. Purpose.

8862. Definitions.

8863. Eligibility.

8864. Designation of state of principal license.

8865. Application and issuance of expedited licensure.

8866. Fees for expedited licensure.

8867. Renewal and continued participation.

8868. Coordinated information system.

8869. Joint investigations.

8870. Disciplinary actions.

8871. Interstate medical licensure compact commission.

8872. Powers and duties of the interstate commission.

8873. Finance powers.

8874. Organization and operation of the interstate commission.

8875. Rulemaking functions of the interstate commission.

8876. Oversight of interstate compact.

8877. Enforcement of interstate compact.

8878. Default procedures.

8879. Dispute resolution.

8880. Member states, effective date and amendment.

8881. Withdrawal.

8882. Dissolution.

8883. Severability and construction.

8884. Binding effect of compact and other laws.

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

§ 8861. Purpose. In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

§ 8862. Definitions. In this compact:

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

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

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

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

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

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

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

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

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

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

32 11. "Physician" means any person who:

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

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

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

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

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

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

54 (g) Has never held a license authorizing the practice of medicine
55 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 issu-
28 ing 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.

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

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

(a) impose the same or lesser sanction or sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

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

4. If a license granted to a physician by a member board is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then any license or licenses issued to the physician by any other member board or boards shall be suspended, automatically and immediately without further action necessary by the other member board or boards, for ninety days upon entry of the order by the disciplining board, to permit the member board or boards to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety day suspension period in a manner consistent with the medical practice act of that state.

§ 8871. Interstate medical licensure compact commission. 1. The member states hereby create the "interstate medical licensure compact commission".

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

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

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

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

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

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

5. The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address 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 § 31. 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 prel-
52 icensure 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-three 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 § 32. 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.

56 § 33. This act shall take effect immediately; provided however, that:

a. section seven of this act shall take effect nine months after it shall have become a law;

b. sections seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three of this act shall take effect one year after it shall have become a law;

c. sections twenty-seven, twenty-eight and twenty-nine of this act shall expire and be deemed repealed two years after they shall have become a law;

d. sections thirty and thirty-one of this act shall be deemed to have been in full force and effect on and after April 1, 2023;

e. section thirty-two of this act shall take effect on the ninetieth day after it shall have become a law;

f. the amendments to section 6801-a of the education law made by section nine of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith; and

g. the amendments to subdivision 2 of section 6908 of the education law made by section twenty-four of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith.

h. the amendments to subdivision 8 of section 6909 of the education law made by section twenty-five of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

PART X

Section 1. The public health law is amended by adding a new article 29-K to read as follows:

ARTICLE 29-K

REGISTRATION OF TEMPORARY HEALTH CARE SERVICES AGENCIES

Section 2999-ii. Definitions.

2999-jj. Registration of temporary health care services agencies; requirements.

2999-kk. Temporary health care services agencies; minimum standards.

2999-ll. Violations; penalties.

2999-mm. Rates for temporary health care services; reports.

§ 2999-ii. Definitions. For the purposes of this article:

1. "Certified nurse aide" means a person included in the nursing home nurse aide registry pursuant to section twenty-eight hundred three-j of this chapter as added by chapter seven hundred seventeen of the laws of nineteen hundred eighty-nine.

2. "Controlling person" means a person, officer, program administrator, or director whose responsibilities include the direction of the management or policies of a temporary health care services agency. "Controlling person" also means an individual who, directly owns at least ten percent voting interest in a corporation, partnership, or other business entity that is a controlling person.

3. "Health care entity" means an agency, corporation, facility, or individual providing medical or health care services.

4. "Health care personnel" means nurses, certified nurse aides and licensed or unlicensed direct care workers employed by the temporary health care services agency to provide temporary services in a health care entity.

1 5. "Nurse" means a registered professional nurse, or a licensed prac-
2 tical nurse as defined by article one hundred thirty-nine of the educa-
3 tion law.

4 6. "Direct care worker" means an employee who is responsible for
5 patient/resident handling or patient/resident assessment as a regular or
6 incidental part of their employment, including any licensed or unli-
7 censed health care worker.

8 7. "Person" means an individual, firm, corporation, partnership, or
9 association.

10 8. "Temporary health care services agency" or "agency" means a person,
11 firm, corporation, partnership, association or other entity in the busi-
12 ness of providing or procuring temporary employment of health care
13 personnel for health care entities. Temporary health care services agen-
14 cy shall include a nurses' registry licensed under article eleven of the
15 general business law and entities that utilize apps or other technolo-
16 gy-based solutions to provide or procure temporary employment of health
17 care personnel in health care entities. Temporary health care services
18 agency shall not include: (a) an individual who only engages in provid-
19 ing the individual's own services on a temporary basis to health care
20 entities; or (b) a home care agency licensed under article thirty-six of
21 this chapter.

22 § 2999-jj. Registration of temporary health care services agencies;
23 requirements. 1. Any person who operates a temporary health care
24 services agency shall register the agency with the department. Each
25 separate location of the business of a temporary health care services
26 agency shall have a separate registration.

27 2. The commissioner shall publish guidelines establishing the forms
28 and procedures for applications for registration. Forms must include, at
29 a minimum all of the following:

30 (a) The names and addresses of the temporary health care services
31 agency controlling person or persons.

32 (b) The names and addresses of health care entities where the control-
33 ling person or persons or their family members:

34 (i) have an ownership relationship; or

35 (ii) direct the management or policies of such health care entities.

36 (c) A demonstration that the applicant is of good moral character and
37 able to comply with all applicable state laws and regulations relating
38 to the activities in which it intends to engage under the registration.

39 (d) Registration and registration annual renewal fees of one thousand
40 dollars and may only be used for the purpose of operating this registry.

41 (e) The state of incorporation of the agency.

42 (f) Any additional information that the commissioner determines is
43 necessary to properly evaluate an application for registration.

44 3. As a condition of registration, a temporary health care services
45 agency:

46 (a) Shall document that each temporary employee provided to health
47 care entities currently meets the minimum licensing, training, and
48 continuing education standards for the position in which the employee
49 will be working.

50 (b) Shall comply with all pertinent requirements and qualifications
51 for personnel employed in health care entities.

52 (c) Shall not restrict in any manner the employment opportunities of
53 its employees.

54 (d) Shall maintain insurance coverage for workers' compensation and
55 disability coverage for all health care personnel provided or procured
56 by the agency.

1 (e) Shall not require the payment of liquidated damages, employment
2 fees, or other compensation should the employee be hired as a permanent
3 employee of a health care entity in any contract with any employee or
4 health care entity or otherwise.

5 (f) Shall document that each temporary employee provided to health
6 care entities is jointly employed by the agency and the entity and is
7 not an independent contractor.

8 (g) Shall retain all records of employment for six calendar years and
9 make them available to the department upon request.

10 (h) Shall comply with any requests made by the department to examine
11 the books and records of the agency, subpoena witnesses and documents
12 and make such other investigation as is necessary in the event that the
13 department has reason to believe that the books or records do not accu-
14 rately reflect the financial condition or financial transactions of the
15 agency.

16 (i) Shall comply with any additional requirements the department may
17 deem necessary.

18 4. A registration issued by the commissioner according to this section
19 shall be effective for a period of one year, unless the registration is
20 revoked or suspended, or unless ownership interest of ten percent or
21 more, or management of the temporary health care services agency, is
22 sold or transferred. When ownership interest of ten percent or more, or
23 management of a temporary health care services agency is sold or trans-
24 ferred, the registration of the agency may be transferred to the new
25 owner or operator for thirty days, or until the new owner or operator
26 applies and is granted or denied a new registration, whichever is soon-
27 er.

28 5. The commissioner may, after appropriate notice and hearing,
29 suspend, revoke, or refuse to issue or renew any registration or issue
30 any fines established pursuant to section twenty-nine hundred ninety-
31 nine-11 of this article if the applicant fails to comply with this arti-
32 cle or any guidelines, rules and regulations promulgated thereunder.

33 6. The commissioner shall make available a list of temporary health
34 care services agencies registered with the department on the depart-
35 ment's public website.

36 7. The department shall publish a quarterly report containing aggre-
37 gated and de-identified data collected pursuant to this article on the
38 website of the department.

39 8. The department, in consultation with the department of labor, shall
40 provide a report to the governor and legislature on or before March
41 thirty-first, two thousand twenty-four, summarizing the key findings of
42 the data collected pursuant to this article. The department shall
43 further have authority to utilize any data collected pursuant to this
44 article for additional purposes consistent with this chapter, including
45 but not limited to determinations of whether an acute labor shortage
46 exists, or any other purpose the department deems necessary for health
47 care related data purposes.

48 9. The attorney general shall, upon the request of the department,
49 bring an action for an injunction against any person who violates any
50 provision of this article; provided, the department shall furnish the
51 attorney general with such material, evidentiary matter or proof as may
52 be requested by the attorney general for the prosecution of such action.

53 § 2999-kk. Temporary health care services agencies; minimum standards.

54 1. A temporary health care services agency shall appoint an administra-
55 tor qualified by training, experience or education to operate the agen-
56 cy. Each separate agency location shall have its own administrator.

1 2. A temporary health care services agency shall develop and maintain
2 written employment policies and procedures. The agency shall inform its
3 employees of the terms and conditions of employment by that agency at
4 the time of hire, as well as no less than annually thereafter.

5 3. A temporary health care services agency shall maintain hours of
6 operation at each of its locations sufficient to meet the obligations
7 under its written agreements with health care entities.

8 4. A temporary health care services agency shall maintain a written
9 agreement or contract with each health care entity, which shall include,
10 at a minimum:

11 (a) The required minimum licensing, training, and continuing education
12 requirements for each assigned health care personnel.

13 (b) Any requirement for minimum advance notice in order to ensure
14 prompt arrival of assigned health care personnel.

15 (c) The maximum rates that can be billed or charged by the temporary
16 health care services agency pursuant to section twenty-nine hundred
17 ninety-nine-mm of this article and any applicable regulations.

18 (d) The rates to be charged by the temporary health care services
19 agency.

20 (e) Procedures for the investigation and resolution of complaints
21 about the performance of temporary health care services agency person-
22 nel.

23 (f) Procedures for notice from health care entities of failure of
24 medical personnel to report to assignments and for back-up staff in such
25 instances.

26 (g) Procedures for notice of actual or suspected abuse, theft, tamper-
27 ing or other diversion of controlled substances by medical personnel.

28 (h) The types and qualifications of health care personnel available
29 for assignment through the temporary health care services agency.

30 5. A temporary health care services agency shall submit to the depart-
31 ment copies of all contracts between the agency and a health care entity
32 to which it assigns or refers health care personnel, and copies of all
33 invoices to health care entities personnel. Executed contracts must be
34 sent to the department within five business days of their effective date
35 and are not subject to disclosure under article six of the public offi-
36 cers law.

37 6. The commissioner may promulgate regulations to implement the
38 requirements of this section and to establish additional minimum stand-
39 ards for the operation of temporary health care services agencies,
40 including but not limited to pricing, fees, administrative costs, and
41 business practices.

42 7. The commissioner may waive the requirements of this article during
43 a declared state or federal public health emergency.

44 § 2999-ll. Violations; penalties. In addition to other remedies avail-
45 able by law, violations of the provisions of this article and any regu-
46 lations promulgated thereunder shall be subject to penalties and fines
47 pursuant to section twelve of this chapter; provided, however, that each
48 violation committed by each individual employee of a temporary health
49 care services agency shall be considered a separate violation.

50 § 2999-mm. Rates for temporary health care services; reports. A tempo-
51 rary health care services agency shall report quarterly to the depart-
52 ment a full disclosure of charges and compensation, including a schedule
53 of all hourly bill rates per category of employee, a full description of
54 administrative charges, and a schedule of rates of all compensation per
55 category of employee, including, but not limited to:

1 1. hourly regular pay rate, shift differential, weekend differential,
2 hazard pay, charge nurse add-on, overtime, holiday pay, travel or mile-
3 age pay, and any health or other fringe benefits provided;
4 2. the percentage of health care entity dollars that the agency
5 expended on temporary personnel wages and benefits compared to the
6 temporary health care services agency's profits and other administrative
7 costs;
8 3. a list of the states and zip codes of their employees' primary
9 residences;
10 4. the names of all health care entities they have contracted within
11 New York state;
12 5. the number of employees of the temporary health care services agen-
13 cy working at each entity; and
14 6. any other information prescribed by the commissioner.

15 § 2. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2023.

17 PART Y

18 Section 1. This Part enacts into law major components of legislation
19 relating to medical debt and drug prices. Each component is wholly
20 contained within a Subpart identified as Subparts A through D. The
21 effective date for each particular provision contained within such
22 Subpart is set forth in the last section of such Subpart. Any provision
23 in any section contained within a Subpart, including the effective date
24 of the Subpart, which makes reference to a section "of this act", when
25 used in connection with that particular component, shall be deemed to
26 mean and refer to the corresponding section of the Subpart in which it
27 is found. Section three of this Part sets forth the general effective
28 date of this Part.

29 SUBPART A

30 Section 1. Subdivisions (f) and (j) of section 3215 of the civil prac-
31 tice law and rules, subdivision (f) as amended and subdivision (j) as
32 added by chapter 593 of the laws of 2021, subdivision (f) as separately
33 amended by chapter 831 of the laws of 2021, are amended to read as
34 follows:

35 (f) Proof. On any application for judgment by default, the applicant
36 shall file proof of service of the summons and the complaint, or a
37 summons and notice served pursuant to subdivision (b) of rule 305 or
38 subdivision (a) of rule 316 of this chapter, and proof of the facts
39 constituting the claim, the default and the amount due, including, if
40 applicable, a statement that the interest rate for consumer debt pursu-
41 ant to section five thousand four of this chapter applies, by affidavit
42 made by the party, or where the state of New York is the plaintiff, by
43 affidavit made by an attorney from the office of the attorney general
44 who has or obtains knowledge of such facts through review of state
45 records or otherwise. Where a verified complaint has been served, it may
46 be used as the affidavit of the facts constituting the claim and the
47 amount due; in such case, an affidavit as to the default shall be made
48 by the party or the party's attorney. In an action arising out of a
49 consumer credit transaction, if the plaintiff is not the original credi-
50 tor, the applicant shall include: (1) an affidavit by the original credi-
51 tor of the facts constituting the debt, the default in payment, the
52 sale or assignment of the debt, and the amount due at the time of sale

1 or assignment; (2) for each subsequent assignment or sale of the debt to
2 another entity, an affidavit of sale of the debt by the debt seller,
3 completed by the seller or assignor; and (3) an affidavit of a witness
4 of the plaintiff, which includes a chain of title of the debt, completed
5 by the plaintiff or plaintiff's witness. In an action arising from
6 medical debt, if the plaintiff is not a hospital licensed under article
7 twenty-eight of the public health law or a health care professional
8 authorized under title eight of the education law, the applicant shall
9 include: (1) an affidavit by the hospital or health care professional of
10 the facts constituting the medical debt, the default in payment, the
11 sale or assignment of the medical debt, and the amount due at the time
12 of sale or assignment; (2) for each subsequent assignment or sale of the
13 medical debt to another entity, an affidavit of sale of the medical debt
14 by the debt seller, completed by the seller or assignor; and (3) an
15 affidavit of a witness of the plaintiff, which includes a chain of title
16 of the medical debt, completed by the plaintiff or plaintiff's witness.
17 The chief administrative judge shall issue form affidavits to satisfy
18 the requirements of this subdivision for consumer credit transactions
19 and actions arising from medical debt. When jurisdiction is based on an
20 attachment of property, the affidavit must state that an order of
21 attachment granted in the action has been levied on the property of the
22 defendant, describe the property and state its value. Proof of mailing
23 the notice required by subdivision (g) of this section, where applica-
24 ble, shall also be filed.

25 (j) Affidavit. A request for a default judgment entered by the clerk,
26 must be accompanied by an affidavit by the plaintiff or plaintiff's
27 attorney stating that after reasonable inquiry, he or she has reason to
28 believe that the statute of limitations has not expired. The chief
29 administrative judge shall issue form affidavits to satisfy the require-
30 ments of this subdivision for consumer credit transactions and actions
31 arising from medical debt.

32 § 2. Subdivision 2 of section 212 of the judiciary law is amended by
33 adding a new paragraph (cc) to read as follows:

34 (cc) Make available form affidavits required for a motion for default
35 judgment in an action arising from medical debt as required by subdivi-
36 sion (f) of section thirty-two hundred fifteen of the civil practice law
37 and rules.

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

40 SUBPART B

41 Section 1. This act shall be known and may be cited as the
42 "Prescription Drug Price and Supply Chain Transparency Act of 2023".

43 § 2. Legislative intent. The state has a compelling interest in
44 providing for transparency into the price of prescription drugs and the
45 regulation of entities that play a role in the distribution of
46 prescription drugs in this state. The impact of ever rising prescription
47 drug costs impacts consumers in this state both at the pharmacy counter
48 and in health plan premium costs. Prescription drug costs also have
49 direct costs to the state fiscal, health insurance companies, pharma-
50 cies, pharmacy benefit managers, hospitals, employers, and unions.

51 § 3. The insurance law is amended by adding a new article 30 to read
52 as follows:

53 ARTICLE 30

PREScription DRUG PRICE AND SUPPLY CHAIN TRANSPARENCY

Section 3001. Definitions.

3002. Filing requirement.

3003. Special reports and other powers.

3004. Reporting of drug price increases.

3005. Reporting of pay for delay agreements.

3006. Registration of pharmacy services administrative organizations.

3007. Required disclosures by pharmacy services administrative organizations.

3008. Registration of pharmacy switch companies.

3009. Required disclosures by pharmacy switch companies.

3010. Registration of rebate aggregators.

3011. Required disclosures by rebate aggregators.

3012. Deposit of penalties and fees.

§ 3001. Definitions. (a) For the purposes of this article, the definitions contained in section two hundred eighty-a of the public health law shall apply to this article as if specifically set forth herein.

(b) The following words or phrases, as used in this article, shall have the following meanings, unless the context otherwise requires:

(1) "Manufacturer" means an entity engaged in the manufacture of prescription drugs sold in this state.

(2) "Pharmacy services administrative organization" or "PSAO" means a entity that is operating in this state and that contracts with a pharmacy for the purpose of conducting business on the pharmacy's behalf with wholesalers, distributors, health plans or pharmacy benefit managers.

(3) "Rebate aggregator" means an entity that provides formulary rebate administrative services for pharmacy benefit managers or otherwise negotiates rebates with manufacturers on behalf of pharmacy benefit managers.

(4) "Switch company" means an entity that acts as an intermediary between a pharmacy and a pharmacy benefit manager or health plan for the purpose of routing insurance claims data to or from a pharmacy.

(5) "Wholesaler" means an entity that bottles, packs or purchases drugs, devices or cosmetics for the purpose of selling or reselling to pharmacies or to other channels.

§ 3002. Filing requirement. Notwithstanding any law to the contrary, any filing or submission required under this article shall be made electronically unless the entity required to make that filing or submission demonstrates undue hardship, impracticability or good cause as required by section three hundred sixteen of this chapter.

§ 3003. Special reports and other powers. (a) The superintendent may address to any entity required to register or report information under this article, or its officers, or any agent or employee thereof any inquiry in relation to its business or any matter connected therewith. Every individual or entity so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of the entity, or by such agent or employee of the entity as the superintendent shall designate, and affirmed by them as true under the penalties of perjury.

(b) In the event any individual or entity does not submit a good faith response to an inquiry from the superintendent pursuant to subsection (a) of this section within a time period specified by the superintendent of not less than fifteen business days, the superintendent is authorized

1 to levy a civil penalty, after notice and hearing, against such person
2 not to exceed one thousand dollars per day for each day beyond the date
3 specified by the superintendent for response to the inquiry.

4 (c) In addition to all other powers granted by law, the superintendent
5 is hereby empowered to order any person or entity required to register
6 or report information under this article to cease and desist from
7 violations of this article and following issuance of such an order may
8 bring and maintain an action in any court of competent jurisdiction for
9 an injunction or other appropriate relief to enjoin threatened or exist-
10 ing violations of this article or of the superintendent's orders or
11 regulations, such action may specifically seek restitution on behalf of
12 persons aggrieved by a violation of this article or orders or regu-
13 lations of the superintendent.

14 (d) In addition to all other powers granted by law, whenever it shall
15 appear to the superintendent, either upon complaint or otherwise, that
16 in the course of its business within or from this state that any entity
17 shall have employed, or employs, or is about to employ any business
18 practice or shall have performed, or is performing, or is about to
19 perform any act in violation of this article or orders or regulations of
20 the superintendent, or the superintendent believes it to be in the
21 public interest that an investigation be made, the superintendent may,
22 in the superintendent's discretion, either require or permit such entity
23 or any agent or employee thereof, to file with the department a state-
24 ment in writing under oath or otherwise as to all the facts and circum-
25 stances concerning the subject matter that the superintendent believes
26 is in the public interest to investigate, and for that purpose may
27 prescribe forms upon which such statements shall be made. The super-
28 intendent may also require such other data and information as the super-
29 intendent may deem relevant and may make such special and independent
30 investigations as the superintendent may deem necessary in connection
31 with the matter. It shall be the duty of all public officers, their
32 deputies, assistants, subordinates, clerks or employees and all other
33 persons to render and furnish to the superintendent, when requested in
34 connection with an investigation under this subsection, all information
35 and assistance in their possession or within their power.

36 (e) Any entity who violates an order under subsection (c) or (d) of
37 this section shall be subject to a civil penalty, after notice and a
38 hearing, of not more than ten thousand dollars per act in violation, in
39 addition to any other penalty provided by law.

40 (f) Any communications or documents sent or received in connection
41 with an investigation under this article, and materials referring to
42 such information in the possession of the superintendent shall be confi-
43 dential and not subject to disclosure by the superintendent except where
44 and as the superintendent determines that disclosure is in the public
45 interest. This subsection shall not apply to information, documents and
46 materials in the possession and under the control of an entity other
47 than the superintendent.

48 § 3004. Reporting of drug price increases. (a)(1) No manufacturer or
49 wholesaler may charge any price for a drug based on an increase in
50 wholesale acquisition cost, average wholesale price, or any other metric
51 unless the manufacturer shall first report the price to the department.

52 (2) No entity may sell or distribute in this state any drug for which
53 a report was required to be made under this subsection until such report
54 is made.

55 (b) The report required by subsection (a) of this section shall be
56 made in a form and manner prescribed by the superintendent, shall be

1 made individually for each national drug code, and shall include the
2 following:

- 3 (1) the name or names of the drug;
- 4 (2) the national drug code for the drug;
- 5 (3) the price of the drug prior to the increase;
- 6 (4) the price of the drug following the increase;
- 7 (5) the effective date of the increase;
- 8 (6) the date on which the decision was made to increase the price; and
- 9 (7) the reason and justification for the increase.

10 (c) Not later than May first, two thousand twenty-five, the department
11 shall begin publishing reports received under this section on a publicly
12 accessible online database, which is searchable at least by manufacturer
13 name, drug name, and national drug code. Reports shall be posted not
14 later than fifteen business days after they are received and shall
15 remain on the database for not less than one hundred eighty days after
16 the effective date of the increase or the first date the report is post-
17 ed, whichever is later, provided, however, that the superintendent may
18 delay the posting of a report if posting within fifteen business days of
19 receipt is not feasible.

20 (d) Notwithstanding any law to the contrary, the information contained
21 in paragraphs six and seven of subsection (b) of this section or any
22 statement required under subsection (g) of this section, together with
23 any communications, documents, and materials referring to such informa-
24 tion in the possession of the superintendent, shall be confidential and
25 not subject to disclosure by the superintendent, except where the super-
26 intendent determines that disclosure is in the public interest. This
27 subsection shall not apply to information, documents and materials in
28 the possession and under the control of an entity other than the super-
29 intendent.

30 (e) No report shall be considered validly filed unless accompanied by
31 a filing fee in an amount set forth in this subsection.

32 (1) For any report involving an increase that will not take effect for
33 one hundred twenty days or more and for which the effective date of the
34 change is between the first of January and the thirty-first of January
35 and:

36 (A) for which the increase will result in a change of less than ten
37 percent per unit over the price of the same drug three hundred sixty-
38 five days before the effective date of the change, the fee shall be
39 twenty-five dollars;

40 (B) for which the increase will result in a change of less than twen-
41 ty-five percent per unit over the price of the same drug three hundred
42 sixty-five days before the effective date of the change, the fee shall
43 be twenty-five dollars;

44 (C) for which the increase will result in a change of less than fifty
45 percent per unit over the price of the same drug three hundred sixty-
46 five days before the effective date of the change, the fee shall be two
47 hundred fifty dollars; or

48 (D) for which the increase will result in a change of fifty percent or
49 greater per unit over the price of the same drug three hundred sixty-
50 five days before the effective date of the change, the fee shall be one
51 thousand dollars.

52 (2) For any report involving an increase that will not take effect for
53 one hundred twenty days or more and for which the effective date is
54 outside of the month of January and:

55 (A) for which the increase will result in a change of less than ten
56 percent per unit over the price of the same drug three hundred sixty-

1 five days before the effective date of the change, the fee shall be two
2 thousand five hundred dollars;

3 (B) for which the increase will result in a change of less than twen-
4 ty-five percent per unit over the price of the same drug three hundred
5 sixty-five days before the effective date of the change, the fee shall
6 be five thousand dollars;

7 (C) for which the increase will result in a change of less than fifty
8 percent per unit over the price of the same drug three hundred sixty-
9 five days before the effective date of the change, the fee shall be
10 seven thousand five hundred dollars; or

11 (D) for which the increase will result in a change of fifty percent or
12 greater per unit over the price of the same drug three hundred sixty-
13 five days before the effective date of the change, the fee shall be ten
14 thousand dollars.

15 (3) For any report involving an increase that will take effect in less
16 than one hundred twenty days and for which the effective date of the
17 change is between the first of January and the thirty-first of January
18 and;

19 (A) for which the increase will result in a change of less than ten
20 percent per unit over the price of the same drug three hundred sixty-
21 five days before the effective date of the change, the fee shall be two
22 thousand five hundred dollars;

23 (B) for which the increase will result in a change of less than twen-
24 ty-five percent per unit over the price of the same drug three hundred
25 sixty-five days before the effective date of the change, the fee shall
26 be five thousand dollars;

27 (C) for which the increase will result in a change of less than fifty
28 percent per unit over the price of the same drug three hundred sixty-
29 five days before the effective date of the change, the fee shall be
30 seven thousand five hundred dollars; or

31 (D) for which the increase will result in a change of fifty percent or
32 greater per unit over the price of the same drug three hundred sixty-
33 five days before the effective date of the change, the fee shall be ten
34 thousand dollars.

35 (4) For any report involving an increase that will take effect in less
36 than one hundred twenty days and for which the effective date of the
37 change is outside of the month of January and;

38 (A) for which the increase will result in a change of less than ten
39 percent per unit over the price of the same drug three hundred sixty-
40 five days before the effective date of the change, the fee shall be
41 twenty-five thousand dollars;

42 (B) for which the increase will result in a change of less than twen-
43 ty-five percent per unit over the price of the same drug three hundred
44 sixty-five days before the effective date of the change, the fee shall
45 be fifty thousand dollars;

46 (C) for which the increase will result in a change of less than fifty
47 percent per unit over the price of the same drug three hundred sixty-
48 five days before the effective date of the change, the fee shall be
49 seventy-five thousand dollars; or

50 (D) for which the increase will result in a change of fifty percent or
51 greater per unit over the price of the same drug three hundred sixty-
52 five days before the effective date of the change, the fee shall be one
53 hundred thousand dollars.

54 (5) For any report made after the effective date of the change, the
55 fee shall be one hundred thousand dollars plus ten thousand dollars for
56 each day after the effective date before the report is made.

1 (f) After notice and a hearing, the superintendent may impose a civil
2 penalty on any entity that violates subsection (a) of this section in an
3 amount not to exceed one million dollars per violation. In considering
4 the amount of any such civil penalty, the superintendent shall consider:

5 (1) the timing of the increase;

6 (2) the cost of the drug;

7 (3) the impact on consumers;

8 (4) whether such violation is a first offense; and

9 (5) remedial measures the entity has put in place to prevent future
10 violations.

11 (g) Whenever a report is made involving an increase that will take
12 effect in less than one hundred twenty days, the manufacturer of the
13 drug shall provide to the superintendent a statement of the reason that
14 the increase must take effect in less than one hundred twenty days. When
15 the superintendent believes it is in the public interest that an inves-
16 tigation be made, the superintendent may make independent and special
17 investigations into the matter as the superintendent deems appropriate.

18 § 3005. Reporting of pay for delay agreements. (a) Each manufacturer
19 doing business in this state that manufactures a brand name prescription
20 drug and enters into an arrangement, through agreement or otherwise,
21 with another pharmaceutical manufacturer that has the purpose or effect
22 of delaying or preventing such other manufacturer from introducing a
23 generic substitute for such drug into the marketplace shall, not later
24 than thirty days after entering into such arrangement, send notice to
25 the superintendent, in a form and manner prescribed by the superinten-
26 dent, disclosing the name of such drug, the wholesale price, the disease
27 or diseases such drug is commonly prescribed to treat, the manufacturer
28 of such drug, the name of the generic manufacturer, the length of the
29 delay, and such other information as the superintendent may require.

30 (b) The superintendent shall, no later than thirty days after receiv-
31 ing a notice pursuant to subsection (a) of this section, provide notice
32 of the filing to the drug accountability board, the drug utilization
33 review board established under section three hundred sixty-nine-bb of
34 the social services law and all Medicaid managed care plans, health
35 plans and pharmacy benefits managers. It shall be sufficient notice for
36 the superintendent to make available an email notification list to which
37 any of the aforementioned entities may elect to receive notice.

38 (c) No later than June first, two thousand twenty-four, the department
39 shall post on its website within thirty days of receipt thereof, all the
40 notices required pursuant to subsection (a) of this section in a format
41 and manner developed by the superintendent that is searchable by drug,
42 cost, disease, and manufacturer both for the brand and generic drug for
43 public review.

44 (d) Each notice required under subsection (a) of this section shall be
45 accompanied by a filing fee of one hundred dollars.

46 (e) For a violation by a manufacturer of a brand name drug who know-
47 ingly or negligently fails to notify the superintendent as required in
48 subsection (a) of this section, the superintendent shall fine such
49 manufacturer no less than five thousand dollars for each day such
50 manufacturer fails to properly notify the superintendent pursuant to the
51 requirements of this section for the first violation and no less than
52 ten thousand dollars for each day such manufacturer fails to properly
53 notify the superintendent pursuant to the requirements of this section
54 for each violation thereafter.

55 § 3006. Registration of pharmacy services administrative organiza-
56 tions. (a) No PSAO shall operate in this state after March thirty-

1 first, two thousand twenty-four without first registering with the
2 department.

3 (b) A PSAO seeking registration shall file, in a form and manner
4 determined by the superintendent, information that includes at a mini-
5 mum:

6 (1) the legal name of the entity;
7 (2) any trade or other names used by the entity;
8 (3) the organizational structure of the entity;
9 (4) the pharmacies located within this state with which the entity
10 provides services;

11 (5) the persons who exercise control of the entity;
12 (6) a primary point of contact for the entity;
13 (7) an agent for service of process;
14 (8) a set of audited financials for the prior fiscal year; and
15 (9) such other information as the superintendent shall require.

16 (c) The superintendent shall accept a registration only if the super-
17 intendent determines that all the required information has been provided
18 in a satisfactory form and has received payment of a nonrefundable
19 registration fee of five thousand dollars.

20 (d) If any of the information contained in the registration shall
21 change, the PSAO shall notify the department of the change in a form and
22 manner prescribed by the superintendent for such purpose within twenty-
23 one days of the change. The requirement to update shall include the
24 filing of a new set of audited financials upon adoption. For any change
25 other than new audited financials, the filing shall not be deemed
26 complete unless accompanied by a payment of a fee of fifty dollars.

27 (e) Every PSAO registration issued pursuant to this section shall
28 expire twelve months after the date of issue. A PSAO may renew its
29 registration for another twelve months upon the filing of an application
30 in conformity with this section.

31 (f) Before a PSAO registration shall be renewed, the PSAO shall file
32 an application for renewal in such form as the superintendent
33 prescribes, and pay a fee of five thousand dollars.

34 (g) If a PSAO files a renewal application with the superintendent at
35 least one month before its expiration, then the registration sought to
36 be renewed shall continue in full force and effect either until the
37 issuance by the superintendent of the renewal registration applied for
38 or until five days after the superintendent shall have refused to issue
39 such renewal registration and given notice of such refusal to the appli-
40 cant, otherwise the PSAO registration shall expire and the registrant
41 shall have no expectation of renewal.

42 § 3007. Required disclosures by pharmacy services administrative
43 organizations. (a) (1) Each PSAO shall at the time of registration
44 pursuant to section three thousand six of this article disclose to the
45 department the extent of any ownership or control of the PSAO or by the
46 PSAO of any parent company, subsidiary, or affiliate that:

47 (A) provides pharmacy services;
48 (B) provides prescription drug or device services; or
49 (C) manufactures, sells, or distributes prescription drugs, biolog-
50 icals, or medical devices.

51 (2) A PSAO shall furnish a copy of the disclosure made at the time of
52 registration to all pharmacies located in this state with which it has
53 contract in place at the time of the registration. A PSAO shall not
54 collect any fee for any services provided to a pharmacy for any period
55 beginning five days after the filing of a registration with the depart-
56 ment until the disclosure is sent to the pharmacy.

(3) Not later than April first, two thousand twenty-five, the department shall publish all disclosures received under this subsection on a publicly accessible online database, which is searchable at least by PSAO name. All disclosures shall be posted not later than ten business days after a registration is accepted and shall remain on the database for the duration of the registration of the PSAO.

(b) (1) Prior to entering into any contract with any pharmacy located in this state, including a contract with a group of pharmacies at least one of which is in this state, a PSAO shall furnish to the pharmacy a written disclosure of the information required to be disclosed in subsection (a) of this section. No contract with a pharmacy shall be enforceable against the pharmacy by a PSAO unless that PSAO makes this disclosure prior to the agreement. In addition to any other power conferred by law, the superintendent may prescribe the form and manner of such disclosures.

(2) A PSAO that owns, is owned by, in whole or in part, or controls any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices shall not, as a condition of entering into a contract with a pharmacy, require that the pharmacy purchase any drugs or medical devices from an entity with which the PSAO has a financial interest, or an entity with an ownership interest in the PSAO.

(3) No PSAO shall enter into a contract with a pharmacy in this state unless that contract shall provide that all remittances for claims submitted by a pharmacy benefit manager or third-party payer on behalf of a pharmacy to the PSAO shall be passed through by the PSAO to the pharmacy within a reasonable amount of time, established in the contract, after receipt of the remittance by the PSAO from the pharmacy benefit manager or third-party payer.

(c) (1) A PSAO that provides, accepts, or processes a discount, concession, or product voucher, to reduce, directly or indirectly, a covered individual's out-of-pocket expense for the order, dispensing, substitution, sale, or purchase of a prescription drug shall make available to each pharmacy in this state that it contracts with or which it contracted with in the prior calendar year, an annual report that includes:

(A) an aggregated total of all such transactions, by the pharmacy; and

(B) an aggregated total of any payments received by the PSAO itself for providing, processing, or accepting any discount, concession, or product voucher on behalf of a pharmacy.

(2) A pharmacy in this state that is a party to a contract with a PSAO shall have a right to an accounting of the funds received by the PSAO for goods or services provided by the pharmacy to patients and customers.

§ 3008. Registration of pharmacy switch companies. (a) No switch company may do business in this state after June thirtieth, two thousand twenty-four without first registering with the department.

(b) A switch company seeking registration shall file with the department, in a form and manner determined by the superintendent, information including but not limited to:

(1) the legal name of the entity;

(2) any trade or other names used by the entity;

(3) the organizational structure of the entity;

(4) the pharmacies located within this state and the pharmacy benefit managers licensed in this state with which the entity provides services;

(5) the persons who exercise control of the entity;

(6) a primary point of contact for the entity;

1 (7) an agent for service of process;
2 (8) a set of audited financials for the prior fiscal year; and
3 (9) such other information or documents as the superintendent shall
4 require.

5 (c) The superintendent shall accept a registration only if he or she
6 deems that all the required information has been provided in a satisfac-
7 tory form and has received payment of a nonrefundable registration fee
8 of one thousand dollars.

9 (d) If any of the information contained in the registration shall
10 change, the switch company shall notify the department of the change in
11 a form and manner prescribed by the superintendent for such purpose
12 within twenty-one days of the change. The requirement to update shall
13 include the filing of a new set of audited financials upon adoption. For
14 any change other than new audited financials, the filing shall not be
15 deemed complete unless accompanied by a payment of a fee of fifty
16 dollars.

17 (e) Every pharmacy switch company's registration shall expire twelve
18 months after the date of issue. Every registration issued pursuant to
19 this section may be renewed for the ensuing period of twelve months upon
20 the filing of an application in conformity with this subsection.

21 (f) Before a pharmacy switch company's registration shall be renewed,
22 the pharmacy switch company shall properly file in the office of the
23 superintendent an application for renewal in such form as the super-
24 intendent prescribes, and pay a fee of one thousand dollars.

25 (g) If an application for a renewal registration shall have been filed
26 with the superintendent at least one month before its expiration, then
27 the registration sought to be renewed shall continue in full force and
28 effect either until the issuance by the superintendent of the renewal
29 registration applied for or until five days after the superintendent
30 shall have refused to issue such renewal registration and given notice
31 of such refusal to the applicant, otherwise the registration shall
32 expire and the registrant shall have no expectation of renewal.

33 § 3009. Required disclosures by pharmacy switch companies. (a) Each
34 switch company shall annually disclose to the department, in a form and
35 manner prescribed by the superintendent, such information as the super-
36 intendent deems necessary for the proper supervision of the industry.
37 Such information shall include:

38 (1) a list of services the switch company provides and the industries
39 to which they are provided;

40 (2) information on electronic voucher services provided by the switch
41 company, including:

42 (A) a list of manufacturers that the switch company has contracts with
43 or for which it transmits electronic vouchers;

44 (B) a list of medications and the National Drug Codes (NDCs) for which
45 the switch company may apply electronic vouchers; and

46 (C) the total amount of money collected from manufacturers related to
47 transmission of electronic vouchers; and

48 (3) the number of transactions processed in this state and the total
49 amount of revenue attributable to those transactions.

50 (b) A switch company shall disclose to each pharmacy benefit manager
51 with which it does business any instance in which an electronic voucher
52 was applied in the course of routing the claim.

53 § 3010. Registration of rebate aggregators. (a) No rebate aggregator
54 may do business in this state after September thirtieth, two thousand
55 twenty-four without first registering with the department.

1 (b) A rebate aggregator seeking registration shall file, in a form and
2 manner determined by the superintendent, information including but not
3 limited to:

4 (1) the legal name of the entity;
5 (2) any trade or other names used by the entity;
6 (3) the organizational structure of the entity;
7 (4) the health plans and the pharmacy benefit managers licensed in
8 this state for which the entity provides services;
9 (5) the persons who exercise control of the entity;
10 (6) a primary point of contact for the entity;
11 (7) an agent for service of process;
12 (8) a set of audited financials for the prior fiscal year; and
13 (9) such other information or documents as the superintendent shall
14 require.

15 (c) The superintendent shall accept a registration only if he or she
16 deems that all the required information has been provided in a satisfac-
17 tory form and has received payment of a nonrefundable registration fee
18 of one thousand dollars.

19 (d) If any of the information contained in the registration shall
20 change the rebate aggregator shall notify the department of the change
21 in a form and manner prescribed by the superintendent for such purpose
22 within twenty-one days of the change. The requirement to update shall
23 include the filing of a new set of audited financials upon adoption. For
24 any change other than new audited financials, the filing shall not be
25 deemed complete unless accompanied by a payment of a fee of fifty
26 dollars.

27 (e) Every rebate aggregator's registration shall expire twelve months
28 after the date of issue. Every registration issued pursuant to this
29 section may be renewed for the ensuing period of twelve months upon the
30 filing of an application in conformity with this subsection.

31 (f) Before a rebate aggregator's registration shall be renewed, the
32 rebate aggregator shall properly file in the office of the superinten-
33 dent an application for renewal in such form as the superintendent
34 prescribes, and pay a fee of one thousand dollars.

35 (g) If an application for a renewal registration shall have been filed
36 with the superintendent at least one month before its expiration, then
37 the registration sought to be renewed shall continue in full force and
38 effect either until the issuance by the superintendent of the renewal
39 registration applied for or until five days after the superintendent
40 shall have refused to issue such renewal registration and given notice
41 of such refusal to the applicant, otherwise the registration shall
42 expire and the registrant shall have no expectation of renewal.

43 § 3011. Required disclosures by rebate aggregators. (a) Each rebate
44 aggregator that has a contract or arrangement with a pharmacy benefit
45 manager serving a health plan shall, on an annual basis, disclose in
46 writing to the health plan the following:

47 (1) fee structure provisions of any contract or arrangement between
48 the rebate aggregator and pharmacy benefit manager or drug manufacturer,
49 including:

50 (A) fees collected for aggregating rebates due to the health plan; and
51 (B) such other information as the superintendent may require by regu-
52 lation; and

53 (2) quantification of inflationary payments, credits, grants,
54 reimbursements, other financial or other reimbursements, incentives,
55 inducements, refunds or other benefits received by the rebate aggregator

1 from the drug manufacturer and retained by the rebate aggregator, whether
2 referred to as a rebate, a discount, or otherwise.

3 (b) (1) Each rebate aggregator shall, at the time of registration,
4 disclose to the department the extent of any ownership or control of the
5 rebate aggregator or by the rebate aggregator of any parent company,
6 subsidiary, or other affiliated organizations that provides pharmacy
7 benefit management services.

8 (2) Each rebate aggregator shall on an annual basis disclose to the
9 department the information requested by the superintendent, including:

10 (A) any payments made to a rebate aggregator by a drug manufacturer
11 relating to a drug's utilization, including inflationary payments, cred-
12 its, grants, reimbursements, other financial or other reimbursements,
13 incentives, inducements, refunds or other benefits received by the
14 rebate aggregator, whether referred to as a rebate, a discount, or
15 otherwise;

16 (B) any payments made, including those described in subparagraph (A)
17 of this paragraph and subsequently retained by a rebate aggregator;

18 (C) any fees charged by the rebate aggregator to the pharmacy benefit
19 manager or drug manufacturer relating to a drug's utilization;

20 (D) any payments made to a rebate aggregator from a program adminis-
21 tered by a drug manufacturer for the purpose of assisting patients with
22 the cost of prescription drugs, including copayment assistance programs,
23 discount cards, and coupons; and

24 (E) the terms and conditions of any contract or arrangement between
25 the rebate aggregator and a pharmacy benefit manager or drug manufactur-
26 er.

27 § 3012. Deposit of penalties and fees. Penalties and fees collected
28 pursuant to this article shall be deposited into the pharmacy benefit
29 manager regulatory fund established pursuant to section ninety-nine-oo
30 of the state finance law.

31 § 4. Subdivision 3 of section 99-oo of the state finance law, as added
32 by chapter 128 of the laws of 2022, is amended to read as follows:

33 3. Such fund shall consist of money received by the state as fees
34 under [~~article~~] articles twenty-nine and thirty of the insurance law or
35 penalties ordered under [~~article~~] articles twenty-nine and thirty of the
36 insurance law and all other monies appropriated, credited, or trans-
37 ferred thereto from any other fund or source pursuant to law. All monies
38 shall remain in such fund unless and until directed by statute or appro-
39 priation.

40 § 5. This act shall take effect on the one hundred fiftieth day after
41 it shall have become a law.

42 SUBPART C

43 Section 1. Subdivision 9 of section 2807-k of the public health law,
44 as amended by section 17 of part B of chapter 60 of the laws of 2014, is
45 amended to read as follows:

46 9. In order for a general hospital to participate in the distribution
47 of funds from the pool, the general hospital must implement minimum
48 collection policies and procedures approved by the commissioner, utiliz-
49 ing only a uniform financial assistance form developed and provided by
50 the department.

51 § 2. This act shall take effect April 1, 2024.

52 SUBPART D

1 Section 1. Legislative findings. The legislature finds that it is in
2 the best interest of the people of this state to expand article 77 of
3 the insurance law to protect insureds and health care providers against
4 the failure or inability of a health or property/casualty insurer writ-
5 ing health insurance to perform its contractual obligations due to
6 financial impairment or insolvency. The superintendent of financial
7 services has the right and responsibility to enforce the insurance law
8 and the authority to seek redress against any person responsible for the
9 impairment or insolvency of the insurer, and nothing in this act is
10 intended to restrict or limit such right, responsibility, or authority.

11 § 2. The article heading of article 77 of the insurance law, as added
12 by chapter 802 of the laws of 1985, is amended to read as follows:

13 THE LIFE AND HEALTH INSURANCE COMPANY
14 GUARANTY CORPORATION
15 OF NEW YORK ACT

16 § 3. Section 7701 of the insurance law, as added by chapter 802 of the
17 laws of 1985, is amended to read as follows:

18 § 7701. Short title. This article shall be known and may be cited as
19 "The Life and Health Insurance Company Guaranty Corporation of New York
20 Act".

21 § 4. Section 7702 of the insurance law, as amended by chapter 454 of
22 the laws of 2014, is amended to read as follows:

23 § 7702. Purpose. The purpose of this article is to provide funds to
24 protect policy owners, insureds, health care providers, beneficiaries,
25 annuitants, payees and assignees of life insurance policies, health
26 insurance policies, annuity contracts, funding agreements and supple-
27 mental contracts issued by life insurance companies, health insurance
28 companies, and property/casualty insurance companies, subject to certain
29 limitations, against failure in the performance of contractual obli-
30 gations due to the impairment or insolvency of the insurer issuing such
31 policies, contracts, or funding agreements. In the judgment of the
32 legislature, the foregoing objects and purposes not being capable of
33 accomplishment by a corporation created under general laws, the creation
34 of a not-for-profit corporation of insurers is provided for by this
35 article to enable the guarantee of payment of benefits and of continua-
36 tion of coverages, and members of the corporation are subject to assess-
37 ment to carry out the purposes of this article.

38 § 5. Paragraphs 1 and 2 of subsection (a) of section 7703 of the
39 insurance law, as added by chapter 454 of the laws of 2014, are amended
40 to read as follows:

41 (1) This article shall apply to direct life insurance policies, health
42 insurance policies, annuity contracts, funding agreements, and supple-
43 mental contracts issued by a life insurance company, health insurance
44 company, or property/casualty insurance company licensed to transact
45 life or health insurance or annuities in this state at the time the
46 policy, contract, or funding agreement was issued or on the date of
47 entry of a court order of liquidation or rehabilitation with respect to
48 such a company that is an impaired or insolvent insurer, as the case may
49 be.

50 (2) Except as otherwise provided in this section, this article shall
51 apply to the policies, contracts, and funding agreements specified in
52 paragraph one of this subsection with regard to a person who is:

53 (A) an owner or certificate holder under a policy, contract, or fund-
54 ing agreement and in each case who:

55 (i) is a resident of this state; or

1 (ii) is not a resident of this state, but only under all of the
2 following conditions:

3 (I) (aa) the insurer that issued the policy, contract, or agreement is
4 domiciled in this state; or

5 (bb) the insurer that issued the policy, contract, or agreement is
6 domiciled outside this state and the insurer delivered or issued for
7 delivery the policy, contract, or agreement in this state; provided,
8 however, that for the purpose of this subitem, any certificate issued to
9 an individual under any group or blanket policy or contract delivered or
10 issued for delivery in this state shall be considered to have been
11 delivered or issued for delivery in this state;

12 (II) the state or states in which the person resides has or have a
13 guaranty entity similar to the corporation created by this article; and

14 (III) the person is not eligible for coverage by a guaranty entity in
15 any other state because the insurer was not licensed or authorized in
16 that state at the time specified in that state's guaranty entity law;
17 [~~ex~~]

18 (B) the beneficiary, assignee, or payee of the person specified in
19 subparagraph (A) of this paragraph, regardless of where the person
20 resides; or

21 (C) a health care provider that has rendered services to a person
22 specified in subparagraph (A) of this paragraph.

23 § 6. Subsections (c), (d), (e), (h), and (i) of section 7705 of the
24 insurance law, subsections (c), (e) and (i) as added by chapter 802 of
25 the laws of 1985 and subsections (d) and (h) as amended by chapter 454
26 of the laws of 2014, are amended and a new subsection (m) is added to
27 read as follows:

28 (c) "Corporation" means The Life and Health Insurance Company Guaranty
29 Corporation of New York created under section seven thousand seven
30 hundred six of this article unless the context otherwise requires.

31 (d) "Covered policy" means any of the kinds of insurance specified in
32 paragraph one, two or three of subsection (a) of section one thousand
33 one hundred thirteen of this chapter, any supplemental contract, or any
34 funding agreement referred to in section three thousand two hundred
35 twenty-two of this chapter, or any portion or part thereof, within the
36 scope of this article under section seven thousand seven hundred three
37 of this article, except that any certificate issued to an individual
38 under any group or blanket policy or contract shall be considered to be
39 a separate covered policy for purposes of section seven thousand seven
40 hundred eight of this article.

41 (e) "Health insurance" means the kinds of insurance specified under
42 items (i) and (ii) of paragraph three and paragraph thirty-one of
43 subsection (a) of section one thousand one hundred thirteen of this
44 chapter, and section one thousand one hundred seventeen of this chapter;
45 medical expense indemnity, dental expense indemnity, hospital service,
46 or health service under article forty-three of this chapter; and compre-
47 hensive health services under article forty-four of the public health
48 law. "Health insurance" shall not include hospital, medical, surgical,
49 prescription drug, or other health care benefits pursuant to: (1) part
50 C of title XVIII of the social security act (42 U.S.C. § 1395w-21 et
51 seq.) or part D of title XVIII of the social security act (42 U.S.C. §
52 1395w-101 et seq.), commonly known as Medicare parts C and D, or any
53 regulations promulgated thereunder; (2) titles XIX and XXI of the social
54 security act (42 U.S.C. § 1396 et seq.), commonly known as the Medicaid
55 and child health insurance programs, or any regulations promulgated

1 thereunder; or (3) the basic health program under section three hundred
2 sixty-nine-gg of the social services law.

3 (h) (1) "Member insurer" means:

4 (A) any life insurance company licensed to transact in this state any
5 kind of insurance to which this article applies under section seven
6 thousand seven hundred three of this article; provided, however, that
7 the term "member insurer" also means any life insurance company formerly
8 licensed to transact in this state any kind of insurance to which this
9 article applies under section seven thousand seven hundred three of this
10 article; and

11 (B) an insurer licensed or formerly licensed to write accident and
12 health insurance or salary protection insurance in this state, corpo-
13 ration organized pursuant to article forty-three of this chapter, recip-
14 rocal insurer organized pursuant to article sixty-one of this chapter,
15 cooperative property/casualty insurance company operating under or
16 subject to article sixty-six of this chapter, nonprofit
17 property/casualty insurance company organized pursuant to article
18 sixty-seven of this chapter, and health maintenance organization certi-
19 fied pursuant to article forty-four of the public health law, which is
20 not a member of, or participant in, the fund or corporation created
21 pursuant to article seventy-five or seventy-seven of this chapter.

22 (2) "Member insurer" shall not include a municipal cooperative health
23 benefit plan established pursuant to article forty-seven of this chap-
24 ter, an employee welfare fund registered under article forty-four of
25 this chapter, a fraternal benefit society organized under article
26 forty-five of this chapter, an institution of higher education with a
27 certificate of authority under section one thousand one hundred twenty-
28 four of this chapter, or a continuing care retirement community with a
29 certificate of authority under article forty-six or forty-six-A of the
30 public health law.

31 (i) "Premiums" means direct gross insurance premiums and annuity and
32 funding agreement considerations received on covered policies, less
33 return premiums and considerations thereon and dividends paid or credit-
34 ed to policyholders or contract holders on such direct business, subject
35 to such modifications as the superintendent may establish by regulation
36 or order as necessary to facilitate the equitable administration of this
37 article. Premiums do not include premiums and considerations on
38 contracts between insurers and reinsurers. For the purposes of determin-
39 ing the assessment for an insurer under this article, the term "premi-
40 ums", with respect to a group annuity contract (or portion of any such
41 contract) that does not guarantee annuity benefits to any specific indi-
42 vidual identified in the contract and with respect to any funding agree-
43 ment issued to fund benefits under any employee benefit plan, means the
44 lesser of one million dollars or the premium attributable to that
45 portion of such group contract that does not guarantee benefits to any
46 specific individuals or such agreements that fund benefits under any
47 employee benefit plan.

48 (m) "Long-term care insurance" means an insurance policy, rider, or
49 certificate advertised, marketed, offered, or designed to provide cover-
50 age, subject to eligibility requirements, for not less than twenty-four
51 consecutive months for each covered person on an expense incurred,
52 indemnity, prepaid or other basis and provides at least the benefits set
53 forth in part fifty-two of title eleven of the official compilation of
54 codes, rules and regulations of this state.

55 § 7. Subsection (a) of section 7706 of the insurance law, as added by
56 chapter 802 of the laws of 1985, is amended to read as follows:

(a) There is created a not-for-profit corporation to be known as "The Life and Health Insurance Company Guaranty Corporation of New York". To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article or the plan of operation of the corporation hereunder the not-for-profit corporation law shall apply to the corporation and the corporation shall be a type C corporation pursuant to the not-for-profit corporation law. If an applicable provision of this article or the plan of operation of the corporation hereunder relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. All member insurers shall be and remain members of the corporation as a condition of their authority to transact insurance in this state. The corporation shall perform its functions under the plan of operation established and approved under section seven thousand seven hundred ten of this article and shall exercise its powers through a board of directors established under section seven thousand seven hundred seven of this article. For purposes of administration and assessment the corporation shall maintain two accounts:

(1) the health insurance account; and

(2) the life insurance, annuity and funding agreement account.

§ 8. Subsection (d) of section 7707 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(d) The superintendent shall be ex-officio [~~chairman~~] chair of the board of directors but shall not be entitled to vote.

§ 9. Paragraph 7 of subsection (h) of section 7708 of the insurance law, as amended by chapter 454 of the laws of 2014, is amended to read as follows:

(7) exercise, for the purposes of this article and to the extent approved by the superintendent, the powers of a domestic life, health, or property/casualty insurance company, but in no case may the corporation issue insurance policies or contracts or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer;

§ 10. Paragraph 2 of subsection (c) of section 7709 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(2) The amount of any class B or class C assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies or contracts covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies. The amount of any class B or class C assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the superintendent. The methodology shall provide for fifty percent of the assessment to be allocated to a health insurance company member insurer and fifty percent to be allocated to a life insurance company member insurer; provided, however, that a property/casualty insurer that writes health insurance shall be considered a health insurance company member for this purpose.

Class B and class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the three calendar years preceding the assessment bears to

1 such premiums received on business in this state for such calendar years
2 by all assessed member insurers.

3 § 11. Subsection (a) of section 7712 of the insurance law, as added
4 by chapter 802 of the laws of 1985, is amended to read as follows:

5 (a) The superintendent shall annually, within six months following the
6 close of each calendar year, furnish to the commissioner of taxation and
7 finance and the director of the division of the budget a statement of
8 operations for the life insurance guaranty corporation and the life and
9 health insurance company guaranty corporation of New York. Such state-
10 ment shall show the assessments, less any refunds or reimbursements
11 thereof, paid by each insurance company pursuant to the provisions of
12 article seventy-five or section seven thousand seven hundred nine of
13 this article, for the purposes of meeting the requirements of this chap-
14 ter. Each statement, starting with the statement furnished in the year
15 nineteen hundred eighty-six and ending with the statement furnished in
16 the year two thousand, shall show the annual activity for every year
17 commencing from nineteen hundred eighty-five through the most recently
18 completed year. Each statement furnished in each year after the year two
19 thousand shall reflect such assessments paid during the preceding
20 fifteen calendar years. The superintendent shall also furnish a copy of
21 such statement to each such insurance company.

22 § 12. Subsections (a), (d), and (g) of section 7719 of the insurance
23 law, as added by chapter 454 of the laws of 2014, are amended to read as
24 follows:

25 (a) The corporation may incorporate one or more not-for-profit corpo-
26 rations, known as a resolution facility, in connection with the liqui-
27 dation of an insolvent domestic life insurance company, health insurance
28 company, or property/casualty insurance company under article seventy-
29 four of this chapter for the purpose of administering and disposing of
30 the business of the insolvent [~~domestic life~~] insurance company.

31 (d) A resolution facility may:

32 (1) guarantee, assume, or reinsure, or cause to be guaranteed,
33 assumed, or reinsured, the covered policies, or arrange for replacement
34 by policies found by the superintendent to be substantially similar to
35 the covered policies;

36 (2) exercise, for the purposes of this article and to the extent
37 approved by the superintendent, the powers of a domestic life insurance
38 company, health insurance company, or property/casualty insurance compa-
39 ny but in no case may the resolution facility issue insurance policies,
40 annuity contracts, funding agreements, or supplemental contracts other
41 than those issued to perform the contractual obligations of the impaired
42 or insolvent insurer;

43 (3) assure payment of the contractual obligations of the insolvent
44 insurer; and

45 (4) provide such moneys, pledges, notes, guarantees, or other means as
46 are reasonably necessary to discharge its duties.

47 (g) (1) If the superintendent determines that the resolution facility
48 is not administering and disposing of the business of an insolvent
49 domestic life insurance company, health insurance company, or
50 property/casualty insurance company consistent with the resolution
51 facility's certificate of incorporation, plan of operation, or this
52 section, then the superintendent shall provide notice to the resolution
53 facility and the resolution facility shall have thirty days to respond
54 to the superintendent and cure the defect.

55 (2) If, after thirty days, the superintendent continues to believe
56 that the resolution facility is not administering and disposing of the

1 business of an insolvent domestic life insurance company, health insur-
2 ance company, or property/casualty insurance company consistent with the
3 resolution facility's certificate of incorporation, plan of operation,
4 or this section, then the superintendent may apply to the court for an
5 order directing the resolution facility to correct the defect or take
6 other appropriate actions.

7 § 13. The insurance law is amended by adding a new section 7720 to
8 read as follows:

9 § 7720. Penalties. (a) If any member insurer fails to make any payment
10 required by this article, or if the superintendent has cause to believe
11 that any other statement filed is false or inaccurate in any particular,
12 or that any payment made is incorrect, the superintendent may examine
13 all the books and records of the member insurer to ascertain the facts
14 and determine the correct amount to be paid. Based on such finding, the
15 corporation may proceed in any court of competent jurisdiction to
16 recover for the benefit of the fund any sums shown to be due upon such
17 examination and determination.

18 (b) Any member insurer that fails to make any such required statement,
19 or to make any payment to the fund when due, shall forfeit to the corpo-
20 ration for deposit in the fund a penalty of five percent of the amount
21 determined to be due plus one percent of such amount for each month of
22 delay, or fraction thereof, after the expiration of the first month of
23 such delay. If satisfied that the delay was excusable, the corporation
24 may remit all or any part of the penalty.

25 (c) The superintendent, in the superintendent's discretion, may revoke
26 the certificate of authority to do business in this state of any foreign
27 member insurer that fails to comply with this article or to pay any
28 penalty imposed hereunder.

29 § 14. The insurance law is amended by adding a new section 3245 to
30 read as follows:

31 § 3245. Liability to providers in the event of an insolvency. In the
32 event an insurance company authorized to do an accident and health
33 insurance business in this state is deemed insolvent, as provided in
34 section one thousand three hundred nine of this chapter, no insured
35 covered under a policy delivered or issued for delivery in this state by
36 the insurance company shall be liable to any provider of health care
37 services for any covered services of the insolvent insurance company. No
38 provider of health care services or any representative of such provider
39 shall collect or attempt to collect from the insured sums owed by such
40 insurance company, and no provider or representative of such provider
41 may maintain any action at law against an insured to collect sums owed
42 to such provider by such insurance company.

43 § 15. This act shall take effect immediately.

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

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

1

PART Z

2 Section 1. Subdivisions 7 and 8 of section 4656 of the public health
3 law, as added by chapter 2 of the laws of 2004, are renumbered subdivi-
4 sions 8 and 9 and a new subdivision 7 is added to read as follows:

5 7. Assisted living quality improvement standards. (a) All assisted
6 living residences, as defined in subdivision one of section forty-six
7 hundred fifty-one of this article, including those licensed and certi-
8 fied as an assisted living residence, special needs assisted living
9 residence, or enhanced assisted living residence, shall:

10 (i) report annually on quality measures to be established by the
11 department, in the form and format prescribed by the department, with
12 the first report due no later than January thirty-first, two thousand
13 twenty-four; and

14 (ii) post the monthly service rate, staffing complement, approved
15 admission or residency agreement, and a consumer-friendly summary of all
16 service fees in a conspicuous place on the facility's website and in a
17 public space within the facility. Such information shall be made avail-
18 able to the public on forms developed by the department. Beginning on
19 January first, two thousand twenty-four, this information shall also be
20 reported to the department.

21 (b) The department shall score the results of the assisted living
22 quality reporting obtained pursuant to paragraph (a) of this subdivi-
23 sion. Top scoring facilities shall be granted the classification of
24 advanced standing on their annual surveillance schedules.

25 (i) Notwithstanding subparagraph one of paragraph (a) of subdivision
26 two of section four hundred sixty-one-a of the social services law,
27 facilities achieving an advanced standing classification shall be
28 surveyed every twelve to eighteen months. All other facilities shall be
29 surveyed on an unannounced basis no less than annually; provided, howev-
30 er, that this shall not apply to surveys, inspections or investigations
31 based on complaints received by the department under any other provision
32 of law.

33 (ii) Facilities may remain on advanced standing classification
34 provided they meet the scoring requirements in assisted living quality
35 reporting.

36 (c) (i) Effective January thirty-first, two thousand twenty-four, the
37 department may post on its website the results of the assisted living
38 quality reporting, collected pursuant to subparagraph (i) of paragraph
39 (a) of this subdivision.

40 § 2. Subparagraph 1 of paragraph (a) of subdivision 2 of section 461-a
41 of the social services law, as amended by chapter 735 of the laws of
42 1994, is amended and a new subparagraph (1-a) is added to read as
43 follows:

44 (1) Such facilities receiving the department's highest rating shall be
45 inspected at least once every eighteen months on an unannounced basis.
46 Such rating determination shall be made pursuant to an evaluation of
47 quality indicators as developed by the department and published on the
48 department's website.

49 (1-a) (i) Adult care facilities dually licensed to provide assisted
50 living pursuant to the requirements specified in section forty-six
51 hundred fifty-three of the public health law may seek accreditation by
52 one or more nationally recognized accrediting agencies determined by the
53 commissioner.

54 (ii) Such accreditation agencies shall report data and information, in
55 a manner and form as determined by the department, pertaining to those

assisted living residences accredited by such agencies, those assisted living residences that seek but do not receive such accreditation, and those assisted living residences which obtain but lose such accreditation.

(iii) Notwithstanding the provisions of subparagraph one of this paragraph, or any other provision of law, assisted living residences which have obtained accreditation from a nationally recognized accreditation organization approved by the department and which meet eligibility criteria, as determined by the department, may, at the discretion of the commissioner, be exempt from department inspection required in this subdivision for the duration they maintain their accreditation in good standing. The operator of an adult care facility that obtains but subsequently loses accreditation shall report such loss to the department within ten business days in a manner and form determined by the department and will no longer be exempt from the department inspection required in this subdivision. The department shall post on its website a list of all accredited assisted living residences.

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

PART AA

Section 1. Section 3 of chapter 425 of the laws of 2013, amending the public health law relating to requiring hospitals to offer hepatitis C testing, as amended by chapter 284 of the laws of 2019, is amended to read as follows:

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law [~~and shall expire and be deemed repealed January 1, 2026; provided, however, that the commissioner of health is authorized to adopt rules and regulations necessary to implement this act prior to such effective date~~].

§ 2. Subdivisions 1 and 2 of section 2171 of the public health law, as added by chapter 425 of the laws of 2013, are amended to read as follows:

1. Every individual [~~born between the years of nineteen hundred forty-five and nineteen hundred sixty-five~~] age eighteen and older (or younger than eighteen if there is evidence or indication of risk activity) who receives health services as an inpatient or in the emergency department of a general hospital defined in subdivision ten of section twenty-eight hundred one of this chapter or who receives primary care services in an outpatient department of such hospital or in a diagnostic and treatment center licensed under article twenty-eight of this chapter or from a physician, physician assistant [~~or~~], nurse practitioner or midwife providing primary care shall be offered a hepatitis C screening test [~~or hepatitis C diagnostic test~~] unless the health care practitioner providing such services reasonably believes that:

(a) the individual is being treated for a life threatening emergency; or

(b) the individual has previously been offered or has been the subject of a hepatitis C screening test (except that a test shall be offered if otherwise indicated); or

(c) the individual lacks capacity to consent to a hepatitis C screening test.

2. If an individual accepts the offer of a hepatitis C screening test and the screening test is reactive, [~~the~~] an HCV RNA test must be performed, on the same specimen or a second specimen collected at the

1 same time as the initial HCV screening test specimen, to confirm diagno-
2 sis of current infection. The health care provider shall either offer
3 [the individual] all persons with a detectable HCV RNA test follow-up
4 HCV health care and treatment or refer the individual to a health care
5 provider who can provide follow-up HCV health care and treatment. [The
6 follow-up health care shall include a hepatitis C diagnostic test.]

7 § 3. The public health law is amended by adding a new section 2500-1
8 to read as follows:

9 § 2500-1. Pregnant people, blood test for hepatitis C virus (HCV);
10 follow-up care. 1. Every physician or other authorized practitioner
11 attending a pregnant person in the state shall order a hepatitis C virus
12 (HCV) screening test and if the test is reactive, an HCV RNA test must
13 be performed on the same specimen, or a second specimen collected at the
14 same time as the initial HCV screening test specimen, to confirm diagno-
15 sis of current infection. The health care provider shall either offer
16 all persons with a detectable HCV RNA test follow-up HCV health care and
17 treatment or refer the individual to a health care provider who can
18 provide follow-up HCV health care and treatment.

19 2. The physician or other authorized practitioner attending a pregnant
20 person shall record the HCV test results prominently in the pregnant
21 person's medical record at or before the time of hospital admission for
22 delivery.

23 3. The commissioner may promulgate such rules and regulations as are
24 necessary to carry out the requirements of this section.

25 § 4. The section heading of section 2308 of the public health law, as
26 amended by section 37 of part E of chapter 56 of the laws of 2013, is
27 amended to read as follows:

28 Sexually transmitted disease; pregnant [~~women~~] persons; blood test for
29 syphilis.

30 § 5. Subdivision 1 of section 2308 of the public health law is amended
31 to read as follows:

32 1. Every physician or other authorized practitioner attending pregnant
33 [~~women~~] persons in the state shall in the case of every [~~woman~~] person
34 so attended take or cause to be taken a sample of blood of such [~~woman~~]
35 person at the time of first examination, and submit such sample to an
36 approved laboratory for a standard serological test for syphilis. In
37 addition to testing at the time of first examination, every such physi-
38 cian or other authorized practitioner shall order a syphilis test during
39 the third trimester of pregnancy consistent with any guidance and regu-
40 lations issued by the commissioner.

41 § 6. This act shall take effect immediately; provided, however that
42 sections two, three, four and five shall take effect one year after it
43 shall have become a law. Effective immediately, the addition, amendment
44 and/or repeal of any rule or regulation necessary for the implementation
45 of this act on its effective date are authorized to be made and
46 completed on or before such effective date.

47 PART BB

48 Section 1. Paragraphs 59 and 61 of subdivision (b) of schedule I of
49 section 3306 of the public health law, as added by section 2 of part CC
50 of chapter 56 of the laws of 2020, are amended and 30 new paragraphs 71,
51 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,
52 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 are added to read as
53 follows:

1 (59) [~~N-{1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl}-N-phenylp-~~
2 ~~ropionamide]~~ N-{1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl}-N-
3 phenyl propionamide. Other name: Beta-Hydroxythiofentanyl.
4 (61) [~~3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide]~~
5 3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide. Other
6 name: U-47700.
7 (71) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide. Other name:
8 Valeryl fentanyl.
9 (72) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.
10 Other name: para-methoxybutyryl fentanyl.
11 (73) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.
12 Other name: para-chloroisobutyryl fentanyl.
13 (74) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Other name:
14 isobutyryl fentanyl.
15 (75) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide.
16 Other name: cyclopentyl fentanyl.
17 (76) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide. Other
18 name: crotonyl fentanyl.
19 (77) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)
20 propionamide. Other names: 2'-fluoro ortho-fluorofentanyl; 2'-fluoro
21 2-fluorofentanyl.
22 (78) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide. Other
23 names: ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl.
24 (79) N-(1-phenethylpiperidin-4-yl)-N, 3-diphenylpropanamide. Other
25 names: beta'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl
26 fentanyl.
27 (80) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide.
28 Other names: thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene
29 fentanyl.
30 (81) N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide. Other
31 names: beta-Methyl fentanyl; beta-methyl fentanyl.
32 (82) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.
33 Other names: ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl.
34 (83) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide. Other
35 name: 4'-methyl acetyl fentanyl.
36 (84) 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide.
37 Other names: ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl
38 fentanyl.
39 (85) N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide.
40 Other names: para-methylfentanyl; 4-methylfentanyl.
41 (86) N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide. Other names:
42 phenyl fentanyl; benzoyl fentanyl.
43 (87) ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate. Other name:
44 Fentanyl carbamate.
45 (88) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide.
46 Other name: ortho-fluoroacryl fentanyl.
47 (89) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.
48 Other name: ortho-fluoroisobutyryl fentanyl.
49 (90) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide.
50 Other name: para-fluoro furanyl fentanyl.
51 (91) N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)
52 ethan-1-amine. Other name: Isotonitazene.
53 (92) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-
54 benzo[d]imidazol-2-one. Other names: Brorphine; 1-[1-[1-(4-bromophenyl)-
55 ethyl]-4-piperidinyl]-1,3-dihydro-2H-benzimidazol-2-one.

(93) 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine. Other name: Butonitazene.

(94) 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine. Other names: Etodesnitazene; Etazene.

(95) N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine. Other name: Flunitazene.

(96) N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine. Other name: Metodesnitazene.

(97) N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine. Other name: Metonitazene.

(98) 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole. Other names: N-pyrrolidino etonitazene; Etonitazepyne.

(99) N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine. Other name: Protonitazene.

(100) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers.

(i) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), that is structurally related to fentanyl by one or more of the following modifications:

(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(E) Replacement of the N-propionyl group by another acyl group.

(ii) This definition includes, but is not limited to, the following substances:

(A)-(B) [~~Reserved~~]

§ 2. Paragraph 3 of subdivision (g) of schedule II of section 3306 of the public health law, as added by section 7 of part C of chapter 447 of the laws of 2012, is amended to read as follows:

(3) Immediate precursor to fentanyl:

(i) [~~4-anilino-N-phenethyl-4-piperidine (ANPP)~~] 4-anilino-N-phenethylpiperidine (ANPP).

(ii) N-phenyl-N-(piperidin-4-yl)propionamide (Norfentanyl).

§ 3. Paragraph c of subdivision 1 of section 3383 of the public health law, as added by chapter 494 of the laws of 1982, is amended to read as follows:

c. "Imitation controlled substance" means: (1) a substance, other than a drug for which a prescription is required pursuant to article one hundred thirty-seven of the education law, that is not a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a controlled substance, as defined in the penal law; or (2) a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a different controlled substance, as defined in the penal law. Evidence of representations that the substance is a controlled substance may include but is not limited to oral or written representations by the manufacturer or seller, as the case may be, about the substance with regard to:

1 (i) its price, nature, use or effect as a controlled substance; or
2 (ii) its packaging in a manner normally used for illicit controlled
3 substances; or
4 (iii) markings on the substance; or
5 (iv) having been prescribed or provided by a pharmacist or health care
6 practitioner.

7 § 4. Subdivision 7 of section 3383 of the public health law is
8 REPEALED and subdivision 8 is renumbered subdivision 7.

9 § 5. Subdivision 21 of section 10.00 of the penal law, as added by
10 chapter 1 of the laws of 2013, is amended to read as follows:

11 21. "Drug trafficking felony" means any of the following offenses
12 defined in article two hundred twenty of this chapter: violation of use
13 of a child to commit a controlled substance offense as defined in
14 section 220.28; criminal sale of a controlled substance in the fourth
15 degree as defined in section 220.34; criminal sale of a controlled
16 substance in the third degree as defined in section 220.39; criminal
17 sale of a controlled substance in the second degree as defined in
18 section 220.41; criminal sale of a controlled substance in the first
19 degree as defined in section 220.43; criminal sale of a controlled
20 substance in or near school grounds as defined in section 220.44; unlaw-
21 ful manufacture of methamphetamine in the second degree as defined in
22 section 220.74; unlawful manufacture of methamphetamine in the first
23 degree as defined in section 220.75; or operating as a major trafficker
24 as defined in section 220.77; criminal sale of an imitation controlled
25 substance in the fifth degree as defined in section 220.83; criminal
26 sale of an imitation controlled substance in the third degree as defined
27 in section 220.84; and criminal sale of an imitation controlled
28 substance in the first degree as defined in section 220.85.

29 § 6. Paragraphs (a) and (b) of subdivision 1 of section 460.10 of the
30 penal law, paragraph (a) as amended by chapter 134 of the laws of 2019
31 and paragraph (b) as amended by chapter 442 of the laws of 2006, are
32 amended to read as follows:

33 (a) Any of the felonies set forth in this chapter: sections 120.05,
34 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
35 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
36 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
37 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to
38 labor trafficking; section 135.65 relating to coercion; sections 140.20,
39 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and
40 145.12 relating to criminal mischief; article one hundred fifty relating
41 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
42 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
43 care fraud; article one hundred sixty relating to robbery; sections
44 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
45 stolen property; sections 165.72 and 165.73 relating to trademark coun-
46 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
47 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
48 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
49 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
50 to criminal diversion of prescription medications and prescriptions;
51 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,
52 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56,
53 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15,
54 187.20 and 187.25 relating to residential mortgage fraud, sections
55 190.40 and 190.42 relating to criminal usury; section 190.65 relating to
56 schemes to defraud; any felony defined in article four hundred ninety-

1 six; sections 205.60 and 205.65 relating to hindering prosecution;
2 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;
3 section 215.40 relating to tampering with physical evidence; sections
4 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
5 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled
6 substances; sections 225.10 and 225.20 relating to gambling; sections
7 230.25, 230.30, and 230.32 relating to promoting prostitution; section
8 230.34 relating to sex trafficking; section 230.34-a relating to sex
9 trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22
10 relating to obscenity; sections 263.10 and 263.15 relating to promoting
11 a sexual performance by a child; sections 265.02, 265.03, 265.04,
12 265.11, 265.12, 265.13 and the provisions of section 265.10 which
13 constitute a felony relating to firearms and other dangerous weapons;
14 sections 265.14 and 265.16 relating to criminal sale of a firearm;
15 section 265.50 relating to the criminal manufacture, sale or transport
16 of an undetectable firearm, rifle or shotgun; section 275.10, 275.20,
17 275.30, or 275.40 relating to unauthorized recordings; sections 220.82,
18 220.83, 220.84 and 220.85 relating to imitation controlled substances;
19 and sections 470.05, 470.10, 470.15 and 470.20 relating to money laun-
20 dering; or

21 (b) Any felony set forth elsewhere in the laws of this state and
22 defined by the tax law relating to alcoholic beverage, cigarette, gaso-
23 line and similar motor fuel taxes; article seventy-one of the environ-
24 mental conservation law relating to water pollution, hazardous waste or
25 substances hazardous or acutely hazardous to public health or safety of
26 the environment; article twenty-three-A of the general business law
27 relating to prohibited acts concerning stocks, bonds and other securi-
28 ties; article twenty-two of the general business law concerning monop-
29 lies; article thirty-three of the public health law relating to
30 controlled substances or imitation controlled substances.

31 § 7. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
32 procedure law, as amended by chapter 92 of the laws of 2021, is amended
33 and a new paragraph (w) is added to read as follows:

34 (c) Criminal possession of a controlled substance in the seventh
35 degree as defined in section 220.03 of the penal law, criminal
36 possession of a controlled substance in the fifth degree as defined in
37 section 220.06 of the penal law, criminal possession of a controlled
38 substance in the fourth degree as defined in section 220.09 of the penal
39 law, criminal possession of a controlled substance in the third degree
40 as defined in section 220.16 of the penal law, criminal possession of a
41 controlled substance in the second degree as defined in section 220.18
42 of the penal law, criminal possession of a controlled substance in the
43 first degree as defined in section 220.21 of the penal law, criminal
44 sale of a controlled substance in the fifth degree as defined in section
45 220.31 of the penal law, criminal sale of a controlled substance in the
46 fourth degree as defined in section 220.34 of the penal law, criminal
47 sale of a controlled substance in the third degree as defined in section
48 220.39 of the penal law, criminal sale of a controlled substance in the
49 second degree as defined in section 220.41 of the penal law, criminal
50 sale of a controlled substance in the first degree as defined in section
51 220.43 of the penal law, criminally possessing a hypodermic instrument
52 as defined in section 220.45 of the penal law, criminal sale of a
53 prescription for a controlled substance or a controlled substance by a
54 practitioner or pharmacist as defined in section 220.65 of the penal
55 law, criminal possession of methamphetamine manufacturing material in
56 the second degree as defined in section 220.70 of the penal law, crimi-

1 nal possession of methamphetamine manufacturing material in the first
2 degree as defined in section 220.71 of the penal law, criminal
3 possession of precursors of methamphetamine as defined in section 220.72
4 of the penal law, unlawful manufacture of methamphetamine in the third
5 degree as defined in section 220.73 of the penal law, unlawful manufac-
6 ture of methamphetamine in the second degree as defined in section
7 220.74 of the penal law, unlawful manufacture of methamphetamine in the
8 first degree as defined in section 220.75 of the penal law, unlawful
9 disposal of methamphetamine laboratory material as defined in section
10 220.76 of the penal law, operating as a major trafficker as defined in
11 section 220.77 of the penal law, criminal possession of an imitation
12 controlled substance in the third degree as defined in section 220.82 of
13 the penal law, criminal sale of an imitation controlled substance in the
14 fifth degree as defined in section 220.83 of the penal law, criminal
15 sale of an imitation controlled substance in the third degree as defined
16 in section 220.84 of the penal law, criminal sale of an imitation
17 controlled substance in the first degree as defined in section 220.85 of
18 the penal law, promoting gambling in the second degree as defined in
19 section 225.05 of the penal law, promoting gambling in the first degree
20 as defined in section 225.10 of the penal law, possession of gambling
21 records in the second degree as defined in section 225.15 of the penal
22 law, possession of gambling records in the first degree as defined in
23 section 225.20 of the penal law, and possession of a gambling device as
24 defined in section 225.30 of the penal law;

25 (w) Any of the acts designated as felonies in article thirty-three of
26 the public health law.

27 § 8. Section 220.00 of the penal law is amended by adding a new subdivi-
28 sion 6 to read as follows:

29 6. "Imitation controlled substance" shall have the same meaning as
30 provided for in paragraph c of subdivision one of section thirty-three
31 hundred eighty-three of the public health law.

32 § 9. The penal law is amended by adding five new sections 220.81,
33 220.82, 220.83, 220.84 and 220.85 to read as follows:

34 § 220.81 Criminal possession of an imitation controlled substance in the
35 fifth degree.

36 A person is guilty of criminal possession of an imitation controlled
37 substance in the fifth degree when he or she knowingly and unlawfully
38 possesses an imitation controlled substance, as defined in subparagraph
39 one of paragraph c of subdivision one of section thirty-three hundred
40 eighty-three of the public health law, with the intent to sell it.

41 Criminal possession of an imitation controlled substance in the fifth
42 degree is a class A misdemeanor.

43 § 220.82 Criminal possession of an imitation controlled substance in the
44 third degree.

45 A person is guilty of criminal possession of an imitation controlled
46 substance in the third degree when he or she knowingly and unlawfully
47 possesses an imitation controlled substance, as defined in subparagraph
48 two of paragraph c of subdivision one of section thirty-three hundred
49 eighty-three of the public health law, with the intent to sell it.

50 Criminal possession of an imitation controlled substance in the third
51 degree is a class D felony.

52 § 220.83 Criminal sale of an imitation controlled substance in the fifth
53 degree.

54 A person is guilty of criminal sale of an imitation controlled
55 substance in the fifth degree when he or she knowingly and unlawfully
56 sells an imitation controlled substance, as defined in subparagraph one

1 of paragraph c of subdivision one of section thirty-three hundred eight-
2 y-three of the public health law.

3 Criminal sale of an imitation controlled substance in the fifth degree
4 is a class E felony.

5 § 220.84 Criminal sale of an imitation controlled substance in the third
6 degree.

7 A person is guilty of criminal sale of an imitation controlled
8 substance in the third degree when he or she knowingly and unlawfully
9 sells an imitation controlled substance, as defined in subparagraph two
10 of paragraph c of subdivision one of section thirty-three hundred eight-
11 y-three of the public health law.

12 Criminal sale of an imitation controlled substance in the third degree
13 is a class C felony.

14 § 220.85 Criminal sale of an imitation controlled substance in the first
15 degree.

16 A person is guilty of criminal sale of an imitation controlled
17 substance in the first degree when he or she knowingly and unlawfully
18 sells an imitation controlled substance and he or she knows or reason-
19 ably should know that the imitation controlled substance could cause the
20 serious physical injury of another person, as defined by subdivision
21 ten of section 10.00 of this chapter, or he or she knows or reasonably
22 should know that the imitation controlled substance could cause the
23 death of another person, and the imitation controlled substance causes
24 the serious physical injury or death of another person.

25 Criminal sale of an imitation controlled substance in the first degree
26 is a class A-1 felony.

27 § 10. Section 220.25 of the penal law, as amended by chapter 276 of
28 the laws of 1973, subdivision 1 as amended by chapter 278 of the laws of
29 1973 and subdivision 2 as amended by chapter 341 of the laws of 1985, is
30 amended to read as follows:

31 § 220.25 Criminal possession of a controlled substance or an imitation
32 controlled substance; presumption.

33 1. The presence of a controlled substance or an imitation controlled
34 substance in an automobile, other than a public omnibus, is presumptive
35 evidence of knowing possession thereof by each and every person in the
36 automobile at the time such controlled substance or imitation controlled
37 substance was found; except that such presumption does not apply (a) to
38 a duly licensed operator of an automobile who is at the time operating
39 it for hire in the lawful and proper pursuit of his trade, or (b) to any
40 person in the automobile if one of them, having obtained the controlled
41 substance or imitation controlled substance and not being under duress,
42 is authorized to possess it and such controlled substance or imitation
43 controlled substance is in the same container as when he received
44 possession thereof, or (c) when the controlled substance or imitation
45 controlled substance is concealed upon the person of one of the occu-
46 pants.

47 2. The presence of a narcotic drug, narcotic preparation, marihuana or
48 phencyclidine in open view in a room, other than a public place, under
49 circumstances evincing an intent to unlawfully mix, compound, package or
50 otherwise prepare for sale such controlled substance or imitation
51 controlled substance is presumptive evidence of knowing possession ther-
52 eof by each and every person in close proximity to such controlled
53 substance or imitation controlled substance at the time such controlled
54 substance or imitation controlled substance was found; except that such
55 presumption does not apply to any such persons if (a) one of them,
56 having obtained such controlled substance or imitation controlled

1 substance and not being under duress, is authorized to possess it and
2 such controlled substance or imitation controlled substance is in the
3 same container as when he received possession thereof, or (b) one of
4 them has such controlled substance or imitation controlled substance
5 upon his person.

6 § 11. This act shall take effect immediately.

7 PART CC

8 Section 1. Articles 131, 131-A, 131-B, 131-C, 132, 133, 134, 136, 137,
9 137-A, 139, 140, 141, 143, 144, 153, 154, 155, 156, 157, 159, 160, 162,
10 163, 164, 165, 166, 167 and 168 of the education law are REPEALED.

11 § 2. The public health law is amended by adding a new article 51 to
12 read as follows:

13 ARTICLE 51

14 LICENSED HEALTHCARE PROFESSIONS

15 TITLE 1

16 LICENSED HEALTHCARE PROFESSIONS GENERAL PROVISIONS

17 SUBTITLE 1

18 INTRODUCTORY SUMMARY

19 Section 6500. Introduction.

20 6501. Admission to a profession (licensing).

21 6501-a. Affirmation of applications.

22 6502. Duration and registration of a license.

23 6502-a. Renewal of professional license, certification, or
24 registration.

25 6503. Practice of a profession.

26 6503-a. Waiver for entities providing certain professional
27 services.

28 6503-b. Waiver for certain special education schools and early
29 intervention agencies.

30 6504. Regulation of the professions.

31 6505. Construction.

32 6505-a. Professional referrals.

33 6505-b. Course work or training in infection control practices.

34 6505-c. Articulation between military and civilian professional
35 careers.

36 § 6500. Introduction. This article provides for the regulation of the
37 admission to and the practice of certain professions. This first title
38 applies to all the professions included in this article, except that
39 prehearing procedures and hearing procedures in connection with the
40 regulation of professional conduct of the profession of medicine and
41 physician's assistants and specialist's assistants shall be conducted
42 pursuant to the provisions of title two-A of article two of this chap-
43 ter. Each of the remaining titles applies to a particular profession.

44 § 6501. Admission to a profession (licensing). 1. Admission to prac-
45 tice of a profession in this state is accomplished by a license being
46 issued to a qualified applicant by the health department. To qualify for
47 a license an applicant shall meet the requirements prescribed in the
48 title for the particular profession and shall meet the requirements
49 prescribed in section 3-503 of the general obligations law.

50 2. a. Notwithstanding any provision of law to the contrary, any appli-
51 cant seeking to qualify for a license pursuant to this article who is
52 the spouse of an active duty member of the armed forces of the United
53 States, national guard or reserves as defined in 10 U.S.C. sections 1209
54 and 1211, and such spouse is transferred by the military to this state

1 shall be afforded an expedited review of his or her application for
2 licensure. Such application shall be on a form prescribed by the depart-
3 ment and shall include an attestation by the applicant of the military
4 status of his or her spouse and any other such supporting documentation
5 that the department may require. Upon review of such application, the
6 department shall issue a license to the applicant if the applicant holds
7 a license in good standing in another state and in the opinion of the
8 department, the requirements for licensure of such other state are
9 substantially equivalent to the requirements for licensure in this
10 state.

11 b. In addition to the expedited review granted in paragraph a of this
12 subdivision, an applicant who provides satisfactory documentation that
13 he or she holds a license in good standing from another state, may
14 request the issuance of a temporary practice permit, which, if granted
15 will permit the applicant to work under the supervision of a New York
16 state licensee in accordance with regulations of the commissioner. The
17 department may grant such temporary practice permit when it appears
18 based on the application and supporting documentation received that the
19 applicant will meet the requirements for licensure in this state because
20 he or she holds a license in good standing from another state with
21 significantly comparable licensure requirements to those of this state,
22 except the department has not been able to secure direct source verifi-
23 cation of the applicant's underlying credentials (e.g., receipt of
24 original transcript, experience verification). Such permit shall be
25 valid for six months or until ten days after notification that the
26 applicant does not meet the qualifications for licensure. An additional
27 six months may be granted upon a determination by the department that
28 the applicant is expected to qualify for the full license upon receipt
29 of the remaining direct source verification documents requested by the
30 department in such time period and that the delay in providing the
31 necessary documentation for full licensure was due to extenuating
32 circumstances which the military spouse could not avoid.

33 c. A temporary practice permit issued under paragraph b of this subdivi-
34 vision shall be subject to the full disciplinary and regulatory authori-
35 ty of the department, pursuant to this article, as if such authorization
36 were a professional license issued under this article.

37 d. The department shall reduce the initial licensure application fee
38 by one-half for any application submitted by a military spouse under
39 this subdivision.

40 § 6501-a. Affirmation of applications. Notwithstanding any other
41 provision of law to the contrary, any application required by this arti-
42 cle to be filed with the department may, in lieu of being certified or
43 sworn under oath, be subscribed by the applicant and affirmed by the
44 applicant as true under penalties of perjury.

45 § 6502. Duration and registration of a license. 1. A license shall be
46 valid during the life of the holder unless revoked, annulled or
47 suspended by commissioner or in the case of physicians, physicians prac-
48 ticing under a limited permit, physician's assistants, specialist's
49 assistants and medical residents, the licensee is stricken from the
50 roster of such licensees by the commissioner on the order of the state
51 board for professional medical conduct. A licensee must register with
52 the department and meet the requirements prescribed in section 3-503 of
53 the general obligations law to practice in this state.

54 2. The department shall establish the beginning dates of the registra-
55 tion periods for each profession and mail an application for registra-
56 tion conforming to the requirements of section 3-503 of the general

1 obligations law to every licensee currently registered at least four
2 months prior to the beginning of the registration period for the respec-
3 tive profession.

4 3. An application for registration and the required registration fee
5 shall be submitted together with or as a part of the application for a
6 license. A person initially licensed or a licensee resuming practice
7 after a lapse of registration during the last two years of a triennial
8 registration period shall receive a prorated refund of one-third of the
9 total registration fee for each full year of the triennial period that
10 has elapsed prior to the date of registration. Except as provided in
11 subdivision three-a of this section, the department shall renew the
12 registration of each licensee upon receipt of a proper application, on a
13 form prescribed by the department and conforming to the requirements of
14 section 3-503 of the general obligations law, and the registration fee.
15 Any licensee who fails to register by the beginning of the appropriate
16 registration period shall be required to pay an additional fee for late
17 filing of ten dollars for each month that registration has been delayed.
18 No licensee resuming practice after a lapse of registration shall be
19 permitted to practice without actual possession of the registration
20 certificate.

21 3-a. Prior to issuing any registration pursuant to this section and
22 section sixty-five hundred twenty-four of this article, the department
23 shall request and review any information relating to an applicant which
24 reasonably appears to relate to professional misconduct in his or her
25 professional practice in this and any other jurisdiction. The department
26 shall advise the director of the office of professional medical conduct
27 in the department of any information about an applicant which reasonably
28 appears to be professional misconduct as defined in sections sixty-five
29 hundred thirty and sixty-five hundred thirty-one of this article, within
30 seven days of its discovery. The registration or re-registration of such
31 applicant shall not be delayed for a period exceeding thirty days unless
32 the director finds a basis for recommending summary action pursuant to
33 subdivision twelve of section two hundred thirty of this chapter after
34 consultation with a committee on professional conduct of the state board
35 for professional medical conduct, if warranted. Re-registration shall be
36 issued if the commissioner of health fails to issue a summary order
37 pursuant to subdivision twelve of section two hundred thirty of this
38 chapter within ninety days of notice by the department pursuant to this
39 subdivision. Re-registration shall be denied if the commissioner issues
40 a summary order pursuant to subdivision twelve of section two hundred
41 thirty of this chapter.

42 4. Any licensee who is not engaging in the practice of his profession
43 in this state and does not desire to register shall so advise the
44 department. Such licensee shall not be required to pay an additional fee
45 for failure to register at the beginning of the registration period.

46 5. Licensees shall notify the department of any change of name or
47 mailing address within thirty days of such change. Failure to register
48 or provide such notice within one hundred eighty days of such change
49 shall be willful failure under section sixty-five hundred thirty of this
50 article.

51 6. The fee for replacement of a lost registration certificate or
52 license or for registration of an additional office shall be ten
53 dollars.

54 7. An additional fee of twenty-five dollars shall be charged for the
55 licensure or registration of any applicant who submits a bad check to
56 the department.

1 § 6502-a. Renewal of professional license, certification, or registra-
2 tion. 1. This section shall apply to healthcare professionals licensed,
3 certified, registered or authorized pursuant to this article other than
4 those licensed or registered pursuant to title two of this article.

5 2. In conjunction with and as a condition of each registration
6 renewal, the professionals described in subdivision one of this section
7 shall provide to the department, and the department shall collect, such
8 information and documentation required by the department as is necessary
9 to enable the department to evaluate access to needed services in this
10 state, including, but not limited to, the location and type of setting
11 in which the professional practices and other relevant information. The
12 department shall make such data available in aggregate, de-identified
13 form on a publicly accessible website.

14 3. The dates by which the professionals described in subdivision one
15 of this section must comply with the requirements of subdivision two of
16 this section shall be determined by the department and may vary by
17 profession, to allow the development and refinement of necessary program
18 features and to allow sufficient advanced notice to be provided to
19 affected professionals. The provisions of this section shall be effec-
20 tive only if and for so long as an appropriation is made for the
21 purposes of its implementation.

22 § 6503. Practice of a profession. Admission to the practice of a
23 profession entitles the licensee to: 1. practice the profession as
24 defined in the title for the particular profession;

25 2. entitles the individual licensee to use the professional title as
26 provided in the title for the particular profession; and

27 3. subjects the licensee to the procedures and penalties for profes-
28 sional misconduct as prescribed in this article.

29 § 6503-a. Waiver for entities providing certain professional services.

30 1. a. Notwithstanding any laws to the contrary, except as provided in
31 subdivision two of this section, a not-for-profit corporation formed for
32 charitable, educational, or religious purposes or other similar purposes
33 deemed acceptable by the department; or an education corporation as
34 defined in subdivision one of section two hundred sixteen-a of the
35 education law may provide the following services, provided that, except
36 as otherwise provided in paragraph b of this subdivision, the entity was
37 in existence prior to the effective date of this section and has applied
38 to the department for a waiver pursuant to this section by no later than
39 February first, two thousand twenty-four:

40 (i) services provided under title eighteen, twenty-five or twenty-nine
41 of this article for which licensure would be required, or

42 (ii) services constituting the provision of psychotherapy as defined
43 in subdivision two of section eighty-four hundred one of this article
44 and authorized and provided under title two, twelve, or seventeen of
45 this article.

46 Such services may be provided either directly through the entity's
47 employees or indirectly by contract with individuals or professional
48 entities duly licensed, registered, or authorized to provide such
49 services.

50 b. The department may issue a waiver on or after July first, two thou-
51 sand twenty-four to an entity which was created before, on, or after the
52 effective date of this section if there is a demonstration of need of
53 the entity's services satisfactory to the department.

54 c. After the commissioner prescribes the application form and posts
55 notice of its availability on the department's website, any entity
56 described in paragraph a of this subdivision providing services on the

1 effective date of this section, must apply for a waiver no later than
2 February first, two thousand twenty-four. Upon submission of an applica-
3 tion, an entity may continue to operate and provide services until the
4 department shall either deny or approve the entity's application. After
5 the department renders a timely initial determination that the applicant
6 has submitted the information necessary to verify that the requirements
7 of paragraphs d, e, and f of this subdivision are satisfied, applica-
8 tions for waivers shall be approved or denied within ninety days;
9 provided however, that if the waiver application is denied the entity
10 shall cease providing professional services, pursuant to paragraph a of
11 this subdivision, in the state of New York.

12 d. Such waiver shall provide that services rendered pursuant to this
13 section, directly or indirectly, shall be provided only by a person
14 appropriately licensed to provide such services pursuant to title two,
15 twelve, seventeen, eighteen or twenty-five of this article, or by a
16 person otherwise authorized to provide such services under such titles,
17 or by a professional entity authorized by law to provide such services.

18 e. An application for a waiver to provide professional services pursu-
19 ant to this section shall be on a form prescribed by the commissioner.
20 Such application shall include:

21 (i) the name of the entity,
22 (ii) the names of the directors and officers of such entity,
23 (iii) a listing of any other jurisdictions where the entity may
24 provide services, and
25 (iv) an attestation made by an officer authorized by the entity to
26 make such attestation that identifies the scope of services to be
27 provided; includes a list of professions under this article in which
28 professional services will be provided by such entity; includes a state-
29 ment that, unless otherwise authorized by law, the entity shall only
30 provide professional services authorized under this section; includes a
31 statement that only a licensed professional, a person otherwise author-
32 ized to provide such services, or a professional entity authorized by
33 law to provide such services shall provide such professional services as
34 authorized under this section; and attests to the adequacy of the enti-
35 ty's fiscal and financial resources to provide such services. Such
36 application shall also include any other information related to the
37 application as may be required by the department.

38 f. Each officer and director of such entity shall provide an attesta-
39 tion regarding his or her good moral character as required pursuant to
40 paragraph h of this subdivision. The commissioner shall be further
41 authorized to promulgate rules or regulations relating to the standards
42 of the waiver for entities pursuant to this section. Such regulations
43 shall include standards relating to the entity's ability to provide
44 services, the entity's maintenance of patient and business records, the
45 entity's fiscal policies, and such other standards as may be prescribed
46 by the commissioner.

47 g. The entity operating pursuant to a waiver shall display, at each
48 site where professional services are provided to the public, a certif-
49 icate of such waiver issued by the department pursuant to this section,
50 which shall contain the name of the entity and the address of the site.
51 Such entities shall obtain from the department additional certificates
52 for each site at which professional services are provided to the public.
53 Each entity shall be required to re-apply for a waiver every three
54 years. If any information supplied to the department regarding the enti-
55 ty shall change, the entity shall be required to provide such updated
56 information to the department within sixty days.

1 h. Entities operating under a waiver pursuant to this section shall be
2 under the supervision of the department and shall be subject to disci-
3 plinary proceedings and penalties. The waivers for such entities shall
4 be subject to suspension, revocation or annulment for cause in the same
5 manner and to the same extent as individuals and professional services
6 corporations with respect to their licenses, certificates, and registra-
7 tions, as applicable, as provided in this article relating to the appli-
8 cable profession. All officers and directors of such entities shall be
9 of good moral character. Entities operating pursuant to a waiver and
10 their officers and directors shall be entitled to the same due process
11 procedures as are provided to such individuals and professional services
12 corporations. No waiver issued under this section shall be transferable
13 or assignable, as such terms are defined in the regulations of the
14 commissioner.

15 i. An entity operating pursuant to a waiver shall not practice any
16 profession licensed pursuant to this article or hold itself out to the
17 public as authorized to provide professional services pursuant to this
18 article except as specifically authorized by this section or as other-
19 wise authorized by law.

20 2. No waiver pursuant to this section shall be required of:

21 a. any entity operated under an operating certificate appropriately
22 issued in accordance with article sixteen, thirty-one or thirty-two of
23 the mental hygiene law, article twenty-eight of this chapter, or compa-
24 rable procedures by a New York state or federal agency, political subdi-
25 vision, municipal corporation, or local government agency or unit, in
26 accordance with the scope of the authority of such operating certifi-
27 cate; or

28 b. a university faculty practice corporation duly incorporated pursu-
29 ant to the not-for-profit corporation law; or

30 c. an institution of higher education authorized to provide a program
31 leading to licensure in a profession defined under title two, twelve,
32 seventeen, eighteen, or twenty-five of this article, to the extent that
33 the scope of such services is limited to the services authorized to be
34 provided within such registered program; or

35 d. an institution of higher education providing counseling only to the
36 students, staff, or family members of students and staff of such insti-
37 tution; or

38 e. any other entity as may be defined in the regulations of the
39 commissioner, provided that such entity is otherwise authorized to
40 provide such services pursuant to law and only to the extent such
41 services are authorized under any certificates of incorporation or such
42 other organizing documents as may be applicable.

43 3. Nothing in this section shall be construed to limit the authority
44 of another state agency to certify, license, contract or otherwise
45 authorize an entity applying for a waiver pursuant to this section, if
46 such state agency is otherwise authorized under another provision of law
47 to certify, license, contract or authorize such an entity, nor shall a
48 waiver pursuant to this section be construed to provide an exemption of
49 such entity from any certification, licensure, need to contract or any
50 other such requirement established by such state agency or under any
51 other provision of law. If a state agency determines that such certifi-
52 cation, licensure, contract or other authorization is required, a waiv-
53 er pursuant to this section shall not have the effect of authorizing the
54 provision of professional services under the jurisdiction of such agency
55 in the absence of certification, licensure, a contract or other authori-
56 zation from such state agency, and the department shall consult with

1 such agency regarding the need for licensure, contracting, certification
2 or authorization. In determining an application for a waiver pursuant to
3 this section, the department shall consider as a factor in such determi-
4 nation any denial of an operating certificate or other authority to
5 provide the services authorized pursuant to this section by a New York
6 state or federal agency, political subdivision, municipal corporation,
7 or local government agency or unit, and shall not approve a waiver
8 application authorizing an entity to provide a program or services where
9 the entity operated such a program or provided such services for which
10 an operating certificate or license is pending, was disapproved or was
11 revoked, or a written authorization or contract was terminated for
12 cause, by one of such agencies, except upon approval of such action by
13 the appropriate state agency. Such state agencies shall notify the
14 department, upon request and within a fifteen day period, whether a
15 waiver applicant has been subject to such disapproval, revocation or
16 termination for cause or has a pending application for a license or
17 operating certificate.

18 4. Nothing in this section shall be construed to limit the authority
19 of the following entities to provide professional services they are
20 authorized by law to provide:

21 a. any appropriately organized professional entity, including, but not
22 limited to, those established under the business corporation law, the
23 limited liability company law or the partnership law; or

24 b. any entity operated by a New York state or federal agency, poli-
25 tical subdivision, municipal corporation, or local government agency or
26 unit pursuant to authority granted by law, including but not limited to
27 any entity operated by the office of mental health, the office for
28 people with developmental disabilities, or the office of alcoholism and
29 substance abuse services under articles seven, thirteen, and nineteen of
30 the mental hygiene law, respectively.

31 5. For the purposes of this section, "professional entity" shall mean
32 and include sole proprietorships and any professional services organiza-
33 tion established pursuant to article fifteen of the business corporation
34 law, article twelve of the limited liability company law and section two
35 and article eight-B of the partnership law.

36 § 6503-b. Waiver for certain special education schools and early
37 intervention agencies. 1. Definitions. As used in this section the
38 following terms shall have the following meanings:

39 a. "Special education school" means an approved program as defined in
40 paragraph b of subdivision one of section forty-four hundred ten of the
41 education law that meets the requirements of paragraph b of subdivision
42 six of such section; an approved private non-residential or residential
43 school for the education of students with disabilities that is located
44 within the state; a child care institution as defined in section four
45 thousand one of the education law that operates a private school for the
46 education of students with disabilities or an institution for the deaf
47 or blind operating pursuant to article eighty-five of the education law
48 that either: (i) conducts a multi-disciplinary evaluation for purposes
49 of articles eighty-one or eighty-nine of the education law that involves
50 the practice of one or more professions for which a license is required
51 pursuant to this article and no exception from corporate practice
52 restrictions applies, or

53 (ii) provides related services to students enrolled in the school or
54 approved program that involves the practice of one or more professions
55 for which a license is required pursuant to this article and no excep-
56 tion from practice restrictions applies. Such term shall not include a

1 school district, board of cooperative educational services, munici-
2 pality, state agency or other public entity. Nothing in this section
3 shall be construed to require a child care institution that conducts
4 multi-disciplinary evaluations or provides related services through an
5 approved private nonresidential school operated by such child care
6 institution to obtain a waiver, provided that such school obtains a
7 waiver pursuant to this section.

8 b. "Early intervention agency" means an agency which is approved or is
9 seeking approval in accordance with title two-A of article twenty-five
10 of this chapter to deliver early intervention program multi-disciplinary
11 evaluations, service coordination services and early intervention
12 program services, and is lawfully operated as a sole proprietorship or
13 by a partnership, not-for-profit corporation, education corporation,
14 business corporation, a limited liability company or professional
15 services organization established pursuant to article fifteen of the
16 business corporation law, article twelve or thirteen of the limited
17 liability company law or article eight-B of the partnership law.

18 c. "Early intervention program services" means early intervention
19 services as defined in subdivision seven of section twenty-five hundred
20 forty-one of this chapter that are provided under the early intervention
21 program and authorized in an eligible child's individualized family
22 services plan.

23 d. "Multi-disciplinary evaluation" for purposes of a special education
24 school means a multi-disciplinary evaluation of a preschool child
25 suspected of having a disability or a preschool child with a disability
26 that is conducted pursuant to section forty-four hundred ten of the
27 education law or an evaluation of a school-age child suspected of having
28 a disability or with a disability which is conducted by a child care
29 institution that operates a special education school or the special
30 education school operated by such institution pursuant to subdivision
31 three of section four thousand two of the education law or by an insti-
32 tution for the deaf or blind operating pursuant to article eighty-five
33 of the education law or an evaluation of a school-age child suspected of
34 having a disability or with a disability that is authorized to be
35 conducted by a special education school pursuant to any other provision
36 of the education law and the regulations of the commissioner of educa-
37 tion for purposes of identification of the child as a child with a disa-
38 bility or the development of an individualized education program for the
39 child.

40 e. "Multi-disciplinary evaluation" for purposes of the early inter-
41 vention program means a professional, objective assessment conducted by
42 appropriately qualified personnel in accordance with section twenty-five
43 hundred forty-four of this chapter and its implementing regulations to
44 determine a child's eligibility for early intervention program services.

45 f. "Related services" means related services as defined in paragraph g
46 of subdivision two of section four thousand two, paragraph k of subdivi-
47 sion two of section forty-four hundred one, or paragraph j of subdivi-
48 sion one of section forty-four hundred ten of the education law provided
49 to a child with a disability pursuant to such child's individualized
50 education program.

51 2. Waiver. a. No special education school may employ individuals
52 licensed pursuant to this title to conduct components of a multi-disci-
53 plinary evaluation of a child with a disability or a child suspected of
54 having a disability or to provide related services to children with
55 disabilities enrolled in the school, and no special education school may
56 provide such an evaluation component or related services by contract

1 with an individual licensed or otherwise authorized to practice pursuant
2 to this title or with an entity authorized by law to provide such
3 professional services, unless such school obtains a waiver pursuant to
4 this section. All special education schools approved by the commissioner
5 as of the effective date of this section shall be deemed operating under
6 a waiver pursuant to this section for a period commencing on such effec-
7 tive date and ending on July first, two thousand thirteen.

8 b. No early intervention agency may employ or contract with individ-
9 uals licensed pursuant to this title or with a not-for-profit corpo-
10 ration, education corporation, business corporation, limited liability
11 company, or a professional services organization established pursuant to
12 article fifteen of the business corporation law, article twelve or thir-
13 teen of the limited liability company law or article eight-B of the
14 partnership law, to conduct an early intervention program multi-disci-
15 plinary evaluation, provide service coordination services or early
16 intervention program services unless such agency has obtained a waiver
17 pursuant to this section and has been approved in accordance with title
18 two-A of article twenty-five of this chapter as an early intervention
19 program provider. All early intervention agencies approved as of the
20 effective date of this section shall be deemed to be operating under a
21 waiver pursuant to this section for a period commencing on such effec-
22 tive date and ending on July first, two thousand thirteen. Nothing in
23 this section shall be construed to require an early intervention agency
24 to operate under a waiver in accordance with this section provided that
25 it is otherwise authorized by law to provide the applicable professional
26 services.

27 3. Obtaining a waiver. a. A special education school and early inter-
28 vention agency shall obtain an application for a waiver on a form
29 prescribed by the department. The department may issue a waiver on or
30 after July first, two thousand thirteen to an entity which was created
31 before, on or after the effective date of this section if there is
32 demonstration of need of the entity's services satisfactory to the
33 department. The application for an initial waiver shall be accompanied
34 by a fee of three hundred forty-five dollars. Where the applicant simul-
35 taneously applies for a waiver as a special education school and early
36 intervention agency the total waiver fee shall be three hundred forty-
37 five dollars.

38 b. Within one hundred twenty days after the commissioner prescribes
39 the application form and posts notice of its availability on the depart-
40 ment's website, a special education school or early intervention agency
41 must apply for a waiver. Upon submission of such application, the school
42 or agency may continue to operate and provide services until the depart-
43 ment shall either deny or approve the application. After the department
44 renders a timely initial determination that the applicant has submitted
45 the information necessary to verify that the requirements of paragraphs
46 c, d and e of this subdivision are satisfied, applications for waivers
47 shall be approved or denied within ninety days, provided however that if
48 the waiver application is denied the school or agency shall cease
49 providing services pursuant to this subdivision in the state of New
50 York.

51 c. Such waiver shall provide that services rendered pursuant to this
52 section, directly or indirectly, shall be provided only by a person
53 appropriately licensed to provide such services, except as otherwise
54 provided in law, to provide such services or by a professional services
55 entity authorized by law to provide such services.

1 d. An application for a waiver to provide professional services pursu-
2 ant to this section shall be on a form prescribed by the commissioner.
3 Such application shall include: (i) the name of the special education
4 school or early intervention agency; (ii) the names of the directors or
5 trustees and officers of such school or agency; (iii) a listing of any
6 other jurisdictions where such school or agency may provide services;
7 and (iv) an attestation made by an officer authorized by such school or
8 agency to make such attestation that identifies the scope of services to
9 be provided; includes a list of professions under this article in which
10 professional services will be provided by such school or agency;
11 includes a statement that, unless otherwise authorized by law, the
12 school or agency shall only provide services authorized under this
13 section; includes a statement that only a licensed professional, a
14 person otherwise authorized to provide such services, or a professional
15 services entity authorized by law to provide such services shall provide
16 such services as authorized under this section; and attests to the
17 adequacy of the school's or agency's fiscal and financial resources to
18 provide such services. Such application shall also include any other
19 information related to the application as may be required by the depart-
20 ment. A school or agency with an approved waiver may apply, on a form
21 prescribed by the commissioner, to amend the waiver to add additional
22 professional services.

23 e. Each officer, trustee and director of such school or agency shall
24 provide an attestation regarding his or her good moral character as
25 required pursuant to paragraph g of this subdivision. The commissioner
26 shall be further authorized to promulgate rules or regulations relating
27 to the standards of the waiver for special education schools and early
28 intervention agencies pursuant to this section. Such regulations shall
29 include standards relating to the school's or agency's ability to
30 provide services, the school's or agency's maintenance of student or
31 client and business records, the school's or agency's fiscal policies,
32 and such other standards as may be prescribed by the commissioner.

33 f. The special education school or early intervention agency operating
34 pursuant to a waiver shall display, at each site where services are
35 provided to the public, a certificate of such waiver issued by the
36 department pursuant to this section, which shall contain the name of the
37 school or agency and the address of the site. Such schools or agencies
38 shall obtain from the department additional certificates for each site
39 at which professional services are provided to the public. Each school
40 or agency shall be required to re-apply for a waiver every three years.
41 An early intervention agency's waiver shall not be renewed unless the
42 agency is approved to provide early intervention program multi-discipli-
43 nary evaluations, service coordination or early intervention program
44 services in accordance with title two-A of article twenty-five of this
45 chapter. Except as otherwise provided in subdivision four of this
46 section, if any information supplied to the department regarding the
47 school or agency shall change, the school or agency shall be required to
48 provide such updated information to the department within sixty days.

49 g. All officers, trustees and directors of such schools or agencies
50 shall be of good moral character. Schools or agencies operating pursuant
51 to a waiver and their officers and directors shall be entitled to the
52 same due process procedures as are provided to such individuals and
53 professional services corporations. No waiver issued under this section
54 shall be transferable or assignable; as such terms are defined in the
55 regulations of the commissioner.

1 4. Renewal of waiver. All special education school and early inter-
2 vention agency waivers shall be renewed on dates set by the department.
3 The triennial waiver fee shall be two hundred sixty dollars or a pro-
4 rated portion thereof as determined by the department. An early inter-
5 vention agency's waiver shall not be renewed unless the agency is
6 approved to provide early intervention program multi-disciplinary evalu-
7 ations, service coordination nor early intervention program services in
8 accordance with title two-A of article twenty-five of this chapter.

9 5. Change of location. In the event that a change in the location of
10 the chief administrative offices of a special education school or early
11 intervention agency is contemplated, the owner shall notify the office
12 of professions of the department of the change of location at least
13 thirty days prior to relocation.

14 6. Professional practice. a. Notwithstanding any other provision of
15 law to the contrary, a special education school operating under a waiver
16 may employ individuals licensed or otherwise authorized to practice any
17 profession pursuant to this title to conduct components of a multi-dis-
18 ciplinary evaluation of a child with a disability or a child suspected
19 of having a disability or to provide related services to children with
20 disabilities enrolled in the school or may provide components of such an
21 evaluation or such related services by contract with an individual
22 licensed or otherwise authorized to practice pursuant to this title or a
23 not-for-profit corporation, education corporation, business corporation,
24 limited liability company or professional services organization estab-
25 lished pursuant to article fifteen of the business corporation law,
26 article twelve or thirteen of the limited liability company law or arti-
27 cle eight-B of the partnership law authorized by law to provide the
28 applicable professional services.

29 b. Notwithstanding any other provision of law to the contrary, an
30 early intervention agency operating under a waiver that is approved in
31 accordance with title two-A of article twenty-five of this chapter may
32 employ or contract with individuals licensed or otherwise authorized to
33 practice any profession pursuant to this title or with a not-for-profit
34 corporation, education corporation, business corporation, limited
35 liability company or professional services organization established
36 pursuant to article fifteen of the business corporation law, article
37 twelve or thirteen of the limited liability company law or article
38 eight-B of the partnership law authorized to conduct early intervention
39 program multi-disciplinary evaluations, provide service coordination
40 services and early intervention program services.

41 c. A special education school or early intervention agency operating
42 under a waiver shall not practice any profession licensed pursuant to
43 this article or hold itself out to the public as authorized to provide
44 professional services pursuant to this article except as authorized by
45 this section or otherwise authorized by law.

46 7. Supervision of professional practice. A special education school or
47 early intervention agency shall be under the supervision of the depart-
48 ment and be subject to disciplinary proceedings and penalties. A special
49 education school or early intervention agency operating under a waiver
50 shall be subject to suspension, revocation or annulment of the waiver
51 for cause, in the same manner and to the same extent as is provided with
52 respect to individuals and their licenses, certificates, and registra-
53 tions in the provisions of this article relating to the applicable
54 profession. Notwithstanding the provisions of this subdivision, a
55 special education school or early intervention agency that conducts or
56 contracts for a component of a multi-disciplinary evaluation that

1 involves the practice of medicine shall be subject to the pre-hearing
2 procedures and hearing procedures as is provided with respect to indi-
3 vidual physicians and their licenses in title two-A of article two of
4 this chapter. Notwithstanding any other provision of law to the contra-
5 ry, upon revocation or other termination by the commissioner of approval
6 of the special education school pursuant to article eighty-nine of the
7 education law and the regulations of the commissioner implementing such
8 article or termination of the early intervention agency pursuant to
9 title two-A of article twenty-five of this chapter and implementing
10 regulations by the commissioner pursuant to subdivision eighteen of
11 section forty-four hundred three of the education law, the school's or
12 early intervention agency's waiver pursuant to this section shall be
13 deemed revoked and annulled.

14 § 6504. Regulation of the professions. Admission to the practice of
15 the professions, licensing and regulation of such practice shall be
16 supervised and administered by the department, assisted by a state board
17 for each profession.

18 § 6505. Construction. No definition of the practice of a profession
19 shall be construed to restrain or restrict the performance of similar
20 acts authorized in the definition of other professions.

21 § 6505-a. Professional referrals. There shall be no monetary liability
22 on the part of, and no cause of action for damages shall arise against,
23 any association or society of professionals authorized to practice under
24 this article, or any employee, agent, or member thereof, for referring
25 any person to a member of the profession represented by such association
26 or society provided that such referral was made without charge as a
27 service to the public, and without malice, and in the reasonable belief
28 that such referral was warranted, based upon the facts disclosed.

29 § 6505-b. Course work or training in infection control practices. 1.
30 Every dentist, registered nurse, licensed practical nurse, podiatrist,
31 optometrist and dental hygienist practicing in the state shall, on or
32 before July first, nineteen hundred ninety-four and every four years
33 thereafter, complete course work or training appropriate to the profes-
34 sional's practice approved by the department regarding infection
35 control, which shall include sepsis, and barrier precautions, including
36 engineering and work practice controls, in accordance with regulatory
37 standards promulgated by the department, in consultation with the
38 department of education, which shall be consistent, as far as appropri-
39 ate, with such standards adopted by the department pursuant to section
40 two hundred thirty-nine of this chapter to prevent the transmission of
41 HIV, HBV, HCV and infections that could lead to sepsis in the course of
42 professional practice. Each such professional shall document to the
43 department at the time of registration commencing with the first regis-
44 tration after July first, nineteen hundred ninety-four that the profes-
45 sional has completed course work or training in accordance with this
46 section, provided, however that a professional subject to the provisions
47 of paragraph (f) of subdivision one of section twenty-eight hundred
48 five-k of this chapter shall not be required to so document. The
49 department shall provide an exemption from this requirement to anyone
50 who requests such an exemption and who:

51 a. clearly demonstrates to the department's satisfaction that there
52 would be no need for him or her to complete such course work or training
53 because of the nature of his or her practice; or

54 b. that he or she has completed course work or training deemed by the
55 department to be equivalent to the course work or training approved by
56 the department pursuant to this section.

2. The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV, HBV, HCV and infections that could lead to sepsis with respect to the regulatory standards promulgated pursuant to this section.

§ 6505-c. Articulation between military and civilian professional careers. 1. The commissioner shall develop, jointly with the director of the division of veterans' services, a program to facilitate articulation between participation in the military service of the United States or the military service of the state and admission to practice of a profession. The commissioner and the director of the division of veterans' services shall identify, review and evaluate professional training programs offered through either the military service of the United States or the military service of the state which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program. Particular emphasis shall be placed on the identification of military programs which have previously been deemed acceptable by the department as equivalent education and training, programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety and programs which may provide, where applicable, equivalent education and training for those professions for which shortages exist in the state of New York.

2. The commissioner and the director of the division of veterans' services shall prepare a list of those military programs which have previously been deemed acceptable by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirtieth of August, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

3. The commissioner and the director of the division of veterans' services shall prepare a list of those military programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety, programs which may provide, where applicable, equivalent education and training for those professions for which shortages exist in the state of New York and any other military programs which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirty-first of October, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

4. Such lists shall be prepared annually no later than the thirtieth of June thereafter with additions and deletions made jointly by the commissioner and the director of the division of veterans' services and made available to the public and applicants for admission to practice of a profession on such date.

SUBTITLE 2

STATE MANAGEMENT

Section 6506. Supervision by the department.

6507. Administration.

6507-a. Registration fee surcharge.

6508. Assistance by state boards for the professions.

§ 6506. Supervision by the department. The department shall supervise the admission to and the practice of the professions. In supervising, the department may:

1 1. Promulgate rules, except that no rule shall be promulgated concern-
2 ing title three of this article;

3 2. Establish by rule, high school, preprofessional, professional and
4 other educational qualifications required for licensing in the
5 professions regulated by this article;

6 3. Appoint such committees as it deems necessary and compensate
7 members of such committees who are not members of the department up to
8 one hundred dollars per day for each day devoted to committee functions,
9 together with their necessary expenses;

10 4. Waive education, experience and examination requirements for a
11 professional license prescribed in the title relating to the profession,
12 provided the department shall be satisfied that the requirements of such
13 title have been substantially met;

14 5. Indorse a license issued by a licensing board of another state or
15 country upon the applicant fulfilling the following requirements:

16 a. Application: file an application with the department;

17 b. Education: meet educational requirements in accordance with the
18 commissioner's regulations;

19 c. Experience: have experience satisfactory to the state boards for
20 the professions as prescribed in the title relating to the profession
21 and in accordance with the commissioner's regulations;

22 d. Examination: pass an examination satisfactory to the state boards
23 for the professions as prescribed in the title relating to the profes-
24 sion and in accordance with the commissioner's regulations;

25 e. Age: be at least twenty-one years of age;

26 f. Citizenship or immigration status: be a United States citizen or an
27 alien lawfully admitted for permanent residence in the United States;

28 g. Character: be of good moral character as determined by the depart-
29 ment; and

30 h. Prior professional conduct: where an application is submitted for
31 licensure endorsement in any profession regulated by this article and
32 the department determines that while engaged in practice in another
33 jurisdiction the applicant: (i) has been subject to disciplinary action
34 by a duly authorized professional disciplinary agency of such other
35 jurisdiction, where the conduct upon which the disciplinary action was
36 based would, if committed in New York state, constitute practicing the
37 profession beyond its authorized scope, with gross incompetence, with
38 gross negligence on a particular occasion, or with negligence or incom-
39 petence on more than one occasion under the laws of New York state, or
40 (ii) has voluntarily or otherwise surrendered his or her professional
41 license in another jurisdiction after a disciplinary action was insti-
42 tuted by a duly authorized professional disciplinary agency of such
43 other jurisdiction, based on conduct that would, if committed in New
44 York state, constitute practicing the profession beyond its authorized
45 scope, with gross incompetence, with gross negligence on a particular
46 occasion, or with negligence or incompetence on more than one occasion
47 under the laws of New York state, the department shall evaluate the
48 conduct and may deny licensure endorsement to the applicant based on
49 such conduct;

50 6. Direct the department to remedy any error, omission, delay or other
51 circumstance in the issuance or registration of a license;

52 7. Designate a professional conduct officer, who shall be the chief
53 administrative officer of the office of the professions, or his or her
54 designee, in connection with professional licensing and misconduct
55 proceedings and criminal matters, such officer to be empowered to issue
56 subpoenas and administer oaths in connection with such proceedings;

1 8. Establish by rule, standards of conduct with respect to advertis-
2 ing, fee splitting, practicing under a name other than that of the indi-
3 vidual licensee (when not specifically authorized), proper use of
4 academic or professional degrees or titles tending to imply professional
5 status, and such other ethical practices as such board shall deem neces-
6 sary, except that no rule shall be established concerning title two of
7 this article; and

8 9. Delegate to department officers the disposition of any licensing
9 matters pursuant to rules.

10 § 6507. Administration. 1. The commissioner and department shall
11 administer the admission to and the practice of the professions.

12 2. In administering, the commissioner may:

13 a. Promulgate regulations, except that no regulations shall be promul-
14 gated concerning title three of this chapter;

15 b. Conduct investigations;

16 c. Issue subpoenas;

17 d. Grant immunity from prosecution in accordance with section 50.20 of
18 the criminal procedure law to anyone subpoenaed in any investigation or
19 hearing conducted pursuant to this article; and

20 e. Excuse, for cause acceptable to the commissioner, the failure to
21 register with the department. Such excuse shall validate and authorize
22 such practitioner's right to practice pending registration.

23 3. The department assisted by the board for each profession, shall:

24 a. Establish standards for pre-professional and professional educa-
25 tion, experience and licensing examinations as required to implement the
26 title for each profession. Notwithstanding any other provision of law,
27 the commissioner shall establish standards requiring that all persons
28 applying, on or after January first, nineteen hundred ninety-one,
29 initially, or for the renewal of, a license, registration or limited
30 permit to be a physician, chiropractor, dentist, registered nurse,
31 podiatrist, optometrist, psychiatrist, psychologist, licensed master
32 social worker, licensed clinical social worker, licensed creative arts
33 therapist, licensed marriage and family therapist, licensed mental
34 health counselor, licensed psychoanalyst, dental hygienist, licensed
35 behavior analyst, or certified behavior analyst assistant shall, in
36 addition to all the other licensure, certification or permit require-
37 ments, have completed two hours of coursework or training regarding the
38 identification and reporting of child abuse and maltreatment. The
39 coursework or training shall be obtained from an institution or provider
40 which has been approved by the department to provide such coursework or
41 training. The coursework or training shall include information regarding
42 the physical and behavioral indicators of child abuse and maltreatment
43 and the statutory reporting requirements set out in sections four
44 hundred thirteen through four hundred twenty of the social services law,
45 including but not limited to, when and how a report must be made, what
46 other actions the reporter is mandated or authorized to take, the legal
47 protections afforded reporters, and the consequences for failing to
48 report. Such coursework or training may also include information regard-
49 ing the physical and behavioral indicators of the abuse of individuals
50 with mental retardation and other developmental disabilities and volun-
51 tary reporting of abused or neglected adults to the office for people
52 with developmental disabilities or the local adult protective services
53 unit. Each applicant shall provide the department with documentation
54 showing that he or she has completed the required training. The depart-
55 ment shall provide an exemption from the child abuse and maltreatment
56 training requirements to any applicant who requests such an exemption

1 and who shows, to the department's satisfaction, that there would be no
2 need because of the nature of his or her practice for him or her to
3 complete such training;

4 b. Review qualifications in connection with licensing requirements;
5 and

6 c. Provide for licensing examinations and reexaminations.

7 4. The department shall:

8 a. Register or approve educational programs designed for the purpose
9 of providing professional preparation which meet standards established
10 by the department.

11 b. Issue licenses, registrations, and limited permits to qualified
12 applicants;

13 c. (i) Issue a certificate of authority to a qualified professional
14 service corporation being organized under section fifteen hundred three
15 of the business corporation law or to a university faculty practice
16 corporation being organized under section fourteen hundred twelve of the
17 not-for-profit corporation law on payment of a fee of ninety dollars,
18 (ii) require such corporations to file a certified copy of each certifi-
19 cate of incorporation and amendment thereto within thirty days after
20 the filing of such certificate or amendment on payment of a fee of twen-
21 ty dollars, (iii) require such corporations to file a triennial state-
22 ment required by section fifteen hundred fourteen of the business corpo-
23 ration law on payment of a fee of one hundred five dollars.

24 d. Revoke limited permits on the recommendation of the committee on
25 professional conduct for the profession concerned, except for limited
26 permits issued to physicians, physician's assistants and specialist's
27 assistants which shall be subject to sections two hundred thirty, two
28 hundred thirty-a, two hundred thirty-b and two hundred thirty-c of this
29 chapter;

30 e. Maintain public records of licenses issued and retain in its files
31 identifying data concerning each person to whom a license has been
32 issued;

33 f. Collect the fees prescribed by this article or otherwise provided
34 by law;

35 g. Prepare an annual report for the legislature, the governor and
36 other executive offices, the state boards for the professions, profes-
37 sional societies, consumer agencies and other interested persons. Such
38 report shall include but not be limited to a description and analysis of
39 the administrative procedures and operations of the department based
40 upon a statistical summary relating to (i) new licensure, (ii) disci-
41 pline, (iii) complaint, investigation, and hearing backlog, (iv) budget,
42 and (v) the state boards for the professions. Information provided shall
43 be enumerated by profession; and

44 h. Establish an administrative unit which shall be responsible for the
45 investigation, prosecution and determination of alleged violations of
46 professional conduct.

47 5. Where an application is submitted for licensure or a limited permit
48 in any profession regulated by this article and the commissioner deter-
49 mines that while engaged in practice in another jurisdiction: (i) the
50 applicant has been subject to disciplinary action by a duly authorized
51 professional disciplinary agency of such other jurisdiction, where the
52 conduct upon which the disciplinary action was based would, if committed
53 in New York state, constitute practicing the profession beyond its
54 authorized scope, with gross incompetence, with gross negligence on a
55 particular occasion, or with negligence or incompetence on more than one
56 occasion under the laws of New York state, or (ii) the applicant has

1 voluntarily or otherwise surrendered his or her professional license in
2 another jurisdiction after a disciplinary action was instituted by a
3 duly authorized professional disciplinary agency of such other jurisdic-
4 tion based on conduct that would, if committed in New York state,
5 constitute practicing the profession beyond its authorized scope, with
6 gross incompetence, with gross negligence on a particular occasion, or
7 with negligence or incompetence on more than one occasion under the laws
8 of New York state, the department shall evaluate the conduct and the
9 commissioner may deny licensure or issuance of a limited permit to the
10 applicant based on such conduct.

11 6. The commissioner and the department shall perform any other func-
12 tions necessary to implement this article.

13 § 6507-a. Registration fee surcharge. The commissioner is hereby
14 authorized to impose and collect a fifteen percent surcharge, rounded
15 upward to the nearest dollar, on any professional registration fee
16 imposed under this article that is subject to deposit in the office of
17 the professions account established pursuant to section ninety-seven-enn
18 of the state finance law. Such surcharge shall not be imposed on any
19 such fee dedicated for deposit in the professional medical conduct
20 account.

21 § 6508. Assistance by state boards for the professions. 1. A board for
22 each profession shall be appointed by the department on the recommenda-
23 tion of the commissioner for the purpose of assisting the department on
24 matters of professional licensing, practice, and conduct. The composi-
25 tion of each board shall be as prescribed in the title relating to each
26 profession. Within each board a committee on licensing may be appointed
27 by the board chairman. Except as provided in paragraph a of this subdi-
28 vision, the membership of each professional licensing board shall be
29 increased by one member, and each such board shall have at least one
30 public representative who shall be selected by the department from the
31 general public.

32 a. The membership of the professional licensing boards created under
33 sections sixty-five hundred twenty-three, sixty-eight hundred four and
34 sixty-nine hundred three of this article, and section seventy-four
35 hundred three of the education law shall be increased by two members,
36 and each such board shall have at least two public representatives, who
37 shall be selected by the department from the general public.

38 b. For the purposes of this article, a "public representative" shall
39 be a person who is a consumer of services provided by those licensed or
40 otherwise supervised or regulated by the boards created hereunder, and
41 shall not be, nor within five years immediately preceding appointment
42 have been:

43 (i) a licensee or person otherwise subject to the supervision or regu-
44 lation of the board to which appointed; or

45 (ii) a person maintaining a contractual relationship with a licensee
46 of such board, which would constitute more than two percentum of the
47 practice or business of any such licensee, or an officer, director, or
48 representative of such person or group of persons.

49 2. Each state board for the professions as prescribed in the title
50 relating to each profession board, or its committee on licensing, shall
51 select or prepare examinations, may conduct oral and practical examina-
52 tions and reexaminations, shall fix passing grades, and assist the
53 department in other licensing matters as prescribed by the department.

54 3. Each board shall conduct disciplinary proceedings as prescribed in
55 this article and shall assist in other professional conduct matters as
56 prescribed by the department.

4. Members of each board shall be appointed by the department for five-year terms except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by an appointment by the department for the unexpired term. Each state professional association or society may nominate one or more candidates for each appointment to be made to the board for its profession, but the department shall not be required to appoint candidates so nominated. Former members of a board may be re-appointed by the department, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license. In addition, each board shall establish a roster of auxiliary members from candidates nominated by professional associations or societies for appointment by the department, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his or her term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the department for each day devoted to board work, and shall be reimbursed for his necessary expenses. Any member may be removed from a board by the department for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and vice-chairman annually, shall meet upon call of the chairman or the department, and may adopt bylaws consistent with this article and approved by the department. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the department on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the department.

SUBTITLE 3

PROFESSIONAL MISCONDUCT

Section 6509. Definitions of professional misconduct.

6509-a. Additional definition of professional misconduct; limited application.

6509-b. Additional definition of professional misconduct; arrears in payment of support; limited application.

6509-c. Additional definition of professional misconduct; failure to comply in paternity or child support proceedings; limited application.

6509-d. Limited exemption from professional misconduct.

6509-e. Additional definition of professional misconduct; mental health professionals.

6510. Proceedings in cases of professional misconduct.

6510-a. Temporary surrender of licenses during treatment for drug or alcohol abuse.

6510-b. Nurse peer assistance programs.

6510-c. Voluntary non-disciplinary surrender of a license.

1 6510-d. Nurses' refusal of overtime work.

2 6511. Penalties for professional misconduct.

3 § 6509. Definitions of professional misconduct. Each of the following
4 is professional misconduct, and any licensee found guilty of such
5 misconduct under the procedures prescribed in section sixty-five hundred
6 ten of this subtitle shall be subject to the penalties prescribed in
7 section sixty-five hundred eleven of this subtitle:

8 1. Obtaining the license fraudulently,

9 2. Practicing the profession fraudulently, beyond its authorized
10 scope, with gross incompetence, with gross negligence on a particular
11 occasion or negligence or incompetence on more than one occasion,

12 3. Practicing the profession while the ability to practice is impaired
13 by alcohol, drugs, physical disability, or mental disability,

14 4. Being habitually drunk or being dependent on, or a habitual user of
15 narcotics, barbiturates, amphetamines, hallucinogens, or other drugs
16 having similar effects,

17 5. a. Being convicted of committing an act constituting a crime under:

18 (i) New York state law or,

19 (ii) Federal law or,

20 (iii) The law of another jurisdiction and which, if committed within
21 this state, would have constituted a crime under New York state law;

22 b. Having been found guilty of improper professional practice or
23 professional misconduct by a duly authorized professional disciplinary
24 agency of another state where the conduct upon which the finding was
25 based would, if committed in New York state, constitute professional
26 misconduct under the laws of New York state;

27 c. Having been found by the commissioner to be in violation of article
28 thirty-three this chapter.

29 d. Having his or her license to practice medicine revoked, suspended
30 or having other disciplinary action taken, or having his or her applica-
31 tion for a license refused, revoked or suspended or having voluntarily
32 or otherwise surrendered his or her license after a disciplinary action
33 was instituted by a duly authorized professional disciplinary agency of
34 another state, where the conduct resulting in the revocation, suspension
35 or other disciplinary action involving the license or refusal, revoca-
36 tion or suspension of an application for a license or the surrender of
37 the license would, if committed in New York state, constitute profes-
38 sional misconduct under the laws of New York state.

39 6. Refusing to provide professional service to a person because of
40 such person's race, creed, color, or national origin,

41 7. Permitting, aiding or abetting an unlicensed person to perform
42 activities requiring a license,

43 8. Practicing the profession while the license is suspended, or will-
44 fully failing to register or notify the department of any change of name
45 or mailing address, or, if a professional service corporation willfully
46 failing to comply with sections fifteen hundred three and fifteen
47 hundred fourteen of the business corporation law or, if a university
48 faculty practice corporation willfully failing to comply with paragraphs
49 (b), (c) and (d) of section fifteen hundred three and section fifteen
50 hundred fourteen of the business corporation law,

51 9. Committing unprofessional conduct, as defined by the department in
52 its rules or by the commissioner in regulations approved by the depart-
53 ment,

54 10. A violation of section twenty-eight hundred three-d or twenty-
55 eight hundred five-k of this chapter,

11. A violation of section sixty-five hundred five-b of the education law by a professional other than a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of this chapter,

12. In the event that the department of environmental conservation has reported to the department alleged misconduct by an architect or professional engineer in making a certification under section nineteen of the tax law, relating to the green building tax credit, the department, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate, or

13. In the event that any agency designated pursuant to title four-B of article four of the real property tax law, relating to the green roof tax abatement, has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the department, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate,

14. In the event that any agency designated pursuant to title four-C of article four of the real property tax law, relating to the solar electric generating system tax abatement, has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the department, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

§ 6509-a. Additional definition of professional misconduct; limited application. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of titles six, seven, nine, ten, twelve, fourteen, fifteen, and twenty-six of this article may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this subtitle in accordance with the provisions and procedure of this subtitle for the following: That any person subject to the above enumerated titles, has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the furnishing of professional care, or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies or any other goods, services or supplies prescribed for medical diagnosis, care or treatment under this chapter, except payment, not to exceed thirty-three and one-third per centum of any fee received for x-ray examination, diagnosis or treatment, to any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations, university faculty practice corporations or groups

1 by the individual members thereof, for professional services furnished
2 by any individual professional member, or employee of such partnership,
3 corporation or group, nor shall the professionals constituting the part-
4 nerships, corporations or groups be prohibited from sharing, dividing or
5 apportioning the fees and moneys received by them or by the partnership,
6 corporation or group in accordance with a partnership or other agree-
7 ment; provided that no such practice as partners, corporations or in
8 groups or pooling of fees or moneys received or shared, division or
9 apportionment of fees shall be permitted with respect to care and treat-
10 ment under the workers' compensation law except as expressly authorized
11 by the workers' compensation law. Nothing contained in this chapter
12 shall prohibit a medical or dental expense indemnity corporation pursu-
13 ant to its contract with the subscriber from prorationing a medical or
14 dental expense indemnity allowance among two or more professionals in
15 proportion to the services rendered by each such professional at the
16 request of the subscriber, provided that prior to payment thereof such
17 professionals shall submit both to the medical or dental expense indem-
18 nity corporation and to the subscriber statements itemizing the services
19 rendered by each such professional and the charges therefor.

20 § 6509-b. Additional definition of professional misconduct; arrears in
21 payment of support; limited application. 1. The provisions of this
22 section shall apply in all cases of licensee or registrant arrears in
23 payment of child support or combined child and spousal support referred
24 to the department by a court pursuant to the requirements of section two
25 hundred forty-four-c of the domestic relations law or pursuant to
26 section four hundred fifty-eight-b of the family court act.

27 2. Upon receipt of an order from the court pursuant to one of the
28 foregoing provisions of law, the department, if it finds such person to
29 be so licensed or registered, shall within thirty days of receipt of
30 such order from the court, provide notice to the licensee or registrant
31 of, and cause the regents review committee to initiate, a hearing which
32 shall be held at least twenty days and no more than thirty days after
33 the sending of such notice to the licensee or registrant. The hearing
34 shall be held solely for the purpose of determining whether there exists
35 as of the date of the hearing proof that full payment of all arrears of
36 support established by the order of the court to be due from the licen-
37 see or registrant have been paid. Proof of such payment shall be a
38 certified check showing full payment of established arrears or a notice
39 issued by the court or by the support collection unit where the order is
40 payable to the support collection unit designated by the appropriate
41 social services district. Such notice shall state that full payment of
42 all arrears of support established by the order of the court to be due
43 have been paid. The licensee or registrant shall be given full opportu-
44 nity to present such proof of payment at the hearing in person or by
45 counsel. The only issue to be determined by the regents review committee
46 as a result of the hearing is whether the arrears have been paid. No
47 evidence with respect to the appropriateness of the court order or abil-
48 ity of the respondent party in arrears to comply with such order shall
49 be received or considered by the committee.

50 3. Notwithstanding any inconsistent provision of this article or of
51 any other provision of law to the contrary, the license or registration
52 of a person subject to the provisions of this article and/or subject to
53 the provisions of title two-A of article two of this chapter shall be
54 suspended if, at the hearing provided for by subdivision two of this
55 section, the licensee or registrant fails to present proof of payment as
56 required by such subdivision. Such suspension shall not be lifted unless

1 the court or the support collection unit, where the court order is paya-
2 ble to the support collection unit designated by the appropriate social
3 services district, issues notice to the regents review committee that
4 full payment of all arrears of support established by the order of the
5 court to be due have been paid.

6 4. The department shall inform the court of all actions taken here-
7 under as required by law.

8 5. This section shall apply to support obligations paid pursuant to
9 any order of child support or child and spousal support issued under
10 provisions of section two hundred thirty-six or two hundred forty of the
11 domestic relations law, or article four, five or five-A of the family
12 court act.

13 6. Notwithstanding any inconsistent provision of this article or of
14 any other provision of law to the contrary, the provisions of this
15 section shall apply to the exclusion of any other requirements of this
16 article and to the exclusion of any other requirement of law to the
17 contrary.

18 § 6509-c. Additional definition of professional misconduct; failure to
19 comply in paternity or child support proceedings; limited application.

20 1. The provisions of this section shall apply in all cases of licensee
21 or registrant failure after receiving appropriate notice, to comply with
22 a summons, subpoena or warrant relating to a paternity or child support
23 proceeding referred to the department by a court pursuant to the
24 requirements of section two hundred forty-four-c of the domestic
25 relations law or pursuant to section four hundred fifty-eight-b or five
26 hundred forty-eight-b of the family court act.

27 2. Upon receipt of an order from the court pursuant to one of the
28 foregoing provisions of law, the department, if it finds such person to
29 be so licensed or registered, shall within thirty days of receipt of
30 such order from the court, provide notice to the licensee or registrant
31 that his or her license or registration shall be suspended in sixty days
32 unless the conditions as set forth in subdivision three of this section
33 are met.

34 3. Notwithstanding any inconsistent provision of this article or of
35 any other provision of law to the contrary, the license or registration
36 of a person subject to the provisions of this article and/or subject to
37 the provisions of title two-A of article two of this chapter shall be
38 suspended unless the court terminates its order to commence suspension
39 proceedings. Such suspension shall not be lifted unless the court issues
40 an order to the department terminating its order to commence suspension
41 proceedings.

42 4. The department shall inform the court of all actions taken here-
43 under as required by law.

44 5. This section applies to paternity or child support proceedings
45 commenced under, and support obligations paid pursuant to any order of
46 child support or child and spousal support issued under provisions of
47 section two hundred thirty-six or two hundred forty of the domestic
48 relations law, or article four, five, five-A or five-B of the family
49 court act.

50 6. Notwithstanding any inconsistent provision of this article or of
51 any other provision of law to the contrary, the provisions of this
52 section shall apply to the exclusion of any other requirements of this
53 article and to the exclusion of any other requirement of law to the
54 contrary.

55 § 6509-d. Limited exemption from professional misconduct. Notwith-
56 standing any other provision of law to the contrary, it shall not be

1 considered professional misconduct pursuant to this subtitle for any
2 person who is licensed under this chapter and who would otherwise be
3 prohibited from prescribing or administering drugs pursuant to the title
4 that licenses such individual, to administer an opioid antagonist in the
5 event of an emergency.

6 § 6509-e. Additional definition of professional misconduct; mental
7 health professionals.

8 1. For the purposes of this section:

9 a. "Mental health professional" means a person subject to the
10 provisions of title seventeen, eighteen, or twenty-five of this article;
11 or any other person designated as a mental health professional pursuant
12 to law, rule or regulation.

13 b. "Sexual orientation change efforts" (i) means any practice by a
14 mental health professional that seeks to change an individual's sexual
15 orientation, including, but not limited to, efforts to change behaviors,
16 gender identity, or gender expressions, or to eliminate or reduce sexual
17 or romantic attractions or feelings towards individuals of the same sex
18 and (ii) shall not include counseling for a person seeking to transition
19 from one gender to another, or psychotherapies that: (A) provide accept-
20 ance, support and understanding of patients or the facilitation of
21 patients' coping, social support and identity exploration and develop-
22 ment, including sexual orientation-neutral interventions to prevent or
23 address unlawful conduct or unsafe sexual practices; and (B) do not seek
24 to change sexual orientation.

25 2. It shall be professional misconduct for a mental health profes-
26 sional to engage in sexual orientation change efforts upon any patient
27 under the age of eighteen years, and any mental health professional
28 found guilty of such misconduct under the procedures prescribed in
29 section sixty-five hundred ten of this subtitle shall be subject to the
30 penalties prescribed in section sixty-five hundred eleven of this subti-
31 tle.

32 § 6510. Proceedings in cases of professional misconduct. In cases of
33 professional misconduct the proceedings shall be as follows:

34 1. Preliminary procedures.

35 a. Complaint. A complaint of a licensee's professional misconduct may
36 be made by any person to the education department.

37 b. Investigation. The department shall investigate each complaint
38 which alleges conduct constituting professional misconduct. The results
39 of the investigation shall be referred to the professional conduct offi-
40 cer designated by the department pursuant to section sixty-five hundred
41 six of this subtitle. If such officer decides that there is not substan-
42 tial evidence of professional misconduct or that further proceedings are
43 not warranted, no further action shall be taken. If such officer, after
44 consultation with a professional member of the applicable state board
45 for the profession, determines that there is substantial evidence of
46 professional misconduct, and that further proceedings are warranted,
47 such proceedings shall be conducted pursuant to this section. If the
48 complaint involves a question of professional expertise, then such offi-
49 cer may seek, and if so shall obtain, the concurrence of at least two
50 members of a panel of three members of the applicable board. The depart-
51 ment shall cause a preliminary review of every report made to the
52 department pursuant to section twenty-eight hundred three-e of this
53 chapter, as added by chapter eight hundred sixty-six of the laws of
54 nineteen hundred eighty, section forty-four hundred five-b of this chap-
55 ter and section three hundred fifteen of the insurance law, to determine

1 if such report reasonably appears to reflect conduct warranting further
2 investigation pursuant to this subdivision.

3 c. Charges. In all disciplinary proceedings other than those termi-
4 nated by an administrative warning pursuant to paragraph a of subdivi-
5 sion two of this section, the department shall prepare the charges. The
6 charges shall state the alleged professional misconduct and shall state
7 concisely the material facts but not the evidence by which the charges
8 are to be proved.

9 d. Records and reports as public information. In all disciplinary
10 proceedings brought pursuant to this section or in any voluntary settle-
11 ment of a complaint between the licensee and the department, the depart-
12 ment shall notify the licensee in writing that the record and reports of
13 such disciplinary proceeding or of such voluntary settlement shall be
14 considered matters of public information unless specifically excepted in
15 this title, or in any other law or applicable rule or regulation.

16 e. Service of charges and notice of hearing. In order to commence
17 disciplinary proceedings under this article, service of a copy of the
18 charges and notice of hearing must be completed twenty days before the
19 date of the hearing if by personal delivery, and must be completed twen-
20 ty-five days before the date of the hearing if by any other method.

21 f. Service of charges and of notice of hearing upon a natural person.
22 Personal service of the charges and notice of any hearing pursuant to
23 subdivision two or three of this section upon a natural person shall be
24 made by any of the following methods:

25 (i) by delivery within the state to the person to be served;

26 (ii) by delivery within the state to a person of suitable age and
27 discretion at the actual place of business, dwelling place or usual
28 place of abode of the person to be served and either: (A) by mailing by
29 certified mail, return receipt requested, to the person to be served at
30 his or her last known residence, or (B) by mailing by certified mail,
31 return receipt requested, to the person to be served at his or her last
32 address on file with the division of licensing services of the depart-
33 ment in an envelope bearing the legend "personal and confidential,"
34 provided that, in either case: such delivery and mailing shall be
35 effected within twenty days of each other; service pursuant to this
36 subparagraph shall be complete ten days after either the delivery, or
37 the mailing, whichever is later; and proof of service shall, among other
38 things, identify such person of suitable age and discretion and state
39 the date, time and place of such service; or

40 (iii) where service under subparagraphs (i) and (ii) of this paragraph
41 cannot be made with due diligence, a copy of the charges and the notice
42 of hearing shall be served by certified mail, return receipt requested,
43 to the person's last known address on file with the division of licens-
44 ing services of the department or by affixing the changes and the notice
45 of hearing to the door of either the actual place of business, dwelling
46 place or usual place of abode of the person to be served; provided that:
47 service pursuant to this subparagraph shall be complete ten days after
48 such mailing, and proof of service shall set forth the department's
49 efforts of due diligence.

50 g. Service of charges and notice of hearing outside of the state. A
51 natural person subject to the jurisdiction of the department may be
52 served with a copy of the charges and the notice of hearing outside of
53 the state in the same manner as service is made within the state, by any
54 person authorized to make service within the state of New York or by any
55 person authorized to make service by the laws of the state, territory,

1 possession or country in which service is made or by any duly qualified
2 attorney or equivalent in such jurisdiction.

3 2. Expedited procedures.

4 a. Violations. Violations involving professional misconduct of a minor
5 or technical nature may be resolved by expedited procedures as provided
6 in paragraph b or c of this subdivision. For purposes of this subdivi-
7 sion, violations of a minor or technical nature shall include, but shall
8 not be limited to, isolated instances of violations concerning profes-
9 sional advertising or record keeping, and other isolated violations
10 which do not directly affect or impair the public health, welfare or
11 safety. The department shall make recommendations to the legislature on
12 or before June first, nineteen hundred eighty-one, for the further defi-
13 nition of violations of a minor or technical nature. The initial
14 instance of any violation of a minor or technical nature may be resolved
15 by the issuance of an administrative warning pursuant to paragraph b of
16 this subdivision. Subsequent instances of similar violations of a minor
17 or technical nature within a period of three years may be resolved by
18 the procedure set forth in paragraph c of this subdivision.

19 b. Administrative warning. If a professional conduct officer, after
20 consultation with a professional member of the state board, determines
21 that there is substantial evidence of professional misconduct but that
22 it is an initial violation of a minor or technical nature which would
23 not justify the imposition of a more severe disciplinary penalty, the
24 matter may be terminated by the issuance of an administrative warning.
25 Such warnings shall be confidential and shall not constitute an adjudi-
26 cation of guilt or be used as evidence that the licensee is guilty of
27 the alleged misconduct. However, in the event of a further allegation of
28 similar misconduct by the same licensee, the matter may be reopened and
29 further proceedings instituted as provided in this section.

30 c. Determination of penalty on uncontested minor violations. If a
31 professional conduct officer, after consultation with a professional
32 member of the state board, determines that there is substantial evidence
33 of a violation of a minor or technical nature, and of a nature justify-
34 ing a penalty as specified in this paragraph, the department may prepare
35 and serve charges either by personal service or by certified mail,
36 return receipt requested. Such charges shall include a statement that
37 unless an answer is received within twenty days denying the charges, the
38 matter shall be referred to a violations committee consisting of at
39 least three members of the state board for the profession, at least one
40 of whom shall be a public representative, for determination. The
41 violations panel shall be appointed by the executive secretary of the
42 state board. The licensee shall be given at least fifteen days notice of
43 the time and place of the meeting of the violations committee and shall
44 have the right to appear in person and by an attorney and to make a
45 statement to the committee in mitigation or explanation of the miscon-
46 duct. The department may appear and make a statement in support of its
47 position. The violations committee may issue a censure and reprimand,
48 and in addition, or in the alternative, may impose a fine not to exceed
49 five hundred dollars for each specification of minor, or technical
50 misconduct. If the fine is not paid within three months the matter may
51 be reopened and shall be subject to the hearing and regents decision
52 procedures of this section. The determination of the panel shall be
53 final and shall not be subject to the regents decision procedures of
54 this section. If an answer is filed denying the charges, the matter
55 shall be processed as provided in subdivision three of this section.

1 d. Convictions of crimes or administrative violations. In cases of
2 professional misconduct based solely upon a violation of subdivision
3 five of section sixty-five hundred nine of this subtitle, the profes-
4 sional conduct officer may prepare and serve the charges and may refer
5 the matter directly to a regents review committee for its review and
6 report of its findings, determination as to guilt, and recommendation as
7 to the measure of discipline to be imposed. In such cases the notice of
8 hearing shall state that the licensee may file a written answer, brief
9 and affidavits; that the licensee may appear personally before the
10 regents review committee, may be represented by counsel and may present
11 evidence or sworn testimony on behalf of the licensee, and the notice
12 may contain such other information as may be considered appropriate by
13 the department. The department may also present evidence or sworn testi-
14 mony at the hearing. A stenographic record of the hearing shall be made.
15 Such evidence or sworn testimony offered at the meeting of the regents
16 review committee shall be limited to evidence and testimony relating to
17 the nature and severity of the penalty to be imposed upon the licensee.
18 The presiding officer at the meeting of the regents review committee
19 may, in his or her discretion, reasonably limit the number of witnesses
20 whose testimony will be received and the length of time any witness will
21 be permitted to testify. In lieu of referring the matter to the depart-
22 ment, the regents review committee may refer any such matter for further
23 proceedings pursuant to paragraph b or c of this subdivision or subdivi-
24 sion three of this section.

25 3. Adversary proceedings. Contested disciplinary proceedings and other
26 disciplinary proceedings not resolved pursuant to subdivision two of
27 this section shall be tried before a hearing panel of the appropriate
28 state board as provided in this subdivision.

29 a. Notice of hearing. The department shall set the time and place of
30 the hearing and shall prepare the notice of hearing. The notice of hear-
31 ing shall state (i) the time and place of the hearing, (ii) that the
32 licensee may file a written answer to the charges prior to the hearing,
33 (iii) that the licensee may appear personally at the hearing and may be
34 represented by counsel, (iv) that the licensee shall have the right to
35 produce witnesses and evidence in his behalf, to cross-examine witnesses
36 and examine evidence produced against him, and to issue subpoenas in
37 accordance with the provisions of the civil practice law and rules, (v)
38 that a stenographic record of the hearing will be made, and (vi) such
39 other information as may be considered appropriate by the department.

40 b. Hearing panel. The hearing shall be conducted by a panel of three
41 or more members, at least two of whom shall be members of the applicable
42 state board for the profession, and at least one of whom shall be a
43 public representative who is a member of the applicable state board or
44 of the state board for another profession licensed pursuant to this
45 article. The executive secretary for the applicable state board shall
46 appoint the panel and shall designate its chairperson. After the
47 commencement of a hearing, no panel member shall be replaced. A determi-
48 nation by the administrative officer of a need to disqualify or remove
49 any panel member will result in the disqualification or removal of the
50 panel and cause a new panel to be appointed. In addition to said panel
51 members, the department shall designate an administrative officer,
52 admitted to practice as an attorney in the state of New York, who shall
53 have the authority to rule on all motions, procedures and other legal
54 objections and shall draft a report for the hearing panel which shall be
55 subject to the approval of and signature by the panel chairperson on

1 behalf of the panel. The administrative officer shall not be entitled to
2 a vote.

3 c. Conduct of hearing. The evidence in support of the charges shall be
4 presented by an attorney for the department. The licensee shall have the
5 rights required to be stated in the notice of hearing. The panel shall
6 not be bound by the rules of evidence, but its determination of guilt
7 shall be based on a preponderance of the evidence. A hearing which has
8 been initiated shall not be discontinued because of the death or inca-
9 pacity to serve of one member of the hearing panel.

10 d. Results of hearing. The hearing panel shall render a written report
11 which shall include (i) findings of fact, (ii) a determination of guilty
12 or not guilty on each charge, and (iii) in the event of a determination
13 of guilty, a recommendation of the penalty to be imposed. For the panel
14 to make a determination of guilty, a minimum of two of the voting
15 members of the panel must vote for such a determination. A copy of the
16 report of the hearing panel shall be transmitted to the licensee.

17 4. Regents decision procedures.

18 a. Regents review committee. The transcript and report of the hearing
19 panel shall be reviewed at a meeting by a regents review committee
20 appointed by the department. The regents review committee shall consist
21 of three members, at least one of whom shall be a regent pursuant to
22 section two hundred two of the education law.

23 b. Regents review committee meetings. The review shall be based on the
24 transcript and the report of the hearing panel. The licensee may appear
25 at the meeting, and the regents review committee may require the licen-
26 see to appear. The licensee may be represented by counsel. The depart-
27 ment shall notify the licensee at least seven days before the meeting
28 (i) of the time and place of the meeting, (ii) of his right to appear,
29 (iii) of his or her right to be represented by counsel, (iv) whether or
30 not he or she is required to appear, and (v) of such other information
31 as may be considered appropriate. After the meeting, the regents review
32 committee shall transmit a written report of its review to the depart-
33 ment. In cases referred directly to the regents review committee pursu-
34 ant to paragraph d of subdivision two of this section, the review shall
35 be based upon the charges, the documentary evidence submitted by the
36 department, any answer, affidavits or brief the licensee may wish to
37 submit, and any evidence or sworn testimony presented by the licensee or
38 the department at the hearing, pursuant to the procedures described by
39 paragraph d of subdivision two of this section.

40 c. Regents decision and order. The department (i) shall consider the
41 transcript, the report of the hearing panel, and the report of the
42 regents review committee, (ii) shall decide whether the licensee is
43 guilty or not guilty on each charge, (iii) shall decide what penalties,
44 if any, to impose as prescribed in section sixty-five hundred eleven of
45 this subtitle, and (iv) shall issue an order to carry out its decisions.
46 Such decisions shall require the affirmative vote of a majority of the
47 members of the department. If the department disagrees with the hearing
48 panel's determination of not guilty, it shall remand the matter to the
49 original panel for reconsideration or to a new panel for a new hearing.
50 The panel's determination of not guilty on reconsideration or a new
51 hearing shall be final. The order shall be served upon the licensee
52 personally or by certified mail to the licensee's last known address and
53 such service shall be effective as of the date of the personal service
54 or five days after mailing by certified mail. The licensee shall deliver
55 to the department the license and registration certificate which has
56 been revoked, annulled, suspended, or surrendered within five days after

1 the effective date of the service of the order. If the license or regis-
2 tration certificate is lost, misplaced or its whereabouts is otherwise
3 unknown, the licensee shall submit an affidavit to that effect, and
4 shall deliver such license or certificate to the department when
5 located.

6 5. Court review procedures. The decisions of the department may be
7 reviewed pursuant to the proceedings under article seventy-eight of the
8 civil practice law and rules. Such proceedings shall be returnable
9 before the appellate division of the third judicial department, and such
10 decisions shall not be stayed or enjoined except upon application to
11 such appellate division after notice to the department and to the attor-
12 ney general and upon a showing that the petitioner has a substantial
13 likelihood of success.

14 5-a. At any time, if the professional conduct officer or his or her
15 designee designated to investigate a complaint of professional miscon-
16 duct of a licensed health care provider or licensed mental health care
17 provider determines that there is a reasonable belief that an act that
18 constitutes a sex offense identified in paragraph (h) of subdivision
19 three of section 130.05 of the penal law has been committed by the
20 licensee against a client or patient during a treatment session, consul-
21 tation, interview, or examination, the professional conduct officer or
22 the office of professional discipline shall notify the appropriate law
23 enforcement official or authority.

24 6. The provisions of subdivisions one, two, three and four of this
25 section shall not be applicable to proceedings in cases of professional
26 misconduct involving the medical profession, except as provided in para-
27 graph (m) of subdivision ten of section two hundred thirty of this chap-
28 ter.

29 7. Notwithstanding any other provision of law, persons who assist the
30 department as consultants or expert witnesses in the investigation or
31 prosecution of alleged professional misconduct, licensure matters,
32 restoration proceedings, or criminal prosecutions for unauthorized prac-
33 tice, shall not be liable for damages in any civil action or proceeding
34 as a result of such assistance, except upon proof of actual malice. The
35 attorney general shall defend such persons in any such action or
36 proceeding, in accordance with section seventeen of the public officers
37 law.

38 8. The files of the department relating to the investigation of possi-
39 ble instances of professional misconduct, or the unlawful practice of
40 any profession licensed by the department, or the unlawful use of a
41 professional title or the moral fitness of an applicant for a profes-
42 sional license or permit, shall be confidential and not subject to
43 disclosure at the request of any person, except upon the order of a
44 court in a pending action or proceeding. The provisions of this subdi-
45 vision shall not apply to documents introduced in evidence at a hearing
46 held pursuant to this chapter and shall not prevent the department from
47 sharing information concerning investigations with other duly authorized
48 public agencies responsible for professional regulation or criminal
49 prosecution.

50 9. A disciplinary proceeding under subdivision three or four of this
51 section shall be treated in the same manner as an action or proceeding
52 in supreme court for the purpose of any claim by counsel of actual
53 engagement.

54 § 6510-a. Temporary surrender of licenses during treatment for drug or
55 alcohol abuse. 1. The license and registration of a licensee who may be
56 temporarily incapacitated for the active practice of a profession

1 licensed pursuant to this article, except professionals licensed pursu-
2 ant to title two or four of this article, and whose alleged incapacity
3 is the result of a problem of drug or alcohol abuse which has not
4 resulted in harm to a patient or client, may be voluntarily surrendered
5 to the department, which may accept and hold such license during the
6 period of such alleged incapacity or the department may accept the
7 surrender of such license after agreement to conditions to be met prior
8 to the restoration of the license. The department shall give written
9 notification of such surrender to the licensing authorities of any other
10 state or country in which the licensee is authorized to practice. In
11 addition to the foregoing, the department shall also give written
12 notification of such surrender, for professionals licensed pursuant to
13 titles six, seven, ten, or twelve of this article to the commissioner or
14 his or her designee, and where appropriate to each hospital at which the
15 professional has privileges, is affiliated, or is employed. The licensee
16 whose license is so surrendered shall notify all persons who request
17 professional services that he or she has temporarily withdrawn from the
18 practice of the profession. The department may provide for similar
19 notification of patients or clients and of other interested parties, as
20 appropriate under the circumstances of the professional practice and
21 responsibilities of the licensee. The licensure status of such licensee
22 shall be "inactive" and he or she shall not be authorized to practice
23 the profession and shall refrain from practice in this state or in any
24 other state or country. The voluntary surrender shall not be deemed to
25 be an admission of disability or of professional misconduct and shall
26 not be used as evidence of a violation of subdivision three or four of
27 section sixty-five hundred nine of this subtitle, unless the licensee
28 practices while the license is "inactive"; and any such practice shall
29 constitute a violation of subdivision eight of such section. The surren-
30 der of a license under this subdivision shall not bar any disciplinary
31 action except action based solely upon the provisions of subdivision
32 three or four of section sixty-five hundred nine of this subtitle, and
33 only if no harm to a patient has resulted; and shall not bar any civil
34 or criminal action or proceeding which might be brought without regard
35 to such surrender. A surrendered license shall be restored upon a show-
36 ing to the satisfaction of the department that the licensee is not inca-
37 pacitated for the active practice of the profession, provided that the
38 department may, by order of the commissioner, impose reasonable condi-
39 tions on the licensee, if it determines that because of the nature and
40 extent of the licensee's former incapacity, such conditions are neces-
41 sary to protect the health, safety and welfare of the public. Prompt
42 written notification of such restoration shall be given to all licensing
43 bodies which were notified of the temporary surrender of the license.

44 2. There shall be appointed within the department, by the department,
45 a committee on drug and alcohol abuse, which shall advise the department
46 on matters relating to practice by professional licensees with drug or
47 alcohol abuse problems, and which shall administer the provisions of
48 this section. The department shall determine the size, composition, and
49 terms of office of such committee, a majority of the members of which
50 shall be persons with expertise in problems of drug or alcohol abuse.
51 The committee shall recommend to the department such rules as are neces-
52 sary to carry out the purposes of this section, including but not limit-
53 ed to procedures for the submission of applications for the surrender of
54 a license and for the referral of cases for investigation or prosecution
55 pursuant to section sixty-five hundred ten of this subtitle if a licen-
56 see fails to comply with the conditions of an approved program of treat-

1 ment. There shall be an executive secretary appointed by the department
2 to assist the committee. The executive secretary shall employ, or other-
3 wise retain, the services of a registered professional nurse with appro-
4 priate qualifications in substance abuse and addiction to assist in the
5 implementation of the program authorized by section six thousand five
6 hundred ten-c of this subtitle. Determinations by the committee relating
7 to licensees shall be made by panels of at least three members of the
8 committee designated by the executive secretary, who shall also design-
9 ate a member of the state board for the licensee's profession as the
10 ex-officio non-voting member of each panel. In the case of a determi-
11 nation relating to a licensed nurse, at least one panel member must be a
12 registered professional nurse licensed by the state.

13 3. Application for the surrender of a license pursuant to this section
14 shall be submitted to the committee, and shall identify a proposed
15 treatment or rehabilitation program, and shall include a consent to the
16 release of all information concerning the licensee's treatment to the
17 committee. All information concerning an application, other than the
18 fact of the surrender of the license and the participation in the
19 program and the successful completion or failure of or withdrawal from
20 the program, shall be strictly confidential, and may not be released by
21 the committee to any person or body without the consent of the licensee.
22 The immunity from disciplinary action conferred by this section shall be
23 conditioned upon the approval of the treatment or rehabilitation program
24 by the committee and its successful completion by the applicant and the
25 elimination of the incapacity to practice. Approval of a treatment or
26 rehabilitation program by the committee shall not constitute a represen-
27 tation as to the probability of success of the program or any assumption
28 of financial responsibility for its costs.

29 4. The immunity from disciplinary action conferred by this section may
30 be revoked by the committee upon a finding that the licensee has failed
31 to successfully complete the program or that the incapacity to practice
32 has not been eliminated. Such revocation shall be made only after notice
33 and an opportunity to be heard, but no adjudicatory hearing shall be
34 required. The matter shall be referred for appropriate proceedings
35 pursuant to section sixty-five hundred ten of this subtitle. The license
36 shall be returned unless charges are served pursuant to section sixty-
37 five hundred ten of this subtitle within thirty days after the revoca-
38 tion of the approval of the special treatment afforded by this section.

39 5. The commissioner is authorized to adopt regulations to carry out
40 the purposes of this section, including but not limited to the notice of
41 temporary inactive status to be required in different professions and
42 practice situations and the measures required upon temporary withdrawal
43 from practice.

44 6. No individual who serves as a member of a committee whose purpose
45 is to confront and refer either to treatment or to the department licen-
46 sees who are thought to be suffering from alcoholism or drug abuse shall
47 be liable for damages to any person for any action taken by such indi-
48 vidual provided such action was taken without malice and within the
49 scope of such individual's function as a member of such committee, and
50 provided further that such committee has been established by and func-
51 tions under the auspices of an association or society of professionals
52 authorized to practice under this article.

53 7. In addition to the provisions of section two thousand eight hundred
54 three-e of this chapter, any entity licensed pursuant to articles thir-
55 ty-six, forty and forty-four of this chapter, and any mental hygiene
56 facilities, and correctional, occupational, school and college health

1 services shall provide a report to the office of professional discipline
2 when there is a suspension, restriction, termination, curtailment or
3 resignation of employment or privileges in any way related to a licensed
4 nurse that is impaired when the impairment is alleged to have been
5 caused by a drug-related problem. Any person, facility, or corporation
6 which makes a report pursuant to this section in good faith shall have
7 immunity from any liability, civil or criminal, for having made such a
8 report except where the conduct constitutes negligence, gross negligence
9 or intentional misconduct. For the purpose of any proceeding, civil or
10 criminal, the good faith of any person, facility or corporation required
11 to make a report shall be presumed. Such presumption may be rebutted by
12 any competent evidence.

13 8. Notwithstanding any other provision of law, the license and regis-
14 tration of a licensed dentist or pharmacist who may be temporarily inca-
15 pacitated for the active practice of their profession licensed pursuant
16 to titles seven and ten of this article and whose alleged incapacity is
17 the result of a problem of drug or alcohol abuse which has not resulted
18 in harm to a patient or client, may be voluntarily surrendered to, or
19 voluntarily offered for any alternative disposition with the department,
20 which may accept and hold such license or make any other disposition
21 regarding such license deemed appropriate under the circumstances, if
22 the department determines the health and safety of the public will be
23 adequately protected thereby, during the period of such alleged incap-
24 acity. The department may accept the surrender of such license after
25 agreement to conditions to be met prior to the restoration of the
26 license or the department may treat the license as not surrendered and
27 may impose conditions to allow the licensee to retain the license. All
28 other provisions of this section shall be applied to the professions of
29 dentistry and pharmacy in conformity with this subdivision.

30 § 6510-b. Nurse peer assistance programs. 1. As used in this section:
31 a. "Drug-related problem" means a problem or problems that are related
32 to the use, misuse or addiction to drugs or alcohol.

33 b. "Participant" means an individual licensed pursuant to title twelve
34 of this article who has or may have a drug-related problem.

35 c. "Approved nurse peer assistance program" means a program operated
36 by the New York state nurses association or a statewide professional
37 association of nurses which has experience in providing peer assistance
38 services to nurses who have drug-related problems which are designed to
39 help a participant or a licensee's employer and has been approved by the
40 department in accordance with criteria established in regulations of the
41 commissioner.

42 d. "Peer assistance services" includes assessing the needs of a
43 participant, including early identification of drug-related problems,
44 and providing information, support, and advice as requested by a partic-
45 ipant.

46 2. a. The department shall provide funds, including but not limited to
47 a portion of the funds made available pursuant to the provisions of this
48 section, for services provided by an approved nurse peer assistance
49 program. Funds used to provide services shall not be used for the treat-
50 ment of participants. Funded services shall include, but not be limited
51 to:

52 (i) providing peer assistance services for nurses with drug-related
53 problems;

54 (ii) maintaining a toll-free telephone information line for anonymous
55 nurses, their employers, and others to provide assistance in the iden-

1 tification of services and information for nurses dealing with drug-re-
2 lated problems;

3 (iii) training monitors for the professional assistance program;

4 (iv) arranging for mental health consultants to assess nurses for the
5 professional assistance program, as needed; and

6 (v) preparing written assessments of nurses who have been referred
7 from the professional assistance program.

8 b. An additional fee of fifteen dollars shall be paid at the time of
9 application for licensure and first registration and every registration
10 by those licensed pursuant to title twelve of this article for the
11 purpose of implementing this program. The funds made available under
12 this provision shall be deposited in the office of professions special
13 revenue account for its purposes in implementing this section. The
14 department may use a portion of this amount for its administrative
15 expenses incurred in implementing this program including, but not limit-
16 ed to, employment of personnel, the costs of approving and contracting
17 with a peer assistance program as required by this section and outreach
18 activities to promote this program.

19 3. No approved nurse peer assistance program or individual who serves
20 in an approved nurse peer assistance program shall be liable in damages
21 to any person for any action taken or not taken or recommendations made
22 unless, based on the facts disclosed by a participant, the conduct of
23 the program or person with respect to the person asserting liability
24 constituted negligence, gross negligence, or intentional misconduct.

25 4. All information concerning a participant gathered by the approved
26 nurse peer assistance program shall be strictly confidential and may not
27 be released to any person or body without the consent of the partic-
28 ipant, except upon the order of a court in a pending action or proceed-
29 ing. Aggregate data may be released to the committee on drug and alcohol
30 abuse.

31 § 6510-c. Voluntary non-disciplinary surrender of a license. A profes-
32 sional who is licensed pursuant to title twelve of this article may
33 voluntarily surrender a license to the committee on drug and alcohol
34 abuse when such licensee requests to be monitored and/or receive peer
35 support services in relation to the use, misuse or addiction to drugs.
36 The committee shall accept such voluntary non-disciplinary surrender of
37 a license and provide for expedited reinstatement of the license if the
38 licensee meets criteria set by the committee. Such criteria will
39 include, but not be limited to, confidence that the licensee's use of
40 drugs and/or alcohol has not resulted in harm to a patient or client and
41 the licensee is not incapacitated, unfit for practice or a threat to the
42 health, safety and welfare of the public. Such voluntary surrender, if
43 accepted by the committee, shall result in an immediate reinstatement of
44 the license and shall provide immunity from a violation of subdivision
45 three or four of section sixty-five hundred nine of this subtitle and
46 cannot be deemed an admission or used as evidence in professional
47 misconduct. Acceptance by the committee shall not require a report to
48 the department of health or to any employer or licensing authority of
49 another jurisdiction, nor require any disclosure to patients or to the
50 public that such license has been temporarily surrendered, except if it
51 is subsequently determined by the department that a participant being
52 monitored by the department is found to have used drugs and/or alcohol
53 which has resulted in harm to a patient or client.

54 § 6510-d. Nurses' refusal of overtime work. The refusal of a licensed
55 practical nurse or a registered professional nurse to work beyond said
56 nurse's regularly scheduled hours of work shall not solely constitute

1 patient abandonment or neglect except under the circumstances provided
2 for under subdivision three of section one hundred sixty-seven of the
3 labor law.

4 § 6511. Penalties for professional misconduct. The penalties which may
5 be imposed by the department on a present or former licensee found guilty
6 of professional misconduct, pursuant to the definitions and
7 proceedings prescribed in sections sixty-five hundred nine and sixty-
8 five hundred ten of this subtitle, are:

9 1. censure and reprimand;

10 2. suspension of license: (a) wholly, for a fixed period of time; (b)
11 partially, until the licensee successfully completes a course of
12 retraining in the area to which the suspension applies; or (c) wholly,
13 until the licensee successfully completes a course of therapy or treat-
14 ment prescribed by the regents;

15 3. revocation of license;

16 4. annulment of license or registration;

17 5. limitation on registration or issuance of any further license;

18 6. a fine not to exceed ten thousand dollars, upon each specification
19 of charges of which the respondent is determined to be guilty;

20 7. a requirement that a licensee pursue a course of health or train-
21 ing; and

22 8. a requirement that a licensee perform up to one hundred hours of
23 public service, in a manner and at a time and place as directed by the
24 state board for the professions as prescribed in the title relating to
25 each profession.

26 The department may stay such penalties in whole or in part, may place
27 the licensee on probation and may restore a license which has been
28 revoked, provided, in the case of licensees subject to section two
29 hundred thirty of this chapter, notice that such state board for the
30 profession as prescribed in the title relating to such profession is
31 considering such restoration is given to the office of professional
32 medical conduct at least thirty days before the date on which such
33 restoration shall be considered. Upon the recommendation of the office
34 of professional medical conduct, the department may deny such restora-
35 tion. Any fine imposed pursuant to this section or pursuant to subdivi-
36 sion two of section sixty-five hundred ten of this subtitle may be sued
37 for and recovered in the name of the people of the state of New York in
38 an action brought by the attorney general. In such action the findings
39 and determination of the department or of the violations committee shall
40 be admissible evidence and shall be conclusive proof of the violation
41 and the penalty assessed.

42 SUBTITLE 4

43 UNAUTHORIZED ACTS

44 Section 6512. Unauthorized practice a crime.

45 6513. Unauthorized use of a professional title a crime.

46 6514. Criminal proceedings.

47 6515. Restraint of unlawful acts.

48 6516. Civil enforcement proceedings and civil penalties.

49 § 6512. Unauthorized practice a crime. 1. Anyone not authorized to
50 practice under this article who practices or offers to practice or holds
51 himself or herself out as being able to practice in any profession in
52 which a license is a prerequisite to the practice of the acts, or who
53 practices any profession as an exempt person during the time when his or
54 her professional license is suspended, revoked or annulled, or who aids
55 or abets an unlicensed person to practice a profession, or who fraudu-

1 lently sells, files, furnishes, obtains, or who attempts fraudulently to
2 sell, file, furnish or obtain any diploma, license, record or permit
3 purporting to authorize the practice of a profession, shall be guilty of
4 a class E felony.

5 2. Anyone who knowingly aids or abets three or more unlicensed persons
6 to practice a profession or employs or holds such unlicensed persons out
7 as being able to practice in any profession in which a license is a
8 prerequisite to the practice of the acts, or who knowingly aids or abets
9 three or more persons to practice any profession as exempt persons
10 during the time when the professional licenses of such persons are
11 suspended, revoked or annulled, shall be guilty of a class E felony.

12 § 6513. Unauthorized use of a professional title a crime. 1. Anyone
13 not authorized to use a professional title regulated by this article,
14 and who uses such professional title, shall be guilty of a class A
15 misdemeanor.

16 2. Anyone who knowingly aids or abets three or more persons not
17 authorized to use a professional title regulated by this article, to use
18 such professional title, or knowingly employs three or more persons not
19 authorized to use a professional title regulated by this article, who
20 use such professional title in the course of such employment, shall be
21 guilty of a class E felony.

22 § 6514. Criminal proceedings. 1. All alleged violations of sections
23 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-
24 tle shall be reported to the department which shall cause an investi-
25 gation to be instituted. All alleged violations of section sixty-five
26 hundred thirty-one of this article shall be reported to the department
27 which shall cause an investigation to be instituted. If the investi-
28 gation substantiates that violations exist, such violations shall be
29 reported to the attorney general with a request for prosecution.

30 2. The attorney general shall prosecute such alleged offenses in the
31 name of the state.

32 3. All criminal courts having jurisdiction over misdemeanors are here-
33 by empowered to hear, try and determine alleged violations under this
34 article, which constitute misdemeanors, without indictment and to impose
35 applicable punishment of fines or imprisonments or both. It shall be
36 necessary to prove in any prosecution under this title only a single
37 prohibited act or a single holding out without proving a general course
38 of conduct.

39 4. A proceeding before a committee on professional conduct shall not
40 be deemed to be a criminal proceeding within the meaning of this
41 section.

42 § 6515. Restraint of unlawful acts. Where a violation of this article
43 is alleged to have occurred, the attorney general, the department or, in
44 the event of alleged violations of title nineteen of this article occur-
45 ring in cities having a population of one million or more, the corpo-
46 ration counsel may apply to the supreme court within the judicial
47 district in which such violation is alleged to have occurred for an
48 order enjoining or restraining commission or continuance of the unlawful
49 acts complained of. The remedy provided in this section shall be in
50 addition to any other remedy provided by law or to the proceedings
51 commenced against a licensee under this article.

52 § 6516. Civil enforcement proceedings and civil penalties. 1. Issu-
53 ance of cease and desist order. Whenever the department has reasonable
54 cause to believe that any person has violated any provision of section
55 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-
56 tle, the department may issue and serve upon such person a notice to

1 cease and desist from such violation. Such cease and desist order shall
2 be served personally by the department. If personal service cannot be
3 made after due diligence and such fact is certified under oath, a copy
4 of the order shall be made by certified mail, return receipt requested,
5 to the person's last known address by the department.

6 2. Contents of cease and desist order. The cease and desist order
7 shall be in writing and shall describe with particularity the nature of
8 the violation, including a reference of the specific provision or
9 provisions of law alleged to have been violated and an order to the
10 respondent to cease any unlawful activity. The cease and desist order
11 shall advise the respondent:

12 a. of the right to contest the order by requesting a hearing within
13 thirty days of the service of the cease and desist order before a hear-
14 ing officer designated by the department;

15 b. of the right to request a stay of the cease and desist order at the
16 time a hearing is requested; and

17 c. shall set forth the respondent's rights at such a hearing pursuant
18 to subdivision five of this section.

19 3. Civil penalties. Civil penalties up to five thousand dollars may be
20 imposed for each violation and the respondent may be ordered to make
21 restitution to any person who has an interest in any money or property,
22 either real or personal, acquired by the respondent as a result of a
23 violation. Whenever the department concludes that civil penalties and/or
24 restitution may be warranted because of the egregiousness of the unlaw-
25 ful activity, it may serve, along with the cease and desist order, a
26 notice of a hearing on the allegations of unlawful activity and the
27 department's intention to order the respondent to make restitution
28 and/or impose a civil penalty. The notice should specify the civil
29 penalty sought for each violation.

30 4. Request for hearing. If the respondent to a cease and desist order
31 contests the cease and desist order, the respondent shall request a
32 hearing conducted by the department within thirty days of the receipt of
33 the cease and desist order. Such a hearing shall be scheduled, and the
34 requesting party notified of the date, within fifteen days of the
35 receipt of the request for a hearing. If the respondent requests a stay
36 of the cease and desist order, the hearing officer shall determine
37 whether the cease and desist order should be stayed in whole or in part
38 within five working days of the request for a stay. The respondent may
39 file a written answer to the cease and desist order prior to the hear-
40 ing. A stenographic record of the hearing shall be made.

41 5. Conduct of hearing. The evidence in support of the cease and desist
42 order shall be presented by an attorney for the department. The respond-
43 ent may appear personally and may be represented by counsel at the hear-
44 ing, may produce witnesses and evidence in his or her behalf at the
45 hearing, may cross-examine witnesses and examine evidence produced
46 against him or her at the hearing, and may issue subpoenas in accordance
47 with section three hundred four of the state administrative procedure
48 act. The hearing officer shall not be bound by the rules of evidence,
49 but his or her determination that a violation of section sixty-five
50 hundred twelve or sixty-five hundred thirteen of this subtitle has
51 occurred shall be based on a preponderance of the evidence. A hearing
52 which has been initiated shall not be discontinued because of the death
53 or incapacity of the hearing officer. In the event of a hearing offi-
54 cer's death or incapacity to serve, a new hearing officer shall be
55 designated by the department to continue the hearing. The new hearing

1 officer shall affirm in writing that he or she has read and considered
2 evidence and transcripts of the prior proceedings.

3 6. Results of hearing. The hearing officer designated by the depart-
4 ment shall render a written report which shall include:

5 a. findings of fact;

6 b. a determination on each violation alleged in the cease and desist
7 order;

8 c. a determination as to whether to accept, reject, or modify any of
9 the terms of the cease and desist order in whole or in part; and

10 d. the civil penalty imposed, if any. A copy of the hearing officer's
11 written report shall be served upon the respondent with a notice setting
12 forth the respondent's rights to an administrative appeal within ten
13 days of the conclusion of the hearing.

14 7. Appeals. a. The decision of the hearing officer shall be final,
15 except that it may be appealed to a regents review committee within
16 twenty days of the receipt of the hearing officer's report. The initi-
17 ation of an appeal shall not in and of itself affect the validity or
18 terms of the cease and desist order. The regents review committee shall
19 consist of three members, at least one of whom shall be a regent. The
20 review shall be based on the transcript and the report of the hearing
21 officer. The respondent may appear at the meeting, and the regents
22 review committee may require the respondent to appear. The respondent
23 may be represented by counsel. The department shall notify the respond-
24 ent at least ten days before the meeting (i) of the time and place of
25 the meeting, (ii) of the right to appear; (iii) of the right to be
26 represented by counsel; (iv) whether or not the respondent is required
27 to appear; and (iii) of such other information as may be considered
28 appropriate.

29 b. After the meeting, the regents review committee shall transmit a
30 written report of its review to the department. The department (i) shall
31 consider the transcript, the report of the hearing officer, and the
32 report of the regents review committee, (ii) shall decide whether the
33 respondent has violated each charge in the cease and desist order, (iii)
34 shall decide what penalties, if any, to impose as prescribed in this
35 section, and (iv) shall issue an order to carry out its decisions. Such
36 decisions shall require the affirmative vote of a majority of the
37 members of the department. The order shall be served upon the respondent
38 personally or by certified mail to the respondent's last known address
39 and such service shall be effective as of the date of the personal
40 service or five days after mailing by certified mail. The decisions of
41 the department under this section may be reviewed in a proceeding pursu-
42 ant to article seventy-eight of the civil practice law and rules brought
43 in the supreme court, Albany county. Such decisions shall not be stayed
44 or enjoined except upon application to such supreme court pursuant to
45 article sixty-three of the civil practice law and rules with notice to
46 the department and to the attorney general.

47 8. General enforcement of cease and desist order. In any case where
48 the cease and desist order is confirmed by the department or where the
49 respondent does not request an administrative hearing within the allot-
50 ted time or does not appeal the decision of the hearing officer within
51 the allotted time, an action or proceeding may be filed in the name of
52 the state of New York seeking a restraining order, injunction, appropri-
53 ate writ, or judgment against any person who violates the terms of the
54 cease and desist order.

55 9. a. Special enforcement of civil monetary penalties. Provided that
56 no appeal is pending on the imposition of such civil penalty, in the

1 event such civil penalty imposed by the department remains unpaid, in
2 whole or in part, more than forty-five days after written demand for
3 payment has been sent by first class mail to the address of the respond-
4 ent, a notice of impending default judgment shall be sent by first class
5 mail to the respondent. The notice of impending default judgment shall
6 advise the respondent:

7 (i) that a civil penalty was imposed on the respondent;

8 (ii) the date the penalty was imposed;

9 (iii) the amount of the civil penalty;

10 (iv) the amount of the civil penalty that remains unpaid as of the
11 date of the notice;

12 (v) the violations for which the civil penalty was imposed; and

13 (vi) that a judgment by default will be entered in the supreme court,
14 Albany county unless the department receives full payment of all civil
15 penalties due within twenty days of the date of the notice of impending
16 default judgment.

17 b. If full payment shall not have been received by the department
18 within thirty days of mailing of the notice of impending default judg-
19 ment, the department shall proceed to enter with such court a statement
20 of the default judgment containing the amount of the penalty or penal-
21 ties remaining due and unpaid, along with proof of mailing of the notice
22 of impending default judgment. The filing of such judgment shall have
23 the full force and effect of a default judgment duly docketed with such
24 court pursuant to the civil practice law and rules and shall in all
25 respects be governed by that chapter and may be enforced in the same
26 manner and with the same effect as that provided by law in respect to
27 execution issued against property upon judgments of a court of record. A
28 judgment entered pursuant to this subdivision shall remain in full force
29 and effect for eight years notwithstanding any other provision of law.

30 TITLE 2
31 MEDICINE

32 Section 6520. Introduction.

33 6521. Definition of practice of medicine.

34 6522. Practice of medicine and use of title "physician".

35 6523. State board for medicine.

36 6524. Requirements for a professional license.

37 6525. Limited permits.

38 6526. Exempt persons.

39 6527. Special provisions.

40 6528. Qualification of certain applicants for licensure.

41 6529. Power of department regarding certain physicians.

42 § 6520. Introduction. This title applies to the profession of medi-
43 cine. The general provisions for all professions contained in Title one
44 of this article apply to this title.

45 § 6521. Definition of practice of medicine. The practice of the
46 profession of medicine is defined as diagnosing, treating, operating or
47 prescribing for any human disease, pain, injury, deformity or physical
48 condition.

49 § 6522. Practice of medicine and use of title "physician". Only a
50 person licensed or otherwise authorized under this title shall practice
51 medicine or use the title "physician".

52 § 6523. State board for medicine. A state board for medicine shall be
53 appointed by the department on recommendation of the commissioner for
54 the purpose of assisting the department and the commissioner on matters
55 of professional licensing in accordance with section sixty-five hundred

1 eight of this article. The state board of medicine shall be composed of
2 not less than twenty physicians licensed in this state for at least five
3 years, two of whom shall be doctors of osteopathy. To the extent such
4 physician appointees are available for appointment, at least one of the
5 physician appointees to the state board for medicine shall be an expert
6 on reducing health disparities among demographic subgroups, and one
7 shall be an expert on women's health. The state board for medicine shall
8 also consist of not less than two physician's assistants licensed to
9 practice in this state. The participation of physician's assistant
10 members shall be limited to matters relating to title four of this arti-
11 cle. An executive secretary to the state board of medicine shall be
12 appointed by the department on recommendation of the commissioner and
13 shall be either a physician licensed in this state or a non-physician,
14 deemed qualified by the commissioner and department.

15 § 6524. Requirements for a professional license. To qualify for a
16 license as a physician, an applicant shall fulfill the following
17 requirements:

- 18 1. Application: file an application with the department;
- 19 2. Education: have received an education, including a degree of doctor
20 of medicine, "M.D.", or doctor of osteopathy, "D.O.", or equivalent
21 degree in accordance with the commissioner's regulations;
- 22 3. Experience: have experience satisfactory to the state board of
23 medicine and in accordance with the commissioner's regulations;
- 24 4. Examination: pass an examination satisfactory to the state board of
25 medicine and in accordance with the commissioner's regulations;
- 26 5. Age: be at least twenty-one years of age; however, the commissioner
27 may waive the age requirement for applicants who have attained the age
28 of eighteen and will be in a residency program until the age of twenty-
29 one;
- 30 6. Citizenship or immigration status: be a United States citizen or an
31 alien lawfully admitted for permanent residence in the United States;
32 provided, however that the department may grant a three year waiver for
33 an alien physician to practice in an area which has been designated by
34 the department as medically underserved, except that the department may
35 grant an additional extension not to exceed six years to an alien physi-
36 cian to enable him or her to secure citizenship or permanent resident
37 status, provided such status is being actively pursued; and provided
38 further that the department may grant an additional three year waiver,
39 and at its expiration, an extension for a period not to exceed six addi-
40 tional years, for the holder of an H-1b visa, an O-1 visa, or an equiv-
41 alent or successor visa thereto;
- 42 7. Character: be of good moral character as determined by the depart-
43 ment; and
- 44 8. Fees: pay a fee of two hundred sixty dollars to the department for
45 admission to a department conducted examination and for an initial
46 license, a fee of one hundred seventy-five dollars for each reexamina-
47 tion, a fee of one hundred thirty-five dollars for an initial license
48 for persons not requiring admission to a department conducted examina-
49 tion, a fee of five hundred seventy dollars for any biennial registra-
50 tion period commencing August first, nineteen hundred ninety-six and
51 thereafter. The comptroller is hereby authorized and directed to deposit
52 the fee for each biennial registration period into the special revenue
53 fund--other entitled "professional medical conduct account" for the
54 purpose of offsetting any expenditures made pursuant to section two
55 hundred thirty of this chapter in relation to the operation of the
56 office of professional medical conduct within the department, provided

1 that for each biennial registration fee paid by the licensee using a
2 credit card, the amount of the administrative fee incurred by the
3 department in processing such credit card transaction shall be deposited
4 by the comptroller in the office of the professions account established
5 by section ninety-seven-nnn of the state finance law. The amount of the
6 funds expended as a result of such increase shall not be greater than
7 such fees collected over the registration period.

8 9. For every license or registration issued after the effective date
9 of this subdivision, an additional fee of thirty dollars shall be paid
10 and deposited in the special revenue fund entitled "the professional
11 medical conduct account" for the purpose of offsetting any expenditures
12 made pursuant to subdivision fifteen of section two hundred thirty of
13 this chapter. The amount of such funds expended for such purpose shall
14 not be greater than such additional fees collected over the licensure
15 period or for the duration of such program if less than the licensure
16 period.

17 10. A physician shall not be required to pay any fee under this
18 section if he or she certifies to the department that for the period of
19 registration or licensure, he or she shall only practice medicine with-
20 out compensation or the expectation or promise of compensation. The
21 following shall not be considered compensation for the purposes of this
22 subdivision:

23 a. nominal payment solely to enable the physician to be considered an
24 employee of a health care provider; or

25 b. providing liability coverage to the physician relating to the
26 services provided.

27 11. No physician may be re-registered unless he or she, as part of the
28 re-registration application, includes an attestation made under penalty
29 of perjury, in a form prescribed by the commissioner, that he or she
30 has, within the six months prior to submission of the re-registration
31 application, updated his or her physician profile in accordance with
32 subdivision four of section twenty-nine hundred ninety-five-a of this
33 chapter.

34 § 6525. Limited permits. Permits limited as to eligibility, practice
35 and duration, shall be issued by the department to eligible applicants,
36 as follows:

37 1. Eligibility: The following persons shall be eligible for a limited
38 permit:

39 a. A person who fulfills all requirements for a license as a physician
40 except those relating to the examination and citizenship or permanent
41 residence in the United States;

42 b. A foreign physician who holds a standard certificate from the
43 educational council for foreign medical graduates or who has passed an
44 examination satisfactory to the state board for medicine and in accord-
45 ance with the commissioner's regulations; or

46 c. A foreign physician or a foreign intern who is in this country on a
47 non-immigration visa for the continuation of medical study, pursuant to
48 the exchange student program of the United States department of state.

49 2. Limit of practice. A permittee shall be authorized to practice
50 medicine only under the supervision of a licensed physician and only in
51 a public, voluntary, or proprietary hospital.

52 3. Duration. A limited permit shall be valid for two years. It may be
53 renewed biennially at the discretion of the department.

54 4. Fees. The fee for each limited permit and for each renewal shall be
55 one hundred five dollars.

1 § 6526. Exempt persons. The following persons under the following
2 limitations may practice medicine within the state without a license:

3 1. Any physician who is employed as a resident in a public hospital,
4 provided such practice is limited to such hospital and is under the
5 supervision of a licensed physician;

6 2. Any physician who is licensed in a bordering state and who resides
7 near a border of this state, provided such practice is limited in this
8 state to the vicinity of such border and provided such physician does
9 not maintain an office or place to meet patients or receive calls within
10 this state;

11 3. Any physician who is licensed in another state or country and who
12 is meeting a physician licensed in this state, for purposes of consulta-
13 tion, provided such practice is limited to such consultation;

14 4. Any physician who is licensed in another state or country, who is
15 visiting a medical school or teaching hospital in this state to receive
16 medical instruction for a period not to exceed six months or to conduct
17 medical instruction, provided such practice is limited to such instruc-
18 tion and is under the supervision of a licensed physician;

19 5. Any physician who is authorized by a foreign government to practice
20 in relation to its diplomatic, consular or maritime staffs, provided
21 such practice is limited to such staffs;

22 6. Any commissioned medical officer who is serving in the United
23 States armed forces or public health service or any physician who is
24 employed in the United States Veterans Administration, provided such
25 practice is limited to such service or employment;

26 7. Any intern who is employed by a hospital and who is a graduate of a
27 medical school in the United States or Canada, provided such practice is
28 limited to such hospital and is under the supervision of a licensed
29 physician;

30 8. Any medical student who is performing a clinical clerkship or simi-
31 lar function in a hospital and who is matriculated in a medical school
32 which meets standards satisfactory to the department, provided such
33 practice is limited to such clerkship or similar function in such hospi-
34 tal;

35 9. Any dentist or dental school graduate eligible for licensure in the
36 state who administers anesthesia as part of a hospital residency program
37 established for the purpose of training dentists in anesthesiology; or

38 10. a. Any physician who is licensed and in good standing in another
39 state or territory, and who has a written agreement to provide medical
40 services to athletes and team personnel of a United States sports team
41 recognized by the United States Olympic committee or an out-of-state
42 secondary school, institution of postsecondary education, or profes-
43 sional athletic organization sports team, may provide medical services
44 to such athletes and team personnel at a discrete sanctioned team sport-
45 ing event in this state as defined by the commissioner in regulations,
46 provided such services are provided only to such athletes and team
47 personnel at the discrete sanctioned team sporting event. Any such
48 medical services shall be provided only five days before through three
49 days after each discrete sanctioned team sporting event.

50 b. Any person practicing as a physician in New York state pursuant to
51 this subdivision shall be subject to the personal and subject matter
52 jurisdiction and disciplinary and regulatory authority of the department
53 and the state board for professional medical conduct established pursu-
54 ant to section two hundred thirty of this chapter as if he or she is a
55 licensee and as if the exemption pursuant to this subdivision is a
56 license. Such individual shall comply with applicable provisions of this

1 article, this chapter, the rules of the department, the state board for
2 professional medical conduct established pursuant to section two hundred
3 thirty of this chapter, and the regulations of the commissioner and the
4 commissioner of health, relating to professional misconduct, discipli-
5 nary proceedings and penalties for professional misconduct.

6 § 6527. Special provisions. 1. A not-for-profit medical or dental
7 expense indemnity corporation or a hospital service corporation organ-
8 ized under the insurance law may employ licensed physicians and enter
9 into contracts with partnerships or medical corporations organized under
10 article forty-four of this chapter, health maintenance organizations
11 possessing a certificate of authority pursuant to article forty-four of
12 this chapter, professional corporations organized under article fifteen
13 of the business corporation law or other groups of physicians to prac-
14 tice medicine on its behalf for persons insured under its contracts or
15 policies.

16 2. Notwithstanding any inconsistent provision of any general, special
17 or local law, any licensed physician who voluntarily and without the
18 expectation of monetary compensation renders first aid or emergency
19 treatment at the scene of an accident or other emergency, outside a
20 hospital, doctor's office or any other place having proper and necessary
21 medical equipment, to a person who is unconscious, ill or injured, shall
22 not be liable for damages for injuries alleged to have been sustained by
23 such person or for damages for the death of such person alleged to have
24 occurred by reason of an act or omission in the rendering of such first
25 aid or emergency treatment unless it is established that such injuries
26 were or such death was caused by gross negligence on the part of such
27 physician. Nothing in this subdivision shall be deemed or construed to
28 relieve a licensed physician from liability for damages for injuries or
29 death caused by an act or omission on the part of a physician while
30 rendering professional services in the normal and ordinary course of his
31 practice.

32 3. No individual who serves as a member of:

33 a. a committee established to administer a utilization review plan of
34 a hospital, including a hospital as defined in article twenty-eight of
35 this chapter or a hospital as defined in subdivision ten of section 1.03
36 of the mental hygiene law;

37 b. a committee having the responsibility of the investigation of an
38 incident reported pursuant to section 29.29 of the mental hygiene law or
39 the evaluation and improvement of the quality of care rendered in a
40 hospital as defined in article twenty-eight of this chapter or a hospi-
41 tal as defined in subdivision ten of section 1.03 of the mental hygiene
42 law;

43 c. any medical review committee or subcommittee thereof of a local,
44 county or state medical, dental, podiatry or optometrical society, any
45 such society itself, a professional standards review organization or an
46 individual when such committee, subcommittee, society, organization or
47 individual is performing any medical or quality assurance review func-
48 tion including the investigation of an incident reported pursuant to
49 section 29.29 of the mental hygiene law, either described in paragraphs
50 a and b of this subdivision, required by law, or involving any contro-
51 versy or dispute between (i) a physician, dentist, podiatrist or optome-
52 trist or hospital administrator and a patient concerning the diagnosis,
53 treatment or care of such patient or the fees or charges therefor or
54 (ii) a physician, dentist, podiatrist or optometrist or hospital admin-
55 istrator and a provider of medical, dental, podiatric or optometrical

1 services concerning any medical or health charges or fees of such physi-
2 cian, dentist, podiatrist or optometrist;

3 d. a committee appointed pursuant to section twenty-eight hundred
4 five-j of this chapter to participate in the medical and dental malprac-
5 tice prevention program;

6 e. any individual who participated in the preparation of incident
7 reports required by the department of health pursuant to section twen-
8 ty-eight hundred five-l of this chapter; or

9 f. a committee established to administer a utilization review plan, or
10 a committee having the responsibility of evaluation and improvement of
11 the quality of care rendered, in a health maintenance organization
12 organized under article forty-four of this chapter or article forty-
13 three of the insurance law, including a committee of an individual prac-
14 tice association or medical group acting pursuant to a contract with
15 such a health maintenance organization, shall be liable in damages to
16 any person for any action taken or recommendations made, by him or her
17 within the scope of his or her function in such capacity provided that
18 (i) such individual has taken action or made recommendations within the
19 scope of his or her function and without malice, and (ii) in the reason-
20 able belief after reasonable investigation that the act or recommenda-
21 tion was warranted, based upon the facts disclosed.

22 Neither the proceedings nor the records relating to performance of a
23 medical or a quality assurance review function or participation in a
24 medical and dental malpractice prevention program nor any report
25 required by the department pursuant to section twenty-eight hundred
26 five-l of this chapter described herein, including the investigation of
27 an incident reported pursuant to section 29.29 of the mental hygiene
28 law, shall be subject to disclosure under article thirty-one of the
29 civil practice law and rules except as hereinafter provided or as
30 provided by any other provision of law. No person in attendance at a
31 meeting when a medical or a quality assurance review or a medical and
32 dental malpractice prevention program or an incident reporting function
33 described herein was performed, including the investigation of an inci-
34 dent reported pursuant to section 29.29 of the mental hygiene law, shall
35 be required to testify as to what transpired thereat. The prohibition
36 relating to discovery of testimony shall not apply to the statements
37 made by any person in attendance at such a meeting who is a party to an
38 action or proceeding the subject matter of which was reviewed at such
39 meeting.

40 4. This title shall not be construed to affect or prevent the follow-
41 ing:

42 a. The furnishing of medical assistance in an emergency;

43 b. The practice of the religious tenets of any church;

44 c. A physician from refusing to perform an act constituting the prac-
45 tice of medicine to which he or she is conscientiously opposed by reason
46 of religious training and belief;

47 d. The organization of a medical corporation under article forty-four
48 of this chapter, the organization of a university faculty practice
49 corporation under section fourteen hundred twelve of the not-for-profit
50 corporation law or the organization of a professional service corpo-
51 ration under article fifteen of the business corporation law; or

52 e. The physician's use of whatever medical care, conventional or non-
53 conventional, which effectively treats human disease, pain, injury,
54 deformity or physical condition.

55 5. There shall be no monetary liability on the part of, and no cause
56 of action for damages shall arise against, any person, partnership,

1 corporation, firm, society, or other entity on account of the communi-
2 cation of information in the possession of such person or entity, or on
3 account of any recommendation or evaluation, regarding the qualifica-
4 tions, fitness, or professional conduct or practices of a physician, to
5 any governmental agency, medical or specialists society, a hospital as
6 defined in article twenty-eight of the public health law, a hospital as
7 defined in subdivision ten of section 1.03 of the mental hygiene law, or
8 a health maintenance organization organized under article forty-four of
9 this chapter or article forty-three of the insurance law, including a
10 committee of an individual practice association or medical group acting
11 pursuant to a contract with a health maintenance organization. The fore-
12 going shall not apply to information which is untrue and communicated
13 with malicious intent.

14 6. A licensed physician may prescribe and order a non-patient specific
15 regimen to a registered professional nurse, pursuant to regulations
16 promulgated by the commissioner, and consistent with this chapter, for:

- 17 a. administering immunizations.
- 18 b. the emergency treatment of anaphylaxis.
- 19 c. administering purified protein derivative (PPD) tests or other
20 tests to detect or screen for tuberculosis infections.
- 21 d. administering tests to determine the presence of the human immuno-
22 deficiency virus.
- 23 e. administering tests to determine the presence of the hepatitis C
24 virus.
- 25 f. the urgent or emergency treatment of opioid related overdose or
26 suspected opioid related overdose.
- 27 g. screening of persons at increased risk of syphilis, gonorrhea and
28 chlamydia.

29 7. A licensed physician may prescribe and order a patient specific
30 order or non-patient specific regimen to a licensed pharmacist, pursuant
31 to regulations promulgated by the commissioner, and consistent with this
32 chapter, for:

- 33 a. administering immunizations to prevent influenza to patients two
34 years of age or older;
- 35 b. administering immunizations to prevent pneumococcal, acute herpes
36 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,
37 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or
38 pertussis disease and medications required for emergency treatment of
39 anaphylaxis to patients eighteen years of age or older; and
- 40 c. administering other immunizations recommended by the advisory
41 committee on immunization practices of the centers for disease control
42 and prevention for patients eighteen years of age or older if the
43 commissioner determines that an immunization: (i) (A) may be safely
44 administered by a licensed pharmacist within their lawful scope of prac-
45 tice; and (B) is needed to prevent the transmission of a reportable
46 communicable disease that is prevalent in New York state; or (ii) is a
47 recommended immunization for such patients who: (A) meet age require-
48 ments, (B) lack documentation of such immunization, (C) lack evidence of
49 past infection, or (D) have an additional risk factor or another indi-
50 cation as recommended by the advisory committee on immunization prac-
51 tices of the centers for disease control and prevention. Nothing in this
52 subdivision shall authorize unlicensed persons to administer immuniza-
53 tions, vaccines or other drugs.

54 8. A licensed physician may prescribe and order a patient specific
55 order or non-patient specific order to a licensed pharmacist, pursuant
56 to regulations promulgated by the commissioner, and consistent with this

chapter, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure.

9. Nothing in this title shall prohibit the provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this article to the extent permissible within the scope of practice of medicine, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this article, provided that such entities offering such psychotherapy services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

10. a. Nothing in this title shall be construed to affect or prevent a person in training or trained and deemed qualified by a supervising licensed physician, to assist the licensed physician in the care of a patient for the purpose of instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such eye drops is:

- (i) under the on-site supervision of a supervising licensed physician;
- (ii) at least eighteen years of age; and
- (iii) complies with standards issued by the department.

b. The supervising licensed physician shall submit a form prescribed by the department detailing the identity of each person instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, under his or her supervision, attesting to compliance with the above requirements.

c. The supervising licensed physician's use of any such person pursuant to the terms of this subdivision shall be undertaken with professional judgment in order to ensure the safety and well-being of the patient. Such use shall subject the licensed physician to the full disciplinary and regulatory authority of the office of professional medical conduct and the department. The licensed physician must notify the patient or the patient's designated health care surrogate that the licensed physician may utilize the services of an individual to administer certain eye drops and must provide the patient or the patient's designated health care surrogate the opportunity to refuse the licensed physician's plan to utilize such person.

11. A licensed physician may prescribe and order a non-patient-specific regimen to a licensed pharmacist, for insulin and related supplies pursuant to section sixty-eight hundred one of this article.

§ 6528. Qualification of certain applicants for licensure. 1. Notwithstanding any other provisions of this title or any law to the contrary, an individual who at the time of his or her enrollment in a medical school outside the United States is a resident of the United States shall be eligible for licensure in this state if he or she has satisfied the requirements of subdivisions one, five, six, seven and eight of section sixty-five hundred twenty-four of this title and:

a. has studied medicine in a medical school located outside the United States which is recognized by the World Health Organization;

b. has completed all of the formal requirements of the foreign medical school except internship and/or social service;

1 c. has attained a score satisfactory to a medical school approved by
2 the Liaison Committee on Medical Education on a qualifying examination
3 acceptable to the state board for medicine, and has satisfactorily
4 completed one academic year of supervised clinical training under the
5 direction of such medical school;

6 d. has completed the post-graduate hospital training required by the
7 state board of medicine of all applicants for licensure; and

8 e. has passed the examination required by the state board of medicine
9 of all applicants for licensure.

10 2. Satisfaction of the requirements of paragraphs a, b and c of subdi-
11 vision one of this section shall be in lieu of the completion of any
12 foreign internship and/or social service requirements, and no such
13 requirements shall be a condition of licensure as a physician in this
14 State.

15 3. Satisfaction of the requirements of paragraphs a, b and c of subdi-
16 vision one of this section shall be in lieu of certification by the
17 Educational Council for Foreign Medical Graduates, and such certif-
18 ication shall not be a condition of licensure as a physician in this
19 State for candidates who have completed the requirements of subdivision
20 one of this section.

21 4. No hospital licensed by this state, or operated by the state or a
22 political subdivision thereof, or which receives state financial assist-
23 ance, directly or indirectly, shall require an individual who has satis-
24 fied the requirements of paragraphs a, b and c of subdivision one of
25 this section, and who at the time of his or her enrollment in a medical
26 school outside the United States is a resident of the United States, to
27 satisfy any further education or examination requirements prior to
28 commencing an internship or residency.

29 5. A document granted by a medical school located outside the United
30 States which is recognized by the World Health Organization issued after
31 the completion of all the formal requirements of such foreign medical
32 school except internship and/or social service shall, upon certification
33 by the medical school in which such training was received of satisfac-
34 tory completion by the person to whom such document was issued of the
35 requirements listed in paragraph c of subdivision one of this section,
36 be deemed the equivalent of a degree of doctor of medicine for purposes
37 of licensure and practice as a physician in this State.

38 § 6529. Power of department regarding certain physicians. Notwith-
39 standing any provision of law to the contrary, the department is author-
40 ized, in its discretion, to confer the degree of doctor of medicine
41 (M.D.) upon physicians who are licensed pursuant to section sixty-five
42 hundred twenty-four or sixty-five hundred twenty-eight of this article.
43 Each applicant shall pay a fee of three hundred dollars to the depart-
44 ment for the issuance of such degree.

45 TITLE 3

46 DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS,

47 PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS

48 Section 6530. Definitions of professional misconduct.

49 6531. Additional definition of professional misconduct, limit-
50 ed application.

51 6531-a. Additional definition of professional misconduct; mental
52 health professionals.

53 6532. Enforcement, administration and interpretation of this
54 title.

§ 6530. Definitions of professional misconduct. Each of the following is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in section two hundred thirty of this chapter shall be subject to penalties as prescribed in section two hundred thirty-a of this chapter except that the charges may be dismissed in the interest of justice:

1. Obtaining the license fraudulently;

2. Practicing the profession fraudulently or beyond its authorized scope;

3. Practicing the profession with negligence on more than one occasion;

4. Practicing the profession with gross negligence on a particular occasion;

5. Practicing the profession with incompetence on more than one occasion;

6. Practicing the profession with gross incompetence;

7. Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability;

8. Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice;

9. a. Being convicted of committing an act constituting a crime under:

(i) New York state law or,

(ii) federal law or,

(iii) the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law;

b. Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;

c. Having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section;

d. Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state; or

e. Having been found by the commissioner to be in violation of article thirty-three of this chapter;

10. Refusing to provide professional service to a person because of such person's race, creed, color or national origin;

11. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license;

12. Practicing the profession while the license is suspended or inactive as defined in subdivision thirteen of section two hundred thirty of this chapter, or willfully failing to register or notify the department of health of any change of name or mailing address, or, if a professional service corporation, willfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law or, if a university faculty practice corporation wilfully failing to comply with paragraphs (b), (c) and (d) of section fifteen hundred three and section fifteen hundred fourteen of the business corporation law;

13. A willful violation by a licensee of subdivision eleven of section two hundred thirty of this chapter;

14. A violation of section twenty-eight hundred three-d, twenty-eight hundred five-k or subparagraph (ii) of paragraph (h) of subdivision ten of section two hundred thirty of this chapter;

15. Failure to comply with an order issued pursuant to subdivision seven, paragraph a of subdivision ten, and subdivision seventeen of section two hundred thirty of this chapter;

16. A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine;

17. Exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party;

18. Directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or in connection with the performance of professional services;

19. Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee practicing under the supervision of a licensee. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article twenty-eight of this chapter or article thirteen of the mental hygiene law;

20. Conduct in the practice of medicine which evidences moral unfitness to practice medicine;

21. Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so;

22. Failing to make available to a patient, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;

23. Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law;

24. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to

1 perform, or performing without adequate supervision professional
2 services which the licensee is authorized to perform only under the
3 supervision of a licensed professional, except in an emergency situation
4 where a person's life or health is in danger;

5 25. Delegating professional responsibilities to a person when the
6 licensee delegating such responsibilities knows or has reason to know
7 that such person is not qualified, by training, by experience, or by
8 licensure, to perform them;

9 25-a. With respect to any non-emergency treatment, procedure or
10 surgery which is expected to involve local or general anesthesia, fail-
11 ing to disclose to the patient the identities of all physicians, except
12 medical residents in certified training programs, podiatrists and
13 dentists, reasonably anticipated to be actively involved in such treat-
14 ment, procedure or surgery and to obtain such patient's informed consent
15 to said practitioners' participation;

16 26. Performing professional services which have not been duly author-
17 ized by the patient or his or her legal representative;

18 27. Advertising or soliciting for patronage that is not in the public
19 interest. a. Advertising or soliciting not in the public interest shall
20 include, but not be limited to, advertising or soliciting that: (i) is
21 false, fraudulent, deceptive, misleading, sensational, or flamboyant;

22 (ii) represents intimidation or undue pressure;

23 (iii) uses testimonials;

24 (iv) guarantees any service;

25 (v) makes any claim relating to professional services or products or
26 the costs or price therefor which cannot be substantiated by the licen-
27 see, who shall have the burden of proof;

28 (vi) makes claims of professional superiority which cannot be substan-
29 tiated by the licensee, who shall have the burden of proof; or

30 (vii) offers bonuses or inducements in any form other than a discount
31 or reduction in an established fee or price for a professional service
32 or product.

33 b. The following shall be deemed appropriate means of informing the
34 public of the availability of professional services: (i) informational
35 advertising not contrary to the foregoing prohibitions; and

36 (ii) the advertising in a newspaper, periodical or professional direc-
37 tory or on radio or television of fixed prices, or a stated range of
38 prices, for specified routine professional services, provided that if
39 there is an additional charge for related services which are an integral
40 part of the overall service being provided by the licensee, the adver-
41 tisement shall so state, and provided further that the advertisement
42 indicates the period of time for which the advertised prices shall be in
43 effect.

44 c. (i) All licensees placing advertisements shall maintain, or cause
45 to be maintained, an exact copy of each advertisement, transcript, tape
46 or video tape thereof as appropriate for the medium used, for a period
47 of one year after its last appearance. This copy shall be made available
48 for inspection upon demand of the department;

49 (ii) A licensee shall not compensate or give anything of value to
50 representatives of the press, radio, television or other communications
51 media in anticipation of or in return for professional publicity in a
52 news item;

53 d. No demonstrations, dramatizations or other portrayals of profes-
54 sional practice shall be permitted in advertising on radio or tele-
55 vision;

1 28. Failing to respond within thirty days to written communications
2 from the department of health and to make available any relevant records
3 with respect to an inquiry or complaint about the licensee's profes-
4 sional misconduct. The period of thirty days shall commence on the date
5 when such communication was delivered personally to the licensee. If
6 the communication is sent from the department by registered or certified
7 mail, with return receipt requested, to the address appearing in the
8 last registration, the period of thirty days shall commence on the date
9 of delivery to the licensee, as indicated by the return receipt;

10 29. Violating any term of probation or condition or limitation imposed
11 on the licensee pursuant to section two hundred thirty of this chapter;

12 30. Abandoning or neglecting a patient under and in need of immediate
13 professional care, without making reasonable arrangements for the
14 continuation of such care, or abandoning a professional employment by a
15 group practice, hospital, clinic or other health care facility, without
16 reasonable notice and under circumstances which seriously impair the
17 delivery of professional care to patients or clients;

18 31. Willfully harassing, abusing, or intimidating a patient either
19 physically or verbally;

20 32. Failing to maintain a record for each patient which accurately
21 reflects the evaluation and treatment of the patient, provided, however,
22 that a physician who transfers an original mammogram to a medical insti-
23 tution, or to a physician or health care provider of the patient, or to
24 the patient directly, as otherwise provided by law, shall have no obli-
25 gation under this section to maintain the original or a copy thereof.
26 Unless otherwise provided by law, all patient records must be retained
27 for at least six years. Obstetrical records and records of minor
28 patients must be retained for at least six years, and until one year
29 after the minor patient reaches the age of eighteen years;

30 33. Failing to exercise appropriate supervision over persons who are
31 authorized to practice only under the supervision of the licensee;

32 34. Guaranteeing that satisfaction or a cure will result from the
33 performance of professional services;

34 35. Ordering of excessive tests, treatment, or use of treatment facil-
35 ities not warranted by the condition of the patient;

36 36. Claiming or using any secret or special method of treatment which
37 the licensee refused to divulge to the department of health;

38 37. Failing to wear an identifying badge, which shall be conspicuously
39 displayed and legible, indicating the practitioner's name and profes-
40 sional title authorized pursuant to this chapter, while practicing as an
41 employee or operator of a hospital, clinic, group practice or multi-pro-
42 fessional facility, or at a commercial establishment offering health
43 services to the public;

44 38. Entering into an arrangement or agreement with a pharmacy for the
45 compounding and/or dispensing of coded or specially marked
46 prescriptions;

47 39. With respect to all professional practices conducted under an
48 assumed name, other than facilities licensed pursuant to article twen-
49 ty-eight of this chapter or article thirteen of the mental hygiene law,
50 failing to post conspicuously at the site of such practice the name and
51 licensure field of all of the principal professional licensees engaged
52 in the practice at that site (i.e., principal partners, officers or
53 principal shareholders);

54 40. Failing to provide access by qualified persons to patient informa-
55 tion in accordance with the standards set forth in section eighteen of

1 this chapter, as added by chapter four hundred ninety-seven of the laws
2 of nineteen hundred eighty-six;

3 41. Knowingly or willfully performing a complete or partial autopsy on
4 a deceased person without lawful authority;

5 42. Failing to comply with a signed agreement to practice medicine in
6 New York state in an area designated by the commissioner as having a
7 shortage of physicians or refusing to repay medical education costs in
8 lieu of such required service, or failing to comply with any provision
9 of a written agreement with the state or any municipality within which
10 the licensee has agreed to provide medical service, or refusing to repay
11 funds in lieu of such service as consideration of awards made by the
12 state or any municipality thereof for his or her professional education
13 in medicine, or failing to comply with any agreement entered into to aid
14 his or her medical education;

15 43. Failing to complete forms or reports required for the reimburse-
16 ment of a patient by a third party. Reasonable fees may be charged for
17 such forms or reports, but prior payment for the professional services
18 to which such forms or reports relate may not be required as a condition
19 for making such forms or reports available;

20 44. In the practice of psychiatry:

21 a. any physical contact of a sexual nature between licensee and
22 patient except the use of films and/or other audiovisual aids with indi-
23 viduals or groups in the development of appropriate responses to over-
24 come sexual dysfunction; and

25 b. in therapy groups, activities which promote explicit physical sexu-
26 al contact between group members during sessions;

27 45. In the practice of ophthalmology, failing to provide a patient,
28 upon request, with the patient's prescription including the name,
29 address, and signature of the prescriber and the date of the
30 prescription;

31 46. A violation of section two hundred thirty-nine of this chapter by
32 a professional;

33 47. Failure to use scientifically accepted barrier precautions and
34 infection control practices as established by the department of health
35 pursuant to section two hundred thirty-a of this chapter;

36 48. A violation of section two hundred thirty-d of this chapter or the
37 regulations of the commissioner enacted thereunder;

38 49. Except for good cause shown, failing to provide within one day any
39 relevant records or other information requested by the state or local
40 department of health with respect to an inquiry into a report of a
41 communicable disease as defined in the state sanitary code, or HIV/AIDS;
42 and

43 50. Performing a pelvic examination or supervising the performance of
44 a pelvic examination in violation of subdivision seven of section twen-
45 ty-five hundred four of this chapter.

46 § 6531. Additional definition of professional misconduct, limited
47 application. Notwithstanding any inconsistent provision of this title
48 or any other provisions of law to the contrary, the license or registra-
49 tion of a person subject to the provisions of this title and title four
50 of this article may be revoked, suspended, or annulled or such person
51 may be subject to any other penalty provided in section two hundred
52 thirty-a of this chapter in accordance with the provisions and proce-
53 dures of this title for the following:

54 That any person subject to section sixty-five hundred thirty of this
55 title that has directly or indirectly requested, received or partic-
56 ipated in the division, transference, assignment, rebate, splitting, or

1 refunding of a fee for, or has directly requested, received or profited
2 by means of a credit or other valuable consideration as a commission,
3 discount or gratuity, in connection with the furnishing of professional
4 care or service, including x-ray examination and treatment, or for or in
5 connection with the sale, rental, supplying, or furnishing of clinical
6 laboratory services or supplies, x-ray laboratory services or supplies,
7 inhalation therapy service or equipment, ambulance service, hospital or
8 medical supplies, physiotherapy or other therapeutic service or equip-
9 ment, artificial limbs, teeth or eyes, orthopedic or surgical appliances
10 or supplies, optical appliances, supplies, or equipment, devices for aid
11 of hearing, drugs, medication, or medical supplies, or any other goods,
12 services, or supplies prescribed for medical diagnosis, care, or treat-
13 ment under this chapter, except payment, not to exceed thirty-three and
14 one-third percent of any fee received for x-ray examination, diagnosis,
15 or treatment, to any hospital furnishing facilities for such examina-
16 tion, diagnosis, or treatment. Nothing contained in this section shall
17 prohibit such persons from practicing as partners, in groups or as a
18 professional corporation or as a university faculty practice corpo-
19 ration, nor from pooling fees and moneys received, either by the part-
20 nerships, professional corporations, or university faculty practice
21 corporations or groups by the individual members thereof, for profes-
22 sional services furnished by an individual professional member, or
23 employee of such partnership, corporation, or group, nor shall the
24 professionals constituting the partnerships, corporations or groups be
25 prohibited from sharing, dividing, or apportioning the fees and moneys
26 received by them or by the partnership, corporation, or group in accord-
27 ance with a partnership or other agreement; provided that no such prac-
28 tice as partners, corporations, or groups, or pooling of fees or moneys
29 received or shared, division or apportionment of fees shall be permitted
30 with respect to and treatment under the workers' compensation law. Noth-
31 ing contained in this chapter shall prohibit a corporation licensed
32 pursuant to article forty-three of the insurance law pursuant to its
33 contract with the subscriber from prorationing a medical or dental
34 expenses indemnity allowance among two or more professionals in propor-
35 tion to the services rendered by each such professional at the request
36 of the subscriber, provided that prior to payment thereof such profes-
37 sionals shall submit both to the corporation licensed pursuant to arti-
38 cle forty-three of the insurance law and to the subscriber statements
39 itemizing the services rendered by each such professional and the charg-
40 es therefor.

41 § 6531-a. Additional definition of professional misconduct; mental
42 health professionals.

43 1. Definitions. For the purposes of this section:

44 a. "Mental health professional" means a person subject to the
45 provisions of title two of this article.

46 b. "Sexual orientation change efforts" (i) means any practice by a
47 mental health professional that seeks to change an individual's sexual
48 orientation, including, but not limited to, efforts to change behaviors,
49 gender identity, or gender expressions, or to eliminate or reduce sexual
50 or romantic attractions or feelings towards individuals of the same sex;
51 and (ii) shall not include counseling for a person seeking to transition
52 from one gender to another, or psychotherapies that: (A) provide accept-
53 ance, support and understanding of patients or the facilitation of
54 patients' coping, social support, and identity exploration and develop-
55 ment, including sexual orientation-neutral interventions to prevent or

1 address unlawful conduct or unsafe sexual practices; and (B) do not seek
2 to change sexual orientation.

3 2. It shall be professional misconduct for a mental health profes-
4 sional to engage in sexual orientation change efforts upon any patient
5 under the age of eighteen years, and any mental health professional
6 found guilty of such misconduct under the procedures prescribed in title
7 two-A of article two of this chapter shall be subject to the penalties
8 prescribed in section two hundred thirty-a of this chapter, as added by
9 chapter six hundred six of the laws of nineteen hundred ninety-one.

10 § 6532. Enforcement, administration and interpretation of this title.
11 The board of professional medical conduct and the department shall
12 enforce, administer and interpret this title. The commissioner may not
13 promulgate any rules or regulations concerning this title.

14 TITLE 4

15 PHYSICIAN ASSISTANTS

16 Section 6540. Definitions.

17 6541. Requirements for license.

18 6542. Performance of medical services.

19 6543. Construction.

20 6544. Regulations.

21 6545. Emergency services rendered by physician assistant.

22 6546. Limited permits.

23 § 6540. Definitions. As used in this title: 1. The term "physician
24 assistant" means a person who is licensed as a physician assistant
25 pursuant to this title.

26 2. The term "physician" means a practitioner of medicine licensed to
27 practice medicine pursuant to title two of this article.

28 3. The term "approved program" means a program for the education of
29 physician assistants which has been formerly approved by the department.

30 4. The term "hospital" means an institution or facility possessing a
31 valid operating certificate issued pursuant to article twenty-eight of
32 this chapter and authorized to employ physician assistants in accordance
33 with rules and regulations of the department and health planning coun-
34 cil.

35 § 6541. Requirements for license. 1. To qualify for a license as a
36 physician assistant, each person shall pay a fee of one hundred fifteen
37 dollars to the department for admission to a department conducted exam-
38 ination, a fee of forty-five dollars for each reexamination and a fee of
39 seventy dollars for persons not requiring admission to a department
40 conducted examination and shall also submit satisfactory evidence, veri-
41 fied by oath or affirmation, that he or she:

42 a. at the time of application is at least twenty-one years of age;

43 b. is of good moral character;

44 c. has received an education including a bachelor's or equivalent
45 degree in accordance with the commissioner's regulations;

46 d. has satisfactorily completed an approved program for the training
47 of physician assistants. The approved program for the training of physi-
48 cian assistants shall include not less than forty weeks of supervised
49 clinical training and thirty-two credit hours of classroom work. Appli-
50 cants for a license as a physician assistant who have completed an
51 approved program leading to a bachelor's degree or equivalent in physi-
52 cian assistant studies shall be deemed to have satisfied this paragraph.
53 The commissioner is empowered to determine whether an applicant
54 possesses equivalent education and training, such as experience as a

1 nurse or military corpsman, which may be accepted in lieu of all or part
2 of an approved program; and

3 e. in the case of an applicant for a license as a physician assistant,
4 has obtained a passing score on an examination acceptable to the depart-
5 ment.

6 2. The department shall furnish to each person applying for a license
7 pursuant to this section an application form calling for such informa-
8 tion as the department deems necessary and shall issue to each applican-
9 who satisfies the requirements of subdivision one of this section a
10 license as a physician assistant in a particular medical specialty for
11 the period expiring December thirty-first of the first odd-numbered year
12 terminating subsequent to the issuance of such license.

13 3. Every licensee shall apply to the department for a renewal of his
14 or her license. The department shall mail to every licensed physician
15 assistant an application form for renewal, addressed to the licensee's
16 post office address on file with the department. Upon receipt of such
17 application properly executed, together with evidence of satisfactory
18 completion of such continuing education requirements as may be estab-
19 lished by the commissioner pursuant to section thirty-seven hundred one
20 of this chapter, the department shall issue a renewal. Renewal periods
21 shall be triennial and the renewal fee shall be forty-five dollars.

22 § 6542. Performance of medical services. 1. Notwithstanding any other
23 provision of law, a physician assistant may perform medical services,
24 but only when under the supervision of a physician and only when such
25 acts and duties as are assigned to him or her are within the scope of
26 practice of such supervising physician.

27 2. Supervision shall be continuous but shall not be construed as
28 necessarily requiring the physical presence of the supervising physician
29 at the time and place where such services are performed.

30 3. No physician shall employ or supervise more than four physician
31 assistants in his or her private practice.

32 4. Nothing in this title shall prohibit a hospital from employing
33 physician assistants provided they work under the supervision of a
34 physician designated by the hospital and not beyond the scope of prac-
35 tice of such physician. The numerical limitation of subdivision three of
36 this section shall not apply to services performed in a hospital.

37 5. Notwithstanding any other provision of this title, nothing shall
38 prohibit a physician employed by or rendering services to the department
39 of corrections and community supervision under contract from supervising
40 no more than six physician assistants in his or her practice for the
41 department of corrections and community supervision.

42 6. Notwithstanding any other provision of law, a trainee in an
43 approved program may perform medical services when such services are
44 performed within the scope of such program.

45 7. Nothing in this title or in article thirty-seven of this chapter
46 shall be construed to authorize physician assistants to perform those
47 specific functions and duties specifically delegated by law to those
48 persons licensed as allied health professionals under this chapter.

49 § 6543. Construction. Only a person licensed as a physician assistant
50 by the department may use the title "physician assistant" or the letters
51 "P.A." after his or her name.

52 § 6544. Regulations. The commissioner may promulgate such other regu-
53 lations as are necessary to carry out the purposes of this title.

54 § 6545. Emergency services rendered by physician assistant. Notwith-
55 standing any inconsistent provision of any general, special or local
56 law, any physician assistant properly licensed in this state who volun-

1 tarily and without the expectation of monetary compensation renders
2 first aid or emergency treatment at the scene of an accident or other
3 emergency, outside a hospital, doctor's office or any other place having
4 proper and necessary medical equipment, to a person who is unconscious,
5 ill or injured, shall not be liable for damages for injuries alleged to
6 have been sustained by such person or for damages for the death of such
7 person alleged to have occurred by reason of an act or omission in the
8 rendering of such first aid or emergency treatment unless it is estab-
9 lished that such injuries were or such death was caused by gross negli-
10 gence on the part of such physician assistant. Nothing in this section
11 shall be deemed or construed to relieve a licensed physician assistant
12 from liability for damages for injuries or death caused by an act or
13 omission on the part of a physician assistant while rendering profes-
14 sional services in the normal and ordinary course of his or her prac-
15 tice.

16 § 6546. Limited permits. Permits limited as to eligibility, practice
17 and duration, shall be issued by the department to eligible applicants,
18 as follows:

19 1. Eligibility. A person who fulfills all requirements to be licensed
20 as a physician assistant except that relating to the examination shall
21 be eligible for a limited permit.

22 2. Limit of practice. A permittee shall be authorized to practice as a
23 physician assistant only under the direct supervision of a physician.

24 3. Duration. A limited permit shall expire one year from the date of
25 issuance or upon notice to the permittee by the department that the
26 application for a license has been denied. A limited permit shall be
27 extended upon application for one additional year, provided that the
28 permittee's request for such extension is endorsed by a physician who
29 either has supervised or will supervise the permittee, except that such
30 extension may be denied by the department for cause which shall be stat-
31 ed in writing. If the permittee is awaiting the results of a licensing
32 examination at the time such limited permit expires, such permit shall
33 continue to be valid until ten days after notification to the permittee
34 of the result of such examination.

35 4. Fees. The fee for each limited permit shall be one hundred five
36 dollars.

37 TITLE 5

38 SPECIALIST ASSISTANTS

39 Section 6547. Definitions.

40 6548. Registration.

41 6549. Performance of medical services.

42 6549-a. Construction.

43 6549-b. Regulations.

44 § 6547. Definitions. As used in this title:

45 1. The term "specialist assistant" means a person who is registered
46 pursuant to this title as a specialist assistant for a particular
47 medical specialty as defined by regulations promulgated by the commis-
48 sioner of health pursuant to section thirty-seven hundred eleven of this
49 chapter.

50 2. The term "physician" means a practitioner of medicine licensed to
51 practice medicine pursuant to title two of this article.

52 3. The term "approved program" means a program for the education of
53 specialist assistants which has been approved by the department.

54 4. The term "hospital" means an institution or facility possessing a
55 valid operating certificate issued pursuant to article twenty-eight of

1 this chapter and authorized to employ specialist assistants in accord-
2 ance with rules and regulations of the department and the health plan-
3 ning council.

4 § 6548. Registration. 1. To qualify for registration as a specialist
5 assistant, each person shall pay a fee of one hundred fifteen dollars to
6 the department for admission to a department conducted examination, a
7 fee of forty-five dollars for each reexamination and a fee of seventy
8 dollars for persons not requiring admission to a department conducted
9 examination and shall also submit satisfactory evidence, verified by
10 oath or affirmation, that he or she:

11 a. at the time of application is at least twenty-one years of age;

12 b. is of good moral character;

13 c. has successfully completed a four-year course of study in a second-
14 ary school approved by the department or has passed an equivalency test;
15 and

16 d. has satisfactorily completed an approved program for the training
17 of specialist assistants.

18 2. The department shall furnish to each person applying for registra-
19 tion hereunder an application form calling for such information as the
20 department deems necessary and shall issue to each applicant who satis-
21 fies the requirements of subdivision one of this section a certificate
22 of registration as specialist assistant in a particular medical special-
23 ty for the period expiring December thirty-first of the first odd-num-
24 bered year terminating subsequent to such registration.

25 3. Every registrant shall apply to the department for a certificate of
26 registration. The department shall mail to every registered specialist
27 assistant an application form for registration, addressed to the regis-
28 trant's post office address on file with the department. Upon receipt of
29 such application properly executed, together with evidence of satisfac-
30 tory completion of such continuing education requirements as may be
31 established by the commissioner pursuant to section thirty-seven hundred
32 eleven of this chapter, the department shall issue a certificate of
33 registration. Registration periods shall be triennial and the registra-
34 tion fee shall be forty-five dollars.

35 § 6549. Performance of medical services. 1. Notwithstanding any other
36 provision of law, a specialist assistant may perform medical services,
37 but only when under the supervision of a physician and only when such
38 acts and duties as are assigned to him or her are related to the desig-
39 nated medical specialty for which he or she is registered and are within
40 the scope of practice of his or her supervising physician.

41 2. Supervision shall be continuous but shall not be construed as
42 necessarily requiring the physical presence of the supervising physician
43 at the time and place where such services are performed.

44 3. No physician shall employ or supervise more than two specialist
45 assistants in his or her private practice.

46 4. Nothing in this title shall prohibit a hospital from employing
47 specialist assistants provided they work under the supervision of a
48 physician designated by the hospital and not beyond the scope of prac-
49 tice of such physician. The numerical limitation of subdivision three of
50 this section shall not apply to services performed in a hospital.

51 5. Notwithstanding any other provision of this title, nothing shall
52 prohibit a physician employed by or rendering services to the department
53 of correctional services under contract from supervising no more than
54 four specialist assistants in his or her practice for the department of
55 corrections and community supervision.

1 6. Notwithstanding any other provision of law, a trainee in an
2 approved program may perform medical services when such services are
3 performed within the scope of such program.

4 7. Nothing in this title or in article thirty-seven-A of this chapter,
5 shall be construed to authorize specialist assistants to perform those
6 specific functions and duties specifically delegated by law to those
7 persons licensed as allied health professionals under this chapter.

8 § 6549-a. Construction. Only a person registered as a specialist
9 assistant by the department may use the title "registered specialist
10 assistant" or the letters "R.S.A." after his or her name.

11 § 6549-b. Regulations. The commissioner may promulgate such other
12 regulations as are necessary to carry out the purposes of this title.

13 TITLE 6
14 CHIROPRACTIC

15 Section 6550. Introduction.

16 6551. Definition of practice of chiropractic.

17 6552. Practice of chiropractic and use of title "chiroprac-
18 tor".

19 6553. State board for chiropractic.

20 6554. Requirements for a professional license.

21 6554-a. Mandatory continuing education for chiropractors.

22 6555. Exempt persons.

23 6556. Special provisions.

24 § 6550. Introduction. This title applies to the profession of chirop-
25 ractic. The general provisions for all professions contained in title
26 one of this article apply to this title.

27 § 6551. Definition of practice of chiropractic. 1. The practice of the
28 profession of chiropractic is defined as detecting and correcting by
29 manual or mechanical means structural imbalance, distortion, or subluxa-
30 tions in the human body for the purpose of removing nerve interference
31 and the effects thereof, where such interference is the result of or
32 related to distortion, misalignment or subluxation of or in the verte-
33 bral column.

34 2. a. A license to practice as a chiropractor shall not permit the
35 holder thereof to use radio-therapy, fluoroscopy, or any form of ioniz-
36 ing radiation except x-ray which shall be used for the detection of
37 structural imbalance, distortion, or subluxations in the human body.

38 b. The requirements and limitations with respect to the use of x-ray
39 by chiropractors shall be enforced by the commissioner and he or she is
40 authorized to promulgate rules and regulations after conferring with the
41 board to carry out the purposes of this subdivision.

42 c. Chiropractors shall retain, for a period of three years, all x-ray
43 films taken in the course of their practice, together with the records
44 pertaining thereto, and shall make such films and records available to
45 the commissioner or his or her representative on demand.

46 3. A license to practice chiropractic shall not permit the holder
47 thereof to treat for any infectious diseases such as pneumonia, any
48 communicable diseases listed in the sanitary code of the state of New
49 York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any
50 surgical condition of the abdomen such as acute appendicitis, or
51 diabetes, or any benign or malignant neoplasms; to operate; to reduce
52 fractures or dislocations; to prescribe, administer, dispense or use in
53 his or her practice drugs or medicines; or to use diagnostic or thera-
54 peutic methods involving chemical or biological means except diagnostic

1 services performed by clinical laboratories which services shall be
2 approved by the board as appropriate to the practice of chiropractic; or
3 to utilize electrical devices except those devices approved by the board
4 as being appropriate to the practice of chiropractic. Nothing herein
5 shall be construed to prohibit a licensed chiropractor who has success-
6 fully completed a registered doctoral program in chiropractic, which
7 contains courses of study in nutrition satisfactory to the department,
8 from using nutritional counseling, including the dispensing of food
9 concentrates, food extracts, vitamins, minerals, and other nutritional
10 supplements approved by the board as being appropriate to, and as a part
11 of, his or her practice of chiropractic. Nothing herein shall be
12 construed to prohibit an individual who is not subject to regulation in
13 this state as a licensed chiropractor from engaging in nutritional coun-
14 seling.

15 § 6552. Practice of chiropractic and use of title "chiropractor".
16 Only a person licensed or exempt under this title shall practice chirop-
17 ractic or use the title "chiropractor".

18 § 6553. State board for chiropractic. A state board for chiropractic
19 shall be appointed by the department on recommendation of the commis-
20 sioner for the purpose of assisting the department on matters of profes-
21 sional licensing and professional conduct in accordance with section
22 sixty-five hundred eight of this article. The board shall be composed of
23 not less than seven members, including at least four licensed chiroprac-
24 tors, one licensed physician who is a doctor of medicine, one licensed
25 physician who is a doctor of osteopathy, and one educator who holds a
26 doctorate or equivalent degree in either anatomy, physiology, pathology,
27 chemistry or microbiology. An executive secretary to the board shall be
28 appointed by the department on recommendation of the commissioner.

29 § 6554. Requirements for a professional license. To qualify for a
30 license as a chiropractor, an applicant shall fulfill the following
31 requirements:

32 1. Application: file an application with the department;

33 2. Education: have received an education, including two years of
34 preprofessional college study and completion of a four-year resident
35 program in chiropractic, in accordance with the commissioner's regu-
36 lations;

37 3. Experience: have experience satisfactory to the board and in
38 accordance with the commissioner's regulations;

39 4. Examination: pass examinations satisfactory to the board and in
40 accordance with the commissioner's regulations, in clinical chiropractic
41 analysis, the practice of chiropractic, x-ray as it relates to chirop-
42 ractic analysis, and examinations satisfactory to the department in
43 anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and
44 the use and effect of x-ray;

45 5. Age: be at least twenty-one years of age;

46 6. Citizenship or immigration status: be a United States citizen or an
47 alien lawfully admitted for permanent residence in the United States;

48 7. Character: be of good moral character as determined by the depart-
49 ment; and

50 8. Fees: pay a fee of one hundred seventy-five dollars to the depart-
51 ment for admission to a department conducted examination and for an
52 initial license, a fee of eighty-five dollars for each reexamination, a
53 fee of one hundred fifteen dollars for an initial license for persons
54 not requiring admission to a department conducted examination, and a fee
55 of one hundred fifty-five dollars for each triennial registration peri-
56 od.

1 § 6554-a. Mandatory continuing education for chiropractors. 1. a. Each
2 chiropractor licensed pursuant to this title, required to register
3 triennially with the department to practice in this state, shall comply
4 with the provisions of the mandatory continuing education requirements,
5 except as set forth in paragraphs b and c of this subdivision. Chiro-
6 practores who do not satisfy the mandatory continuing education require-
7 ments shall not practice until they have met such requirements and have
8 been issued a registration or conditional registration certificate.

9 b. Chiropractors shall be exempt from the mandatory continuing educa-
10 tion requirement for the triennial registration period during which they
11 are first licensed. In accordance with the intent of this section,
12 adjustments to the mandatory continuing education requirement may be
13 granted by the department for reasons of health, certified by an appro-
14 priate health care professional, for extended active duty with the armed
15 forces of the United States, or for other good cause acceptable to the
16 department which may prevent compliance.

17 c. A licensed chiropractor not engaged in chiropractic practice as an
18 individual practitioner, a partner or a partnership, a shareholder of a
19 professional service corporation, as an employee of such practice units,
20 or as an employee of a facility operating pursuant to article twenty-
21 eight of this chapter, or as otherwise determined by the department,
22 shall be exempt from the mandatory continuing education requirement upon
23 the filing of a statement with the department declaring such status.
24 Any licensee who returns to the public practice of chiropractic during
25 the triennial registration period shall notify the department prior to
26 reentering the profession and shall meet such mandatory continuing
27 education requirements as shall be promulgated by regulation of the
28 commissioner in consultation with the board.

29 d. Nothing in this section shall be construed as enabling or authoriz-
30 ing the department or state board for chiropractic to require or imple-
31 ment continuing competency testing or continued competency certification
32 for chiropractors.

33 2. During each triennial registration period an applicant for regis-
34 tration shall complete thirty-six hours of acceptable formal continuing
35 education, a maximum of twelve hours of which may be self-instructional
36 coursework as approved by the department in consultation with the board.
37 Any chiropractor whose first registration date following the effective
38 date of this section occurs less than three years from such effective
39 date, but on or after January first, two thousand four, shall complete
40 continuing education hours on a prorated basis at the rate of one hour
41 per month for the period beginning January first, two thousand four up
42 to the first registration date thereafter. A licensee who has not satis-
43 fied the mandatory continuing education requirements shall not be issued
44 a triennial registration certificate by the department and shall not
45 practice unless and until a conditional registration certificate is
46 issued as provided in subdivision three of this section. The individual
47 licensee shall determine the selection of courses or programs of study
48 pursuant to subdivision four of this section. Continuing education hours
49 taken during one triennium may not be carried over or otherwise credited
50 or transferred to a subsequent triennium.

51 3. The department, in its discretion, may issue a conditional regis-
52 tration to a licensee who fails to meet the continuing education
53 requirements established in subdivision two of this section but who
54 agrees to make up any deficiencies and take any additional education
55 which the department may require. The fee for such a conditional regis-
56 tration shall be the same as, and in addition to, the fee for the trien-

1 nial registration. The duration of such conditional registration shall
2 be determined by the department but shall not exceed one year. Any
3 licensee who is notified of the denial of registration for failure to
4 complete the required continued education and who continues to practice
5 chiropractic without such registration may be subject to disciplinary
6 proceedings pursuant to section sixty-five hundred ten of this article.

7 4. As used in this section, "acceptable formal continuing education"
8 shall mean formal programs of learning which are sponsored or presented
9 by a New York state chiropractic professional organization, national
10 chiropractic professional organization or higher educational institu-
11 tion, and which meet the following requirements: contain subject matter
12 which contributes to the enhancement of professional and clinical skills
13 of the chiropractor and is approved as acceptable continuing education
14 by a chiropractic college recognized by the Commission on Accreditation
15 of the Council of Chiropractic Education to fulfill the mandatory
16 continuing education requirements, and which meets the standards
17 prescribed by regulations of the commissioner in consultation with the
18 board to fulfill the mandatory continuing education requirement.

19 5. Chiropractors shall certify at each triennial registration as to
20 having satisfied the mandatory continuing education requirements of this
21 section, shall maintain adequate documentation of completion of accepta-
22 ble formal continuing education to support such certification and shall
23 provide such documentation to the department upon request. Failure to
24 provide such documentation upon request of the department shall be an
25 act of misconduct subject to disciplinary proceedings pursuant to
26 section sixty-five hundred ten of this article.

27 6. The mandatory continuing education fee shall be forty-five dollars,
28 shall be payable on or before the first day of each triennial registra-
29 tion period, and shall be in addition to the triennial registration fee
30 required by section sixty-five hundred fifty-four of this title.

31 § 6555. Exempt persons. Nothing in this title shall be construed to
32 affect or prevent a student enrolled in a college of chiropractic in
33 this state from engaging in all phases of clinical practice under super-
34 vision of a licensed chiropractor or physician in a curriculum regis-
35 tered by the department.

36 § 6556. Special provisions. 1. Any chiropractor who holds a license
37 stating that the holder is not authorized to use x-ray in his or her
38 practice shall, on each registration, continue to obtain a license so
39 marked. Any chiropractor holding such a license may obtain a license
40 permitting the use of x-ray provided he or she first passes an examina-
41 tion in the use and effect of x-ray satisfactory to the board and the
42 department.

43 2. An applicant who graduated from a school of chiropractic prior to
44 January first, nineteen hundred sixty-eight need not meet the two-year
45 preprofessional college study requirement provided for in subdivision
46 two of section sixty-five hundred fifty-four of this title.

47 TITLE 7

48 DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING

49 Section 6600. Introduction.

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51 6602. Practice of dentistry and use of title "dentist".

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55 6604-b. Restricted dental faculty license.

1 6605. Limited permits.

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5 6606. Definition of practice of dental hygiene.

6 6607. Practice of dental hygiene and use of title "dental
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8 6608. Definition of practice of registered dental assisting.

9 6608-a. Practice of registered dental assisting and use of title
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11 6608-b. Requirements for certification as a registered dental
12 assistant.

13 6608-c. Exempt persons; registered dental assistant.

14 6608-d. Limited permits.

15 6609. Requirements for a license as a dental hygienist.

16 6609-a. Mandatory continuing education for dental hygienists.

17 6609-b. Limited permit to practice dental hygiene.

18 6610. Exempt persons; practice of dental hygiene.

19 6611. Special provisions.

20 6612. Identification of removable full or partial prosthetic
21 devices.

22 6613. Nitrous oxide equipment.

23 § 6600. Introduction. This title applies to the professions of dentis-
24 try, dental hygiene, and registered dental assisting. The general
25 provisions for all professions contained in title one of this article
26 apply to this title.

27 § 6601. Definition of practice of dentistry. The practice of the
28 profession of dentistry is defined as diagnosing, treating, operating,
29 or prescribing for any disease, pain, injury, deformity, or physical
30 condition of the oral and maxillofacial area related to restoring and
31 maintaining dental health. The practice of dentistry includes the
32 prescribing and fabrication of dental prostheses and appliances. The
33 practice of dentistry may include performing physical evaluations in
34 conjunction with the provision of dental treatment.

35 § 6602. Practice of dentistry and use of title "dentist". Only a
36 person licensed or otherwise authorized to practice under this title
37 shall practice dentistry or use the title "dentist".

38 § 6603. State board for dentistry. A state board for dentistry shall
39 be appointed by the department on recommendation of the commissioner for
40 the purpose of assisting the department on matters of professional
41 licensing and professional conduct in accordance with section sixty-five
42 hundred eight of this article. The board shall be composed of not less
43 than thirteen dentists licensed in this state for at least five years,
44 not less than three dental hygienists licensed in this state for at
45 least five years, and not less than one registered dental assistant
46 licensed in this state for at least one year. An executive secretary to
47 the board shall be appointed by the department on recommendation of the
48 commissioner and shall be a dentist licensed in this state.

49 § 6604. Requirements for a license as a dentist. To qualify for a
50 license as a dentist, an applicant shall fulfill the following require-
51 ments:

52 1. Application: file an application with the department;

53 2. Education: have received an education, including a doctoral degree
54 in dentistry, in accordance with the commissioner's regulations;

55 3. Experience: have experience satisfactory to the board and in
56 accordance with the commissioner's regulations, provided that such expe-

1 rience shall consist of satisfactory completion of a clinically-based
2 postdoctoral general practice or specialty dental residency program, of
3 at least one year's duration, in a hospital or dental facility accred-
4 ited for teaching purposes by a national accrediting body approved by
5 the department, provided, further that any such residency program shall
6 include a formal outcome assessment evaluation of the resident's compe-
7 tence to practice dentistry acceptable to the department;

8 4. Examination: pass a written examination satisfactory to the board
9 and in accordance with the commissioner's regulations;

10 5. Age: be at least twenty-one years of age;

11 6. Citizenship or immigration status: be a United States citizen or an
12 alien lawfully admitted for permanent residence in the United States;
13 provided, however, that the department may grant a three-year waiver for
14 an alien to practice in an area which has been designated a federal
15 dental health professions shortage area, except that the department may
16 grant an additional extension not to exceed six years to an alien to
17 enable him or her to secure citizenship or permanent resident status,
18 provided such status is being actively pursued;

19 7. Character: be of good moral character as determined by the depart-
20 ment; and

21 8. Fees: pay a fee of two hundred twenty dollars to the department for
22 admission to a department conducted examination and for an initial
23 license, a fee of one hundred fifteen dollars for each reexamination, a
24 fee of one hundred thirty-five dollars for an initial license for
25 persons not requiring admission to a department conducted examination,
26 and a fee of two hundred ten dollars for each triennial registration
27 period.

28 § 6604-a. Mandatory continuing education for dentists. 1. a. Each
29 dentist, licensed pursuant to this title, required to register trienni-
30 ally with the department to practice in this state shall comply with the
31 provisions of the mandatory continuing education requirements, except as
32 set forth in paragraphs b and c of this subdivision. Dentists who do not
33 satisfy the mandatory continuing education requirements shall not prac-
34 tice until they have met such requirements and have been issued a regis-
35 tration or conditional registration certificate.

36 b. Dentists shall be exempt from the mandatory continuing education
37 requirement for the triennial registration period during which they are
38 first licensed. In accordance with the intent of this section, adjust-
39 ments to the mandatory continuing education requirement may be granted
40 by the department for reasons of health, certified by a physician, for
41 extended active duty with the armed forces of the United States, or for
42 other good cause acceptable to the department which may prevent compli-
43 ance.

44 c. A licensed dentist not engaged in public practice as an individual
45 practitioner, a partner of a partnership, a shareholder of a profes-
46 sional service corporation, or an employee of such practice units, shall
47 be exempt from the mandatory continuing education requirement upon the
48 filing of a statement with the department declaring such status. Any
49 licensee who returns to the public practice of dentistry during the
50 triennial registration period shall notify the department prior to reen-
51 tering the profession and shall meet such mandatory continuing education
52 requirements as shall be prescribed by regulation of the commissioner.

53 2. During each triennial registration period an applicant for regis-
54 tration shall complete a minimum of sixty hours of acceptable formal
55 continuing education, a maximum of eighteen hours of which may be self-
56 instructional coursework as approved by the department. Beginning with

1 the first registration renewal period for any dentist occurring on or
2 after January first, two thousand two, and before the occurrence of the
3 second registration renewal period following that date, a dentist shall
4 have completed on a one-time basis, as part of the sixty hours of
5 acceptable formal continuing education required by this section, no
6 fewer than two hours of coursework and training regarding the chemical
7 and related effects and usage of tobacco and tobacco products and the
8 recognition, diagnosis, and treatment of the oral health effects,
9 including but not limited to cancers and other diseases, caused by
10 tobacco and tobacco products, provided that any dentist who provides
11 written proof satisfactory to the department that the dentist has
12 completed, at any time subsequent to the effective date of this section,
13 an approved mandatory continuing education course of not less than two
14 hours in the same or substantially similar subject matter shall be
15 deemed to have met this requirement, and further provided that dentists
16 who are exempt from the mandatory continuing education requirement for
17 the triennial registration period during which they are first licensed
18 shall also be exempt from this requirement for that period. Any dentist
19 whose first registration date following the effective date of this
20 section occurs less than three years from such effective date, but on or
21 after January first, nineteen hundred ninety-eight and before July
22 first, two thousand eight, shall complete continuing education hours on
23 a prorated basis at the rate of one and one-quarter hours per month for
24 the period beginning January first, nineteen hundred ninety-seven up to
25 the first registration date thereafter. For any registration period
26 beginning before July first, two thousand eight and ending on or after
27 such date, each dentist shall complete continuing education hours on a
28 pro rata basis at a rate of one and one-quarter hours per month for the
29 period ending June thirtieth, two thousand eight and at a rate of one
30 and two-thirds hours per month for the period beginning July first, two
31 thousand eight up to the first registration date thereafter. A licensee
32 who has not satisfied the mandatory continuing education requirements
33 shall not be issued a triennial registration certificate by the depart-
34 ment and shall not practice unless and until a conditional registration
35 certificate is issued as provided in subdivision three of this section.
36 The individual licensee shall determine the selection of courses or
37 programs of study pursuant to subdivision four of this section.

38 3. The department, in its discretion, may issue a conditional regis-
39 tration to a licensee who fails to meet the continuing education
40 requirements established in subdivision two of this section but who
41 agrees to make up any deficiencies and take any additional education
42 which the department may require. The fee for such a conditional regis-
43 tration shall be the same as, and in addition to, the fee for the trien-
44 nial registration. The duration of such conditional registration shall
45 be determined by the department. Any licensee who is notified of the
46 denial of registration for failure to submit evidence, satisfactory to
47 the department, of completion of required continuing education and who
48 practices dentistry without such registration, may be subject to disci-
49 plinary proceedings pursuant to section sixty-five hundred ten of this
50 article.

51 4. As used in this section, "acceptable formal continuing education"
52 shall mean formal programs of learning which contribute to professional
53 practice and which meet the standards prescribed by regulations of the
54 commissioner. To fulfill the mandatory continuing education requirement,
55 programs must be taken from sponsors having at least one full-time
56 employee and the facilities, equipment, and financial and physical

1 resources to provide continuing education courses, approved by the
2 department, pursuant to the regulations of the commissioner.

3 5. The mandatory continuing education fee shall be forty-five dollars,
4 shall be payable on or before the first day of each triennial registra-
5 tion period, and shall be paid in addition to the triennial registration
6 fee required by section sixty-six hundred four of this title.

7 6. On or after the effective date of this subdivision, and no later
8 than the end of the first registration period commencing on or after
9 such date during which he or she is required to comply with the continu-
10 ing education requirements of this section, each dentist shall have
11 completed on a one-time basis, as part of the mandatory hours of accept-
12 able formal continuing education required by this section, no fewer than
13 three hours in a course approved by the department in dental jurispru-
14 dence and ethics, which shall include the laws, rules, regulations and
15 ethical principles relating to the practice of dentistry in New York
16 state, provided that postgraduate dental students enrolled in New York
17 state dental residency programs may satisfy the requirements of this
18 subdivision by taking such an approved course during the period of their
19 dental residency prior to their initial licensure.

20 § 6604-b. Restricted dental faculty license. 1. The department may
21 issue a restricted dental faculty license to a full-time faculty member
22 employed at an approved New York state school of dentistry. The holder
23 of such restricted dental faculty license shall have the authority to
24 practice dentistry, as defined in this title, but such practice of
25 dentistry shall be limited to the school's facilities or the school's
26 clinics, or facilities or clinics with relationships to the school
27 confirmed by formal affiliation agreements. Nothing in this section
28 shall be construed to authorize such holder of a restricted dental
29 faculty license to engage in the private practice of dentistry at any
30 other site.

31 2. To qualify for a restricted dental faculty license the applicant
32 shall present satisfactory evidence of the following:

33 a. The completion of a total of no less than six academic years of
34 pre-professional and professional education, including:

35 (i) courses in general chemistry, organic chemistry, biology or zoolo-
36 gy and physics; and

37 (ii) not less than four academic years of professional dental educa-
38 tion satisfactory to the department culminating in a degree, diploma or
39 certificate in dentistry recognized by the appropriate civil authorities
40 of the jurisdiction in which the school is located as acceptable for
41 entry into practice in the jurisdiction in which the school is located.

42 b. Within the last five years, have two years of satisfactory practice
43 as a dentist or have satisfactorily completed an advanced education
44 program in general dentistry or in a dental specialty, provided such
45 program is accredited by an organization accepted by the department as a
46 reliable authority for the purpose of accrediting such programs (such as
47 the commission on dental accreditation); and

48 c. Possesses good moral character as determined by the department.

49 3. The dean of the dental school shall notify the department in writ-
50 ing upon the submission of an initial license application and yearly
51 thereafter that the holder of the dental faculty license is employed
52 full-time at the dental school. Full-time employment means the holder
53 of such dental faculty license devotes at least four full working days
54 per week in teaching or patient care, research or administrative duties
55 at the dental school where employed. The dean of the dental school and
56 the holder of such dental faculty license shall each notify the depart-

1 ment in writing within thirty days of the termination of full-time
2 employment.

3 4. In order to continue to practice dentistry, the holder of a
4 restricted dental faculty license shall apply for and hold a current
5 triennial registration which shall be subject to the same registration
6 requirements as apply to holders of unrestricted dental licenses, except
7 that such registration shall be issued only upon the submission of
8 documentation satisfactory to the department of the holder's continued
9 status as a full-time dental faculty member, provided that such regis-
10 tration shall immediately terminate and the holder shall no longer be
11 authorized to practice if the holder ceases to be a full-time dental
12 faculty member at an approved New York state school of dentistry.

13 5. The holder of this restricted dental faculty license shall be
14 subject to the professional misconduct provisions set forth in subtitle
15 three of title one of this article and in the regulations and rules of
16 the department.

17 6. The fee for each restricted dental faculty license shall be three
18 hundred dollars, and the fee for initial registration and each subse-
19 quent re-registration shall be three hundred dollars.

20 7. In order to be eligible for a restricted dental faculty license an
21 applicant must be a United States citizen or an alien lawfully admitted
22 for permanent residence in the United States; provided, however, that
23 the department may grant a three-year waiver for an alien who otherwise
24 meets all other requirements for a restricted dental faculty license
25 except that the department may grant an additional extension not to
26 exceed six years to an alien to enable him or her to secure citizenship
27 or permanent resident status, provided such status is being actively
28 pursued. No current faculty member shall be displaced by the holder of a
29 restricted dental faculty license.

30 § 6605. Limited permits. 1. On recommendation of the board, the
31 department may issue a limited permit to a graduate of a dental college
32 who meets the educational qualifications for admission to the licensing
33 examination in dentistry for employment in a hospital or dental facility
34 approved by an appropriate agency, while under the direction or super-
35 vision of a licensed dentist. No such permit shall be issued or renewed
36 unless such graduate has a bona fide offer of a position in such a
37 hospital or dental facility.

38 2. On recommendation of the board, the department may issue a limited
39 permit for instructing in dentistry to a dentist not licensed under this
40 title to be employed by a registered school of dentistry or dental
41 hygiene to instruct and supervise clinical dentistry or dental hygiene
42 for students in such a registered school in the state, and in so doing
43 to practice dentistry as defined in this title, but only on the premises
44 of such registered school or such other premises as may be used for
45 instruction in the program of health conducted by such institution. No
46 person shall be permitted or authorized to instruct and supervise clin-
47 ical dentistry for students unless such person is licensed in this state
48 or holds the foregoing limited permit for instructing in dentistry.

49 3. The holder of a limited permit under this section may practice
50 dentistry, as defined in this title, but only in the performance of
51 duties required by the position for which the limited permit is issued.
52 Nothing in this section shall be construed to authorize such unlicensed
53 dentist to engage in the private practice of dentistry.

54 4. A limited permit under this section shall be valid for one year or
55 until ten days after notification of denial of an application for
56 license. A limited permit may be renewed for one year, except if the

1 applicant is serving in a residency program in a hospital or school of
2 dentistry in this state. A limited permit may be renewed annually for
3 the duration of such residency program. The fee for each limited permit
4 and for each renewal shall be one hundred five dollars.

5 5. Notwithstanding subdivision one of this section, dental school
6 graduates who meet the license requirement for education pursuant to
7 subdivision two of section sixty-six hundred four of this title shall be
8 deemed to be exempt persons pursuant to section sixty-six hundred ten of
9 this title and shall not be required to obtain a limited permit,
10 provided that they are employed in an approved residency program for the
11 purpose of fulfilling initial licensure requirements pursuant to section
12 sixty-six hundred four of this title. Not later than sixty days after
13 entry into an approved residency program, the dental resident shall
14 register on a form acceptable to the commissioner and pay to the depart-
15 ment a residency registration fee established by the department, which
16 residency registration fee shall be reasonable and shall not exceed the
17 limited permit fee specified in subdivision four of this section. All
18 persons deemed exempt pursuant to this section shall be subject to all
19 provisions of title one of this article, including but not limited to
20 having disciplinary action taken against their residency registration
21 status.

22 § 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall
23 not employ conscious sedation, deep sedation or general anesthesia in
24 the practice of dentistry, at any location other than a general hospi-
25 tal, without a dental anesthesia certificate issued by the department.

26 2. The commissioner shall promulgate regulations, establishing stand-
27 ards and procedures for the issuance of certificates. Such standards
28 shall require completion of an educational program and/or course of
29 training or experience sufficient to ensure that a dentist is specif-
30 ically trained in the use and administration of conscious sedation, deep
31 sedation or general anesthesia and in the possible effects of such use,
32 and in the recognition of and response to possible emergency situations.
33 Such regulations may also establish standards and safeguards for the use
34 of conscious sedation, deep sedation or general anesthesia.

35 3. Nothing in this section shall limit a dentist's use of local anes-
36 thesia, a dentist's use of nitrous oxide, or a dentist's use of any
37 other substance or agent for a purpose other than achieving deep
38 sedation, conscious sedation, or general anesthesia.

39 4. The fee for a dental anesthesia certificate shall be one hundred
40 dollars and shall be paid on a triennial basis upon renewal of such
41 certificate. A certificate may be suspended or revoked in the same
42 manner as a license to practice dentistry.

43 § 6605-b. Dental hygiene restricted local infiltration
44 anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist
45 shall not administer or monitor nitrous oxide analgesia or local infil-
46 tration anesthesia in the practice of dental hygiene without a dental
47 hygiene restricted local infiltration anesthesia/nitrous oxide analgesia
48 certificate and except under the personal supervision of a dentist and
49 in conjunction with the performance of dental hygiene procedures author-
50 ized by law and in accordance with regulations promulgated by the
51 commissioner. Personal supervision, for purposes of this section, means
52 that the supervising dentist remains in the dental office where the
53 local infiltration anesthesia or nitrous oxide analgesia services are
54 being performed, personally authorizes and prescribes the use of local
55 infiltration anesthesia or nitrous oxide analgesia for the patient and,
56 before dismissal of the patient, personally examines the condition of

1 the patient after the use of local infiltration anesthesia or nitrous
2 oxide analgesia is completed. It is professional misconduct for a
3 dentist to fail to provide the supervision required by this section, and
4 any dentist found guilty of such misconduct under the procedures
5 prescribed in section sixty-five hundred ten of this article shall be
6 subject to the penalties prescribed in section sixty-five hundred eleven
7 of this article.

8 2. The commissioner shall promulgate regulations establishing stand-
9 ards and procedures for the issuance of such certificate. Such standards
10 shall require completion of an educational program and/or course of
11 training or experience sufficient to ensure that a dental hygienist is
12 specifically trained in the administration and monitoring of nitrous
13 oxide analgesia and local infiltration anesthesia, the possible effects
14 of such use, and in the recognition of and response to possible emergen-
15 cy situations.

16 3. The fee for a dental hygiene restricted local infiltration
17 anesthesia/nitrous oxide analgesia certificate shall be twenty-five
18 dollars and shall be paid on a triennial basis upon renewal of such
19 certificate. A certificate may be suspended or revoked in the same
20 manner as a license to practice dental hygiene.

21 § 6606. Definition of practice of dental hygiene. 1. The practice of
22 the profession of dental hygiene is defined as the performance of dental
23 services which shall include removing calcareous deposits, accretions
24 and stains from the exposed surfaces of the teeth which begin at the
25 epithelial attachment and applying topical agents indicated for a
26 complete dental prophylaxis, removing cement, placing or removing rubber
27 dam, removing sutures, placing matrix band, providing patient education,
28 applying topical medication, placing and exposing diagnostic dental
29 x-ray films, performing topical fluoride applications and topical anes-
30 thetic applications, polishing teeth, taking medical history, charting
31 caries, taking impressions for study casts, placing and removing tempo-
32 rary restorations, administering and monitoring nitrous oxide analgesia
33 and administering and monitoring local infiltration anesthesia, subject
34 to certification in accordance with section sixty-six hundred five-b of
35 this title, and any other function in the definition of the practice of
36 dentistry as may be delegated by a licensed dentist in accordance with
37 regulations promulgated by the commissioner. The practice of dental
38 hygiene may be conducted in the office of any licensed dentist or in any
39 appropriately equipped school or public institution but must be done
40 either under the supervision of a licensed dentist or, in the case of a
41 registered dental hygienist working for a hospital as defined in article
42 twenty-eight of this chapter, pursuant to a collaborative arrangement
43 with a licensed and registered dentist who has a formal relationship
44 with the same hospital in accordance with regulations promulgated by the
45 department. Such collaborative arrangement shall not obviate or super-
46 sede any law or regulation which requires identified services to be
47 performed under the personal supervision of a dentist. When dental
48 hygiene services are provided pursuant to a collaborative agreement,
49 such dental hygienist shall instruct individuals to visit a licensed
50 dentist for comprehensive examination or treatment.

51 2. The commissioner shall promulgate regulations defining the func-
52 tions a dental hygienist may perform that are consistent with the train-
53 ing and qualifications for a license as a dental hygienist.

54 § 6607. Practice of dental hygiene and use of title "dental hygien-
55 ist". Only a person licensed under section sixty-six hundred nine of

1 this title or exempt shall practice dental hygiene or use the title
2 "dental hygienist".

3 § 6608. Definition of practice of registered dental assisting. The
4 practice of registered dental assisting is defined as providing support-
5 ive services to a dentist in his or her performance of dental services
6 authorized under this title. Such support shall include providing
7 patient education, taking preliminary medical histories and vital signs
8 to be reviewed by the dentist, placing and removing rubber dams, select-
9 ing and prefitting provisional crowns, selecting and prefitting ortho-
10 dontic bands, removing orthodontic arch wires and ligature ties, placing
11 and removing matrix bands, taking impressions for study casts or diag-
12 nostic casts, removing periodontal dressings, and such other dental
13 supportive services authorized by the dentist consistent with regu-
14 lations promulgated by the commissioner, provided that such functions
15 are performed under the direct personal supervision of a licensed
16 dentist in the course of the performance of dental services. Such
17 services shall not include diagnosing and/or performing surgical proce-
18 dures, irreversible procedures or procedures that would alter the hard
19 or soft tissue of the oral and maxillofacial area or any other proce-
20 dures determined by the department. The practice of registered dental
21 assisting may be conducted in the office of any licensed dentist or in
22 any appropriately equipped school or public institution but must be done
23 under the direct personal supervision of a licensed dentist. Direct
24 personal supervision, for purposes of this section, means supervision of
25 dental procedures based on instructions given by a licensed dentist in
26 the course of a procedure who remains in the dental office where the
27 supportive services are being performed, personally diagnoses the condi-
28 tion to be treated, personally authorizes the procedures, and before
29 dismissal of the patient, who remains the responsibility of the licensed
30 dentist, evaluates the services performed by the registered dental
31 assistant. Nothing herein authorizes a registered dental assistant to
32 perform any of the services or functions defined as part of the practice
33 of dental hygiene in accordance with the provisions of subdivision one
34 of section sixty-six hundred six of this title, except those functions
35 authorized pursuant to this section. All dental supportive services
36 provided in this section may be performed by currently registered dental
37 hygienists either under a dentist's supervision, as defined in regu-
38 lations of the commissioner, or, in the case of a registered dental
39 hygienist working for a hospital as defined in article twenty-eight of
40 this chapter, pursuant to a collaborative arrangement with a licensed
41 dentist in accordance with subdivision one of section sixty-six hundred
42 six of this title. Such collaborative arrangement shall not obviate or
43 supersede any law or regulation which requires identified services to be
44 performed under the personal supervision of a dentist.

45 § 6608-a. Practice of registered dental assisting and use of title
46 "registered dental assistant". Only a person certified under section
47 sixty-six hundred eight-b of this title or exempt pursuant to section
48 sixty-six hundred ten of this title shall practice registered dental
49 assisting. Only a person certified pursuant to section sixty-six hundred
50 eight-b of this title shall use the title "registered dental assistant".

51 § 6608-b. Requirements for certification as a registered dental
52 assistant. To qualify for certification as a registered dental assist-
53 ant, an applicant shall fulfill the following requirements:

54 1. Application: file an application with the department;

55 2. Age: be at least eighteen years of age;

1 3. Fees: pay a fee of forty-five dollars to the department for initial
2 certification and a fee of fifty dollars for each triennial registration
3 period;

4 4. Education and experience: a. have received a high school diploma,
5 or its equivalent, and b. have successfully completed, in accordance
6 with the commissioner's regulations: (i) an approved one-year course of
7 study in dental assisting in a degree-granting institution or a board of
8 cooperative educational services program which includes at least two
9 hundred hours of clinical experience, or an equivalent approved course
10 of study in dental assisting in a non-degree granting institution which
11 shall not be a professional association or professional organization, or
12 (ii) an alternate course of study in dental assisting acceptable to the
13 department which shall be provided by a degree-granting institution or a
14 board of cooperative educational services program which includes at
15 least one thousand hours of relevant work experience;

16 5. Examination: pass an examination in dental assisting given by an
17 organization which administers such examinations and which is acceptable
18 to the department; and

19 6. Character: be of good moral character as determined by the depart-
20 ment.

21 § 6608-c. Exempt persons; registered dental assistant. Nothing in this
22 title shall be construed to affect or prevent a student from engaging in
23 any procedure authorized under section sixty-six hundred eight of this
24 title in clinical practice as part of a course of study approved by the
25 department pursuant to subdivision four of section sixty-six hundred
26 eight-b of this title.

27 § 6608-d. Limited permits. The department shall issue a limited permit
28 to an applicant who meets all requirements for admission to the licens-
29 ing examination. All practice under a limited permit shall be under the
30 direct personal supervision of a licensed dentist. Limited permits shall
31 be for one year and may be renewed at the discretion of the department
32 for one additional year. The fee for each limited permit and for each
33 renewal shall be forty dollars.

34 § 6609. Requirements for a license as a dental hygienist. To qualify
35 for a license as a dental hygienist, an applicant shall fulfill the
36 following requirements:

37 1. Application: file an application with the department;

38 2. Education: have received an education, including high school gradu-
39 ation and completion of a program in dental hygiene, in accordance with
40 the commissioner's regulations;

41 3. Experience: have experience satisfactory to the board and in
42 accordance with the commissioner's regulations;

43 4. Examination: pass an examination satisfactory to the board and in
44 accordance with the commissioner's regulations;

45 5. Age: be at least seventeen years of age;

46 6. Citizenship or immigration status: be a United States citizen or an
47 alien lawfully admitted for permanent residence in the United States;
48 provided, however, that the department may grant a three-year waiver for
49 an alien to practice in an area which has been designated a federal
50 dental health professions shortage area, except that the department may
51 grant an additional extension not to exceed six years to an alien to
52 enable him or her to secure citizenship or permanent resident status,
53 provided such status is being actively pursued;

54 7. Character: be of good moral character as determined by the depart-
55 ment; and

1 8. Fees: pay a fee of one hundred fifteen dollars to the department
2 for admission to a department conducted examination and for an initial
3 license, a fee of fifty dollars for each reexamination, a fee of seventy
4 dollars for an initial license for persons not requiring admission to a
5 department conducted examination, and a fee of fifty dollars for each
6 triennial registration period.

7 § 6609-a. Mandatory continuing education for dental hygienists. 1. a.
8 Each dental hygienist, licensed pursuant to this title and required to
9 register triennially with the department to practice in this state shall
10 comply with the provisions of the mandatory continuing education
11 requirements, except as set forth in paragraphs b and c of this subdivi-
12 sion. Dental hygienists who do not satisfy the mandatory continuing
13 education requirements shall not practice until they have met such
14 requirements and have been issued a registration or conditional regis-
15 tration certificate.

16 b. Dental hygienists shall be exempt from the mandatory continuing
17 education requirement for the triennial registration period during which
18 they are first licensed. In accordance with the intent of this section,
19 adjustments to the mandatory continuing education requirement may be
20 granted by the department for reasons of health, certified by a physi-
21 cian, for extended active duty with the Armed Forces of the United
22 States, or for other good cause acceptable to the department which may
23 prevent compliance.

24 c. A licensed dental hygienist not engaged in the practice of dental
25 hygiene shall be exempt from the mandatory continuing education require-
26 ment upon the filing of a statement with the department declaring such
27 status. Any licensee who returns to the practice of dental hygiene
28 during the triennial registration period shall notify the department
29 prior to reentering the profession and shall meet such mandatory contin-
30 uing education requirements as shall be prescribed by regulation of the
31 commissioner.

32 2. During each triennial registration period an applicant for regis-
33 tration shall complete a minimum of twenty-four hours of acceptable
34 formal continuing education including currently mandated child abuse
35 reporting instruction and infection control training as approved by the
36 department. Of these twenty-four hours a maximum of ten hours may be
37 self-instructional coursework as approved by the department. Any dental
38 hygienist whose first registration date following the effective date of
39 this section occurs less than three years from such effective date, but
40 on or after January first, nineteen hundred ninety-eight, shall complete
41 continuing education hours on a prorated basis at the rate of one and
42 one-quarter hours per month for the period beginning January first,
43 nineteen hundred ninety-seven up to the first registration date there-
44 after. A licensee who has not satisfied the mandatory continuing educa-
45 tion requirements shall not be issued a triennial registration certif-
46 icate by the department and shall not practice unless and until a
47 conditional registration certificate is issued as provided in subdivi-
48 sion three of this section. The individual licensee shall determine the
49 selection of courses or programs of study pursuant to subdivision four
50 of this section.

51 3. The department, in its discretion, may issue a conditional regis-
52 tration to a licensee who fails to meet the continuing education
53 requirements established in subdivision two of this section but who
54 agrees to make up any deficiencies and take any additional education
55 which the department may require. The fee for such a conditional regis-
56 tration shall be the same as, and in addition to, the fee for the trien-

1 nial registration. The duration of such conditional registration shall
2 be determined by the department. Any licensee who is notified of the
3 denial of registration for failure to submit evidence, satisfactory to
4 the department, of completion of required continuing education and who
5 practices dental hygiene without such registration, may be subject to
6 disciplinary proceedings pursuant to section sixty-five hundred ten of
7 this article.

8 4. As used in this section, "acceptable formal continuing education"
9 shall mean formal programs of learning which contribute to professional
10 practice and which meet the standards prescribed by regulations of the
11 commissioner. To fulfill the mandatory continuing education requirement,
12 programs must be taken from sponsors approved by the department, pursu-
13 ant to the regulations of the commissioner.

14 5. The mandatory continuing education fee of thirty dollars shall be
15 payable on or before the first day of each triennial registration peri-
16 od, and shall be paid in addition to the triennial registration fee
17 required by section sixty-six hundred nine of this title.

18 § 6609-b. Limited permit to practice dental hygiene. 1. A limited
19 permit to practice dental hygiene may be granted to an individual who
20 has, to the satisfaction of the department, met all the requirements of
21 section sixty-six hundred nine of this title, but has not yet passed the
22 examination required by subdivision four of such section.

23 2. A limited permit shall authorize the holder to practice dental
24 hygiene as defined in section sixty-six hundred six of this title, but
25 only under the personal supervision of a licensed dentist, as defined in
26 regulations promulgated by the commissioner.

27 3. Limited permits shall be issued for a period of one year and may be
28 renewed at the discretion of the department for one additional year.

29 4. The fee for a limited permit and for each renewal shall be fifty
30 dollars.

31 § 6610. Exempt persons; practice of dental hygiene. Nothing in this
32 title shall be construed to affect or prevent:

33 1. An unlicensed person from performing solely mechanical work upon
34 inert matter in a dental office or on a dental laboratory prescription
35 of a dentist holding a license or limited permit.

36 2. A student from engaging in clinical practice as part of a regis-
37 tered program operated by a school of dentistry under supervision of a
38 dentist holding a license or limited permit for instructing in dentistry
39 in a school of dentistry.

40 3. A student from engaging in any procedure authorized under section
41 sixty-six hundred six of this title in clinical practice as part of a
42 registered program in dental hygiene under supervision of a dentist
43 holding a license or a limited permit for instructing in dentistry in a
44 school of dental hygiene.

45 4. An employee of a federal agency from using the title of and prac-
46 ticing as a dentist or dental hygienist insofar as such activities are
47 required by his salaried position.

48 5. A dentist or a dental hygienist licensed in some other state or
49 country from making a teaching clinical demonstration before a regularly
50 organized dental or medical society or group, or from meeting licensed
51 dentists in this state for consultation, provided such activities are
52 limited to such demonstration or consultation.

53 6. A dentist licensed in another state or country who is employed on a
54 full-time basis by a registered dental school as a faculty member with
55 the rank of assistant professor or higher from conducting research and
56 clinical demonstrations as a part of such employment, under the super-

1 vision of a licensed dentist and on the premises of the school. No fee
2 may be charged for the practice of dentistry authorized by this subdivi-
3 sion.

4 7. A dentist licensed in another state or country who is visiting an
5 approved dental school or any other entity operating a residency program
6 that has been accredited by a national accrediting body approved by the
7 department to receive dental instruction for a period not to exceed
8 ninety days from engaging in clinical practice, provided such practice
9 is limited to such instruction and is under the direct supervision of a
10 licensed dentist.

11 8. Any student matriculated in an accredited dental school located
12 outside New York state from engaging in appropriately supervised clin-
13 ical practice as part of the school's dental program in a teaching
14 hospital which has a teaching affiliation agreement with the student's
15 dental school.

16 § 6611. Special provisions. 1. Except upon the written dental labora-
17 tory prescription of a licensed dentist and except by the use of
18 impressions or casts made by a licensed dentist, no dental laboratory
19 shall furnish, supply, construct, reproduce, place, adjust, or repair
20 any dental prosthesis, device, or appliance. A dental laboratory
21 prescription shall be made out in duplicate. It shall contain such data
22 as may be prescribed by the commissioner's regulations. One copy shall
23 be retained by the practitioner of dentistry for a period of one year.
24 The other copy shall be issued to the person, firm or corporation
25 engaged in filling dental laboratory prescriptions, who or which shall
26 each retain and file in their respective offices or places of business
27 their respective copies for a period of one year.

28 2. The department is empowered to inspect and to have access to all
29 places, including the office or offices of a licensed dentist, where
30 copies of dental laboratory prescriptions issued by him or her are
31 retained as required by this section, and to all places where dental
32 laboratory prescriptions are filled or to any workroom or workrooms in
33 which prosthetic restorations, prosthetic dentures, bridges, orthodontic
34 teeth or tissue or for the correction of malocclusion or deformities are
35 made, repaired or altered, with power to subpoena and examine records of
36 dental laboratory prescriptions. A person who fails to grant access to
37 such places or who fails to maintain prescriptions as required by this
38 section shall be guilty of a class A misdemeanor.

40 3. The department may arrange for the conduct of clinical examinations
41 in the clinic of any school of dentistry or dental hygiene within or
42 outside the state for dental or dental hygiene candidates.

43 4. A not-for-profit dental or medical expense indemnity corporation or
44 hospital service corporation organized under the insurance law or pursu-
45 ant to special legislation may enter into contracts with dentists or
46 partnerships of dentists to provide dental care on its behalf for
47 persons insured under its contracts or policies.

48 5. Legally incorporated dental corporations existing and in operation
49 prior to January first, nineteen hundred sixteen, may continue to oper-
50 ate through licensed dentists while conforming to the provisions of this
51 title. Any such corporation which shall be dissolved or cease to exist
52 or operate for any reason whatsoever shall not be permitted to resume
53 operations. No such corporation shall change its name or sell its fran-
54 chise or transfer its corporate rights directly or indirectly, by trans-
55 fer of capital stock control or otherwise, to any person or to another
56 corporation without permission from the department, and any corporation

1 so changing its name or so transferring its franchise or corporate
2 rights without such permission shall be deemed to have forfeited its
3 rights to exist and may be dissolved by an action brought by the attor-
4 ney general.

5 6. Notwithstanding any inconsistent provision of any general, special
6 or local law, any licensed dentist who voluntarily and without the
7 expectation of monetary compensation renders first aid or emergency
8 treatment at the scene of an accident or other emergency, outside of a
9 hospital or any other place having proper and necessary medical equip-
10 ment, to a person who is unconscious, ill or injured shall not be liable
11 for damages for injuries alleged to have been sustained by such person
12 or for damages for the death of such person alleged to have occurred by
13 reason of an act or omission in the rendering of such first aid or emer-
14 gency treatment unless it is established that such injuries were or such
15 death was caused by gross negligence on the part of such dentist. Noth-
16 ing in this subdivision shall be deemed or construed to relieve a
17 licensed dentist from liability for damages for injuries or death caused
18 by an act or omission on the part of a dentist while rendering profes-
19 sional services in the normal and ordinary course of practice.

20 7. Any dentist or dental hygienist, who in the performance of dental
21 services, x-rays the mouth or teeth of a patient shall during the
22 performance of such x-rays shield the torso and thyroid area of such
23 patient including but not limited to the gonads and other reproductive
24 organs with a lead apron thyroid collar, or other similar protective
25 garment or device. Notwithstanding the provisions of this subdivision,
26 if in the dentist's professional judgment the use of a thyroid collar
27 would be inappropriate under the circumstances, because of the nature of
28 the patient, the type of x-ray being taken, or other factors, the
29 dentist or dental hygienist need not shield the thyroid area.

30 8. An unlicensed person may provide supportive services to a dentist
31 incidental to and concurrent with such dentist personally performing a
32 service or procedure. Nothing in this subdivision shall be construed to
33 allow an unlicensed person to provide any service which constitutes the
34 practice of dentistry or dental hygiene as defined in this title.

35 9. There shall be no monetary liability on the part of, and no cause
36 of action for damages shall arise against, any person, partnership,
37 corporation, firm, society, or other entity on account of the communi-
38 cation of information in the possession of such person or entity, or on
39 account of any recommendation or evaluation, regarding the qualifica-
40 tions, fitness, or professional conduct or practices of a dentist, to
41 any governmental agency, dental or specialists society, or hospital as
42 defined in article twenty-eight of this chapter. The foregoing shall
43 not apply to information which is untrue and communicated with malicious
44 intent.

45 10. Each dentist and registered dental hygienist working for a hospi-
46 tal as defined in article twenty-eight of this chapter who practices in
47 collaboration with a licensed dentist shall become certified in cardiop-
48 ulmonary resuscitation (CPR) from an approved provider and thereafter
49 maintain current certification, which shall be included in the mandatory
50 hours of continuing education acceptable for dentists to the extent
51 provided in the commissioner's regulations. In the event the dentist or
52 registered dental hygienist cannot physically perform CPR, the commis-
53 sioner's regulations shall allow the dentist or registered dental
54 hygienist to make arrangements for another individual in the office to
55 administer CPR. All dental facilities shall have an automatic external
56 defibrillator or other defibrillator at the facility.

1 § 6612. Identification of removable full or partial prosthetic
2 devices. 1. Except as provided herein, every dentist licensed in this
3 state making or directing to be made a removable prosthetic denture,
4 bridge, appliance or other structure to be used and worn as a substitute
5 for natural teeth, shall offer to the patient for whom the prosthesis is
6 intended the opportunity to have such prosthesis marked with the
7 patient's name or initials. Such markings shall be accomplished at the
8 time the prosthesis is made and the location and methods used to apply
9 or implant them shall be determined by the dentist or the person acting
10 on behalf of the dentist. Such marking shall be permanent, legible and
11 cosmetically acceptable.

12 2. Notwithstanding the foregoing, if in the judgment of the dentist or
13 the person making the prosthesis, such identification is not practicable
14 or clinically safe, the identification marks may be omitted entirely.

15 3. The commissioner shall adopt rules and regulations and provide
16 standards necessary to carry out the provisions of this section.

17 § 6613. Nitrous oxide equipment. Any machine used in a dental office
18 for the administration of nitrous oxide to a patient shall be equipped
19 with a scavenging system that appropriately minimizes leakage of nitrous
20 oxide.

21 TITLE 8

22 LICENSED PERFUSIONISTS

23 Section 6630. Definitions.

24 6631. Practice of perfusion and use of title "licensed perfu-
25 sionist".

26 6632. Requirements for licensure as a perfusionist.

27 6633. Special provisions.

28 6634. State committee for perfusion.

29 6635. Limited permits.

30 6636. Exempt persons.

31 § 6630. Definitions. As used in this title: 1. The term "perfusionist"
32 means a person who is licensed to practice perfusion pursuant to this
33 title.

34 2. The term "registered program" means a program for the education of
35 perfusionists which has been registered by the department or determined
36 by the department to be the substantial equivalent.

37 3. a. The term "perfusion" means the provision of extracorporeal or
38 intracorporeal patient care services to support or replace the circula-
39 tory or respiratory function of a patient, including the administration
40 of pharmacological and therapeutic agents, and blood products, and the
41 management, treatment and monitoring of the physiological status of a
42 patient during the operation of extracorporeal circulation equipment or
43 intracorporeal equipment that replaces or support circulatory or respir-
44 atory functions.

45 b. All perfusion services shall be pursuant to the order and direction
46 of a physician. Perfusion services may be performed in a general hospi-
47 tal licensed pursuant to article twenty-eight of this chapter or during
48 the transport of patients or organs supported by extracorporeal or
49 intracorporeal equipment.

50 4. The term "committee" means the state committee for perfusion
51 created by section sixty-six hundred thirty-four of this title.

52 § 6631. Practice of perfusion and use of title "licensed perfusion-
53 ist". Only a person licensed or exempt under this title shall practice
54 perfusion. Only persons licensed as perfusionists may use the title
55 "licensed perfusionist".

1 § 6632. Requirements for licensure as a perfusionist. To qualify for
2 licensure as a "licensed perfusionist", an applicant shall fulfill the
3 following requirements:

4 1. Application: file an application with the department;

5 2. Education:

6 a. has successfully completed a baccalaureate or higher degree in
7 perfusion registered by the department, or the substantial equivalent as
8 determined by the department; or

9 b. has completed a baccalaureate or higher degree and a credit bearing
10 certificate program in perfusion acceptable to the department; or

11 c. until two years from the effective date of this title, has
12 completed a baccalaureate or higher degree and an accredited training
13 program in perfusion acceptable to the department pursuant to regu-
14 lations.

15 3. Examination: has obtained a passing score on an examination accept-
16 able to the department;

17 4. Age: at the time of application is at least twenty-one years of
18 age;

19 5. Character: be of good moral character as determined by the depart-
20 ment; and

21 6. Fee: pay a fee determined by the department for an initial license
22 and for each triennial registration period.

23 § 6633. Special provisions. An individual who meets the requirements
24 for a license as a licensed perfusionist except for examination, experi-
25 ence and education and who meets the requirements enumerated under
26 subdivisions one or two of this section may be licensed without meeting
27 additional requirements provided that such individual submits an appli-
28 cation to the department within two years of the effective date of this
29 section.

30 1. Applicants may be licensed if they have been practicing as a perfu-
31 sionist for five years in the past ten years in an inpatient unit that
32 provides cardiac surgery services in a hospital approved by the depart-
33 ment or a substantially equivalent accrediting body acceptable to the
34 committee and the department at least three of such years of experience
35 having occurred during the past five years.

36 2. Applicants who possess certification from a national certification
37 organization acceptable to the committee and the department may be
38 licensed if they have been employed as a perfusionist for three of the
39 past five years.

40 § 6634. State committee for perfusion. 1. A state committee for perfu-
41 sion shall be appointed by the department upon the recommendation of the
42 commissioner as a committee of the board for medicine to advise solely
43 in matters relating to perfusion and shall assist on matters of licen-
44 sure and professional conduct.

45 2. The committee shall consist of no fewer than eight individuals, to
46 be composed of a minimum of the following:

47 a. four licensed perfusionists;

48 b. two licensed physicians; and

49 c. two representatives of the public at large.

50 § 6635. Limited permits. 1. Eligibility. A person who fulfills all
51 requirements for licensure as a perfusionist except that relating to the
52 examination shall be eligible for a limited permit.

53 2. Limit of practice. A permittee shall be authorized to practice as a
54 perfusionist only under the supervision of a licensed perfusionist and
55 pursuant to the order and direction of a physician.

1 3. Duration. A limited permit shall expire one year from the date of
2 issuance. A limited permit may be extended for one additional year for
3 good cause as determined by the department.

4 4. Fees. The fee for each limited permit shall be one hundred five
5 dollars.

6 § 6636. Exempt persons. This title shall not prohibit:

7 1. The practice of perfusion by any student who is engaged in clinical
8 training in a general hospital licensed pursuant to article twenty-eight
9 of this chapter or during the transport of patients or organs supported
10 by extracorporeal or intracorporeal equipment and who is enrolled in a
11 perfusion program approved by the department, provided such practice is
12 limited to such clinical training which shall be carried out under the
13 direct supervision of a licensed perfusionist and pursuant to the order
14 and direction of a physician; or

15 2. The performance of any of the tasks or responsibilities included in
16 the definition of perfusion by any other person licensed under this
17 article, provided that such tasks or responsibilities are authorized by
18 the title governing the profession pursuant to which said person is
19 licensed; or

20 3. The practice of perfusion by any legally qualified perfusionist of
21 any other state or territory who is serving in the armed forces or the
22 public health service of the United States or who is employed by the
23 veterans administration, while engaged in the performance of his or her
24 duties.

25 TITLE 9

26 PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS

27 Section 6730. Introduction.

28 6731. Definition of physical therapy.

29 6732. Practice of physical therapy and the use of title "phys-
30 ical therapist".

31 6733. State board for physical therapy.

32 6734. Requirements for a professional license.

33 6735. Limited permits; physical therapist.

34 6736. Exempt persons.

35 6737. Non-liability of licensed physical therapists for first
36 aid or emergency treatment.

37 6738. Definition of physical therapist assistant.

38 6739. Duties of physical therapist assistants and the use of
39 title "physical therapist assistant".

40 6740. Requirements for certification as a physical therapist
41 assistant.

42 6741. Exemption.

43 6741-a. Limited permits; physical therapist assistant.

44 6742. Special provisions.

45 6742-a. Mandatory continuing education.

46 6743. Validity of existing licenses.

47 § 6730. Introduction. This title applies to the profession of physical
48 therapy and provides for the licensing of physical therapists and for
49 the certification of physical therapist assistants. The general
50 provisions for all professions contained in title one of this article
51 apply to this title.

52 § 6731. Definition of physical therapy. Physical therapy is defined
53 as:

54 1. The evaluation, treatment or prevention of disability, injury,
55 disease, or other condition of health using physical, chemical, and

1 mechanical means including, but not limited to heat, cold, light, air,
2 water, sound, electricity, massage, mobilization, and therapeutic exer-
3 cise with or without assistive devices, and the performance and inter-
4 pretation of tests and measurements to assess pathophysiological, patho-
5 mechanical, and developmental deficits of human systems to determine
6 treatment, and assist in diagnosis and prognosis.

7 2. The use of roentgen rays or radium, or the use of electricity for
8 surgical purposes such as cauterization shall not be included in the
9 practice of physical therapy.

10 3. Such treatment shall be rendered pursuant to a referral which may
11 be directive as to treatment by a licensed physician, dentist, podia-
12 trist, nurse practitioner or licensed midwife, each acting within his or
13 her lawful scope of practice, and in accordance with their diagnosis,
14 except as provided in subdivision four of this section.

15 4. Such treatment may be rendered by a licensed physical therapist for
16 ten visits or thirty days, whichever shall occur first, without a refer-
17 ral from a physician, dentist, podiatrist, nurse practitioner or
18 licensed midwife provided that:

19 a. The licensed physical therapist has practiced physical therapy on a
20 full-time basis equivalent to not less than three years.

21 b. Each physical therapist licensed pursuant to this title shall
22 provide written notice to each patient receiving treatment absent a
23 referral from a physician, dentist, podiatrist, nurse practitioner or
24 licensed midwife that physical therapy may not be covered by the
25 patient's health care plan or insurer without such a referral and that
26 such treatment may be a covered expense if rendered pursuant to a refer-
27 ral. The physical therapist shall keep on file with the patient's
28 records a form attesting to the patient's notice of such advice. Such
29 form shall be in duplicate, with one copy to be retained by the patient,
30 signed and dated by both the physical therapist and the patient in such
31 form as prescribed pursuant to regulations promulgated by the commis-
32 sioner.

33 § 6732. Practice of physical therapy and the use of title "physical
34 therapist". Only a person licensed or otherwise authorized under this
35 title shall practice physical therapy or use the title "physical thera-
36 pist", "physiotherapist" or "mechanotherapist" or the abbreviation of
37 "P.T." in connection with his or her name or with any trade name in the
38 conduct of his or her profession. Only a person licensed or otherwise
39 authorized under this title to practice physical therapy, and who has
40 obtained a doctorate in physical therapy may use the title "doctor of
41 physical therapy" or abbreviation "D.P.T." in connection with his or her
42 name or with any trade name to indicate or imply that the person is
43 licensed or otherwise authorized to practice physical therapy.

44 § 6733. State board for physical therapy. A state board for physical
45 therapy shall be appointed by the department on recommendation of the
46 commissioner for the purpose of assisting the department on matters of
47 professional licensing and professional conduct in accordance with
48 section sixty-five hundred eight of this article. The board shall be
49 composed of not less than eight licensed physical therapists and not
50 less than one public representative. An executive secretary to the board
51 shall be appointed by the department on recommendation of the commis-
52 sioner.

53 § 6734. Requirements for a professional license. To qualify for a
54 license as a physical therapist, an applicant shall fulfill the follow-
55 ing requirements:

56 1. Application: file an application with the department;

1 2. Education: have received an education, including completion of a
2 master's degree or higher in physical therapy or determined to be equiv-
3 alent, in accordance with the commissioner's regulations;

4 3. Experience: have experience satisfactory to the board in accordance
5 with the commissioner's regulations;

6 4. Examination: pass an examination satisfactory to the board and in
7 accordance with the commissioner's regulations;

8 5. Age: be at least twenty-one years of age;

9 6. Character: be of good moral character as determined by the depart-
10 ment; and

11 7. Fees: pay a fee of one hundred seventy-five dollars to the depart-
12 ment for admission to a department conducted examination and for an
13 initial license; a fee of eighty-five dollars for each reexamination; a
14 fee of one hundred fifteen dollars for an initial license for persons
15 not requiring admission to a department conducted examination; and a fee
16 of one hundred fifty-five dollars for each triennial registration peri-
17 od.

18 § 6735. Limited permits; physical therapist. 1. The department shall
19 issue a limited permit to an applicant who meets all requirements for
20 admission to the licensing examination.

21 2. All practice under a limited permit shall be under the supervision
22 of a licensed physical therapist in a public hospital, an incorporated
23 hospital or clinic, a licensed proprietary hospital, a licensed nursing
24 home, a public health agency, a recognized public or non-public school
25 setting, the office of a licensed physical therapist, or in the civil
26 service of the state or political subdivision thereof.

27 3. Limited permits shall be for six months and the department may for
28 justifiable cause renew a limited permit provided that no applicant
29 shall practice under any limited permit for more than a total of one
30 year.

31 4. Supervision of a permittee by a licensed physical therapist shall
32 be on-site supervision and not necessarily direct personal supervision
33 except that such supervision need not be on-site when the supervising
34 physical therapist has determined, through evaluation, the setting of
35 goals and the establishment of a treatment plan, that the program is one
36 of maintenance as defined pursuant to title XVIII of the federal social
37 security act.

38 5. The fee for each limited permit and for each renewal shall be
39 seventy dollars.

40 § 6736. Exempt persons. 1. This title shall not be construed to affect
41 or prevent the administration of physical therapy or the use of modali-
42 ties by a person employed by a licensed physician or physical therapist
43 in his or her office, or in the civil service of the state or any poli-
44 tical subdivision thereof, or in a hospital or clinic, or in an infir-
45 mary maintained by a person, firm or corporation employing one or more
46 full-time licensed physicians or physical therapists, provided that such
47 person was so employed for a period of at least two years prior to April
48 tenth, nineteen hundred fifty, and has been issued a written authori-
49 zation by the department.

50 2. This title shall not be construed to affect or prevent:

51 a. a physical therapy student from engaging in clinical practice under
52 the supervision of a licensed physical therapist as part of a program
53 conducted in an approved school of physical therapy or in a clinical
54 facility or health care agency affiliated with the school of physical
55 therapy and supervision of a physical therapy student by a licensed

1 physical therapist shall be on-site supervision and not necessarily
2 direct personal supervision;

3 b. a physical therapist graduate of an approved program from engaging
4 in clinical practice under the on-site, but not necessarily direct
5 personal supervision of a licensed physical therapist provided the grad-
6 uate has: (i) applied and paid a fee for the licensing and examination,
7 (ii) applied and paid a fee for the temporary permit. This exemption
8 shall not extend beyond ninety days after graduation;

9 c. a physical therapist licensed in another state or country from
10 conducting a teaching clinical demonstration in connection with a
11 program of basic clinical education, graduate education, or post-gradu-
12 ate education in an approved school of physical therapy or in its affil-
13 iated clinical facility or health care agency, or before a group of
14 licensed physical therapists who are members of a professional society;

15 d. a physical therapist who is serving in the armed forces or the
16 public health service of the United States or is employed by the veter-
17 ans administration from practicing the profession of physical therapy,
18 provided such practice is limited to such service or employment.

19 § 6737. Non-liability of licensed physical therapists for first aid or
20 emergency treatment. Notwithstanding any inconsistent provision of any
21 general, special or local law, any licensed physical therapist who
22 voluntarily and without the expectation of monetary compensation renders
23 first aid or emergency treatment at the scene of an accident or other
24 emergency, outside a hospital, doctor's office or any other place having
25 proper and necessary physical therapy equipment, to a person who is
26 unconscious, ill or injured, shall not be liable for damages for inju-
27 ries alleged to have been sustained by such person or for damages for
28 the death of such person alleged to have occurred by reason of an act or
29 omission in the rendering of such first aid or emergency treatment
30 unless it is established that such injuries were or such death was
31 caused by gross negligence on the part of such physical therapist. Noth-
32 ing in this section shall be deemed or construed to relieve a licensed
33 physical therapist from liability for damages for injuries or death
34 caused by an act or omission on the part of a physical therapist while
35 rendering professional services in the normal and ordinary course of his
36 or her practice.

37 § 6738. Definition of physical therapist assistant. 1. A "physical
38 therapist assistant" means a person certified in accordance with this
39 title who works under the supervision of a licensed physical therapist
40 performing such patient related activities as are assigned by the super-
41 vising physical therapist. Duties of physical therapist assistants shall
42 not include evaluation, testing, interpretation, planning or modifica-
43 tion of patient programs. Supervision of a physical therapist assistant
44 by a licensed physical therapist shall be on-site supervision, but not
45 necessarily direct personal supervision. The number of physical thera-
46 pist assistants supervised by one licensed physical therapist shall not
47 exceed the ratio of four physical therapist assistants to one licensed
48 physical therapist as shall be determined by the commissioner's regu-
49 lations insuring that there be adequate supervision in the best interest
50 of public health and safety. Nothing in this section shall prohibit a
51 hospital from employing physical therapist assistants, provided they
52 work under the supervision of physical therapists designated by the
53 hospital and not beyond the scope of practice of a physical therapist
54 assistant. The numerical limitation of this section shall not apply to
55 work performed in a hospital, provided that there be adequate super-
56 vision in the best interest of public health and safety.

1 2. Notwithstanding the provisions of subdivision one of this section,
2 supervision of a physical therapist assistant by a licensed physical
3 therapist, a. in a residential health care facility, as defined in arti-
4 cle twenty-eight of this chapter, b. in a diagnostic and treatment
5 center licensed under article twenty-eight of this chapter that
6 provides, as its principal mission, services to individuals with devel-
7 opmental disabilities, c. in a facility, as defined in section 1.03 of
8 the mental hygiene law, or d. under a monitored program of the office
9 for people with developmental disabilities as defined in subdivision (a)
10 of section 13.15 of the mental hygiene law, shall be continuous but not
11 necessarily on site when the supervising physical therapist has deter-
12 mined, through evaluation, the setting of goals and the establishment of
13 a treatment plan, that the program is one of maintenance as defined
14 pursuant to title XVIII of the federal social security act. The
15 provisions of this subdivision shall not apply to the provision of phys-
16 ical therapy services when the condition requires multiple adjustments
17 of sequences and procedures due to rapidly changing physiological status
18 and/or response to treatment, or to children under five years of age.

19 3. For the purposes of the provision of physical therapist assistant
20 services in a home care services setting, as such services are defined
21 in article thirty-six of this chapter, except that the home care
22 services setting shall not include early intervention services as
23 defined in title two-A of article twenty-five of this chapter, whether
24 such services are provided by a home care services agency or under the
25 supervision of a physical therapist licensed pursuant to this title,
26 continuous supervision of a physical therapist assistant, who has had
27 direct clinical experience for a period of not less than two years, by a
28 licensed physical therapist shall not be construed as requiring the
29 physical presence of such licensed physical therapist at the time and
30 place where such services are performed. For purposes of this subdivi-
31 sion "continuous supervision" shall be deemed to include: a. the
32 licensed physical therapist's setting of goals, establishing a plan of
33 care and determining whether the patient is appropriate to receive the
34 services of a physical therapist assistant subject to the licensed phys-
35 ical therapist's evaluation; b. an initial joint visit with the patient
36 by the supervising licensed physical therapist and the physical thera-
37 pist assistant; c. periodic treatment and evaluation of the patient by
38 the supervising licensed physical therapist, as indicated in the plan of
39 care and as determined in accordance with patient need, but in no
40 instance shall the interval between such treatment exceed every six
41 patient visits or thirty days, whichever occurs first; and d. a final
42 evaluation by the supervising licensed physical therapist to determine
43 if the plan of care shall be terminated. For purposes of this subdivi-
44 sion, the number of physical therapist assistants supervised in the home
45 care services setting by a licensed physical therapist shall not exceed
46 the ratio of two physical therapist assistants to one licensed physical
47 therapist.

48 4. a. For purposes of the provision of physical therapist assistant
49 services in public primary or private primary or secondary schools and
50 for preschool children, as that term is defined in paragraph i of subdivi-
51 sion one of section forty-four hundred ten of the education law, and
52 receiving services thereunder, continuous supervision of a physical
53 therapist assistant, who has direct clinical experience providing age
54 appropriate physical therapy services for a period of not less than two
55 years, by a licensed physical therapist shall not be construed as
56 requiring the physical presence of such licensed physical therapist at

1 the time and place where such services are performed. For purposes of
2 this subdivision "continuous supervision" shall be deemed to include:

3 (i) the licensed physical therapist's setting of the goals, establish-
4 ing a plan of care, determining on an initial and ongoing basis whether
5 the patient is appropriate to receive the services of a physical thera-
6 pist assistant, determining the frequency of joint visits with the
7 patient by both the supervising licensed physical therapist and the
8 physical therapist assistant, except that in no instance shall the
9 interval between joint visits, be more than every ninety calendar days,
10 subject to the licensed physical therapist's evaluation;

11 (ii) an initial joint visit with the patient by the supervising
12 licensed physical therapist and physical therapist assistant;

13 (iii) periodic treatment and evaluation of the patient by the super-
14 vising licensed physical therapist as indicated in the plan of care and
15 as determined in accordance with patient need, except that in no
16 instance shall the interval between such treatment exceed every twelfth
17 visit or thirty days, whichever occurs first; and

18 (iv) notification of the supervising licensed physical therapist by
19 the physical therapist assistant whenever there is a change in status,
20 condition or performance of the patient.

21 b. This subdivision shall not apply to the provision of physical ther-
22 apy services when a child's condition requires multiple adjustments of
23 sequences and procedures due to rapidly changing physiologic status
24 and/or response to treatment.

25 § 6739. Duties of physical therapist assistants and the use of title
26 "physical therapist assistant". Only a person certified or otherwise
27 authorized under this title shall participate in the practice of phys-
28 ical therapy as a physical therapist assistant and only a person certi-
29 fied under this section shall use the title "physical therapist assist-
30 ant".

31 § 6740. Requirements for certification as a physical therapist assist-
32 ant. 1. Application: file an application with the department;

33 2. Education: have received an education including completion of a
34 two-year college program in a physical therapist assistant program or
35 equivalent in accordance with the commissioner's regulations;

36 3. Experience: have experience satisfactory to the state board for
37 physical therapy in accordance with the commissioner's regulations;

38 4. Examination: pass an examination satisfactory to the board and in
39 accordance with the commissioner's regulations;

40 5. Age: be at least eighteen years of age;

41 6. Character: be of good moral character as determined by the depart-
42 ment;

43 7. Registration: all certified physical therapist assistants shall
44 register triennially with the department in accordance with the regu-
45 lations of the commissioner; and

46 8. Fees: pay a fee for an initial certificate of forty-five dollars,
47 and for the biennial registration period ending December thirty-first,
48 nineteen hundred eighty-two a fee of twenty dollars and a fee of fifty
49 dollars for each triennial registration period.

50 § 6741. Exemption. 1. This title shall not be construed to affect or
51 prevent a physical therapist assistant student from engaging in clinical
52 assisting under the supervision of a licensed physical therapist as part
53 of a program conducted in an approved program for physical therapist
54 assistants or in a clinical facility or health care agency affiliated
55 with the program for physical therapist assistants.

1 2. Supervision of a physical therapist assistant student by a licensed
2 physical therapist shall be on-site supervision and not necessarily
3 direct personal supervision.

4 3. Nothing in this title is intended to affect the overall medical
5 direction by a licensed physician of a physical therapist assistant.

6 § 6741-a. Limited permits; physical therapist assistant. 1. The
7 department shall issue a limited permit to an applicant who meets all
8 requirements for admission to the certification examination.

9 2. All practice under a limited permit shall be under the supervision
10 of a licensed physical therapist in a public hospital, an incorporated
11 hospital or clinic, a licensed proprietary hospital, a licensed nursing
12 home, a public health agency, a recognized public or non-public school
13 setting, the office of a licensed physical therapist, or in the civil
14 service of the state or political subdivision thereof.

15 3. Limited permits shall be for six months and the department may for
16 justifiable cause renew a limited permit provided that no applicant
17 shall practice under any limited permit for more than a total of one
18 year.

19 4. Supervision of a permittee by a licensed physical therapist shall
20 be on-site supervision and not necessarily direct personal supervision.

21 5. The fee for each limited permit and for each renewal shall be fifty
22 dollars.

23 § 6742. Special provisions. 1. Any person who is employed as a phys-
24 ical therapist assistant in a facility satisfactory to the state board
25 for a period of not less than two years prior to the effective date of
26 this title and who does not qualify for certification under subdivision
27 two of section sixty-seven hundred forty of this title may be certified
28 as a physical therapist assistant upon successful completion of an exam-
29 ination approved by the state board of physical therapy in accordance
30 with the commissioner's regulations.

31 2. Application for examination for certification pursuant to this
32 section must be submitted not later than January first, nineteen hundred
33 eighty-five. The department shall provide a total of three such exam-
34 inations. The third examination shall be given not later than April
35 first, nineteen hundred eighty-five. The fee for examination or reexam-
36 ination shall be twenty-five dollars for each examination. Any person
37 who qualifies for admission to an examination pursuant to this section
38 may practice as a physical therapist assistant in the course of his or
39 her employment in a facility satisfactory to the state board until thir-
40 ty days after notification of failure to qualify pursuant to this
41 section.

42 3. Any person who was employed as a physical therapist assistant for
43 at least two years prior to April first, nineteen hundred eighty-one,
44 and who had attained permanent civil service status as a physical thera-
45 pist assistant prior to that date, shall be issued written authorization
46 from the department to continue working in that capacity without exam-
47 ination. This authorization shall remain in effect until the person
48 leaves the position in which the civil service status had been granted.

49 § 6742-a. Mandatory continuing education. 1. a. Each licensed physical
50 therapist and certified physical therapist assistant required under this
51 title to register triennially with the department to practice in the
52 state shall comply with the provisions of the mandatory continuing
53 education requirements prescribed in subdivision two of this section
54 except as set forth in paragraphs b and c of this subdivision. Licensed
55 physical therapist and certified physical therapist assistants who do
56 not satisfy the mandatory continuing education requirements shall not

1 practice until they have met such requirements, and they have been
2 issued a registration certificate, except that a licensed physical ther-
3 apist or certified physical therapist assistant may practice without
4 having met such requirements if he or she is issued a conditional regis-
5 tration certificate pursuant to subdivision three of this section.

6 b. Each licensed physical therapist and certified physical therapist
7 assistant shall be exempt from the mandatory continuing education
8 requirement for the triennial registration period during which they are
9 first licensed. In accordance with the intent of this section, adjust-
10 ment to the mandatory continuing education requirement may be granted by
11 the department for reasons of health certified by an appropriate health
12 care professional, for extended active duty with the armed forces of the
13 United States, or for other good cause acceptable to the department
14 which may prevent compliance.

15 c. A licensed physical therapist and certified physical therapist
16 assistant not engaged in practice, as determined by the department,
17 shall be exempt from the mandatory continuing education requirement upon
18 the filing of a statement with the department declaring such status. Any
19 licensee who returns to the practice of physical therapy during the
20 triennial registration period shall notify the department prior to reen-
21 tering the profession and shall meet such mandatory education require-
22 ments as shall be prescribed by regulations of the commissioner.

23 2. During each triennial registration period an applicant for regis-
24 tration as a licensed physical therapist or certified physical therapist
25 assistant shall complete a minimum of thirty-six hours of acceptable
26 formal continuing education, as specified in subdivision four of this
27 section. Any licensed physical therapist or certified physical therapist
28 assistant whose first registration date following the effective date of
29 this section occurs less than three years from such effective date, but
30 on or after January first, two thousand ten, shall complete continuing
31 education hours on a prorated basis at the rate of one-half hour per
32 month for the period beginning January first, two thousand ten up to the
33 first registration date thereafter. A licensee who has not satisfied the
34 mandatory continuing education requirements shall not be issued a trien-
35 nal registration certificate by the department and shall not practice
36 unless and until a conditional registration certificate is issued as
37 provided for in subdivision three of this section. Continuing education
38 hours taken during one triennium may not be transferred to a subsequent
39 triennium.

40 3. The department, in its discretion, may issue a conditional regis-
41 tration to a licensee who fails to meet the continuing education
42 requirements established in subdivision two of this section but who
43 agrees to make up any deficiencies and complete any additional education
44 which the department may require. The fee for such a conditional regis-
45 tration shall be the same as, and in addition to, the fee for the trien-
46 nal registration. The duration of such conditional registration shall
47 be determined by the department but shall not exceed one year. Any
48 licensee who is notified of the denial of registration for failure to
49 submit evidence, satisfactory to the department, of required continuing
50 education and who practices without such registration may be subject to
51 disciplinary proceedings pursuant to section sixty-five hundred ten of
52 this article.

53 4. As used in subdivision two of this section, "acceptable formal
54 education" shall mean formal courses of learning which contribute to
55 professional practice in physical therapy and which meet the standards
56 prescribed by regulations of the commissioner. Such formal courses of

learning shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Courses must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Licensed physical therapist or certified physical therapist assistant shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-seven hundred thirty-four of this title.

§ 6743. Validity of existing licenses. This title shall not be construed to affect the validity of existing licenses and permits or the continuation of any administrative actions or proceedings commenced prior to the effective date of this title.

TITLE 10

PHARMACY

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3 6825. Proof required in prosecution for certain violations.

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7 6828. Certificates of administration.

8 6829. Interpretation and translation requirements for
9 prescription drugs and standardized medication label-
10 ing.

11 6830. Standardized patient-centered data elements.

12 6831. Special provisions relating to outsourcing facilities.

13 6832. Limitations on assistance of an unlicensed person.

14 § 6800. Introduction. This title applies to the profession of pharma-
15 cy. The general provisions for all professions contained in title one of
16 this article apply to this title.

17 § 6801. Definition of practice of pharmacy. 1. The practice of the
18 profession of pharmacy is defined as the administering, preparing,
19 compounding, preserving, or the dispensing of drugs, medicines and ther-
20 apeutic devices on the basis of prescriptions or other legal authority,
21 and collaborative drug therapy management in accordance with the
22 provisions of section sixty-eight hundred one-a of this title.

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

28 a. report such administration by electronic transmission or facsimile
29 to the patient's attending primary health care practitioner or practi-
30 tioners, if any, and, to the extent practicable, make himself or herself
31 available to discuss the outcome of such immunization, including any
32 adverse reactions, with the attending primary health care practitioner,
33 and to the statewide immunization registry or the citywide immunization
34 registry, as established pursuant to and to the extent permitted by
35 section twenty-one hundred sixty-eight of this chapter; and

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

39 c. report such administration, absent of any individually identifiable
40 health information, to the department in a manner required by the
41 commissioner; and

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

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

55 3. No pharmacist shall administer immunizing agents without receiving
56 training satisfactory to the commissioner which shall include, but not

1 be limited to, techniques for screening individuals and obtaining
2 informed consent; techniques of administration; indications, precautions
3 and contraindications in the use of agent or agents; record keeping of
4 immunization and information; and handling emergencies, including
5 anaphylaxis and needlesticks.

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

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

12 b. education materials on influenza vaccinations for children as
13 determined by the commissioner.

14 5. A licensed pharmacist may execute a non-patient specific order, for
15 dispensing up to a seven-day starter pack of HIV post-exposure prophy-
16 laxis medications for the purpose of preventing human immunodeficiency
17 virus infection, by a physician licensed in this state or nurse practi-
18 tioner certified in this state, pursuant to rules and regulations
19 promulgated by the commissioner following a potential human immunodefi-
20 ciency virus exposure.

21 6. A licensed pharmacist may execute a non-patient-specific regimen of
22 insulin and related supplies to an individual who has a valid
23 prescription for insulin and related supplies which has since expired
24 within the last twelve months. The valid prescription must have been
25 prescribed or ordered by a physician licensed in this state or nurse
26 practitioner certified in this state. Execution of a non-patient-specif-
27 ic regimen shall be on an emergency basis provided the pharmacist:

28 a. first attempts to obtain an authorization from the prescriber of
29 the patient-specific prescription and cannot obtain the authorization,
30 and the prescriber does not object to dispensing to the patient under
31 the non-patient-specific regimen;

32 b. provides a refill of the patient-specific prescription and the
33 quantity of that refill is in conformity with the directions for use
34 under the patient-specific prescription, but limited to an amount not to
35 exceed a thirty-day emergency supply; and

36 c. notifies, within seventy-two hours of dispensing the refill or
37 refills, the prescriber of the patient-specific prescription whose
38 authorization could not be obtained, that an emergency prescription of
39 insulin has been dispensed.

40 § 6801-a. Collaborative drug therapy management demonstration program.

41 1. As used in this section, the following terms shall have the following
42 meanings:

43 a. "Board" shall mean the state board of pharmacy as established by
44 section sixty-eight hundred four of this title.

45 b. "Clinical services" shall mean the collection and interpretation of
46 patient data for the purpose of initiating, modifying and monitoring
47 drug therapy with associated accountability and responsibility for
48 outcomes in a direct patient care setting.

49 c. "Collaborative drug therapy management" shall mean the performance
50 of clinical services by a pharmacist relating to the review, evaluation
51 and management of drug therapy to a patient, who is being treated by a
52 physician for a specific disease or associated disease states, in
53 accordance with a written agreement or protocol with a voluntarily
54 participating physician and in accordance with the policies, procedures,
55 and protocols of the facility. Such agreement or protocol as entered

1 into by the physician and a pharmacist, may include, and shall be limit-
2 ed to:

3 (i) adjusting or managing a drug regimen of a patient, pursuant to a
4 patient specific order or protocol made by the patient's physician,
5 which may include adjusting drug strength, frequency of administration
6 or route of administration. Adjusting the drug regimen shall not
7 include substituting or selecting a different drug which differs from
8 that initially prescribed by the patient's physician unless such substi-
9 tution is expressly authorized in the written order or protocol. The
10 pharmacist shall be required to immediately document in the patient
11 record changes made to the patient's drug therapy and shall use any
12 reasonable means or method established by the facility to notify the
13 patient's other treating physicians with whom he or she does not have a
14 written agreement or protocol regarding such changes. The patient's
15 physician may prohibit, by written instruction, any adjustment or change
16 in the patient's drug regimen by the pharmacist;

17 (ii) evaluating and, only if specifically authorized by the protocol
18 and only to the extent necessary to discharge the responsibilities set
19 forth in this section, ordering disease state laboratory tests related
20 to the drug therapy management for the specific disease or disease state
21 specified within the written agreement or protocol; and

22 (iii) only if specifically authorized by the written agreement or
23 protocol and only to the extent necessary to discharge the responsibil-
24 ities set forth in this section, ordering or performing routine patient
25 monitoring functions as may be necessary in the drug therapy management,
26 including the collecting and reviewing of patient histories, and order-
27 ing or checking patient vital signs, including pulse, temperature, blood
28 pressure and respiration.

29 d. "Facility" shall mean: (i) a teaching hospital or general hospital,
30 including any diagnostic center, treatment center, or hospital-based
31 outpatient department as defined in section twenty-eight hundred one of
32 this chapter; or (ii) a nursing home with an on-site pharmacy staffed by
33 a licensed pharmacist; provided, however, for the purposes of this
34 section the term "facility" shall not include dental clinics, dental
35 dispensaries, residential health care facilities and rehabilitation
36 centers. For the purposes of this section, a "teaching hospital" shall
37 mean a hospital licensed pursuant to article twenty-eight of this chap-
38 ter that is eligible to receive direct or indirect graduate medical
39 education payments pursuant to article twenty-eight of this chapter.

40 e. "Physician" shall mean the physician selected by or assigned to a
41 patient, who has primary responsibility for the treatment and care of
42 the patient for the disease and associated disease states that are the
43 subject of the collaborative drug therapy management.

44 f. "Written agreement or protocol" shall mean a written document,
45 pursuant to and consistent with any applicable state or federal require-
46 ments, that addresses a specific disease or associated disease states
47 and that describes the nature and scope of collaborative drug therapy
48 management to be undertaken by the pharmacists, in collaboration with
49 the participating physician in accordance with the provisions of this
50 section.

51 2. a. A pharmacist who meets the experience requirements of paragraph
52 b of this subdivision and who is employed by or otherwise affiliated
53 with a facility shall be permitted to enter into a written agreement or
54 protocol with a physician authorizing collaborative drug therapy manage-
55 ment, subject to the limitations set forth in this section, within the
56 scope of such employment or affiliation.

b. A participating pharmacist must:

(i) (A) have been awarded either a master of science in clinical pharmacy or a doctor of pharmacy degree;

(B) maintain a current unrestricted license; and

(C) have a minimum of two years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; or

(ii) (A) have been awarded a bachelor of science in pharmacy;

(B) maintain a current unrestricted license; and

(C) within the last seven years, have a minimum of three years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; and

(iii) meet any additional education, experience, or other requirements set forth by the department in consultation with the board.

c. Notwithstanding any provision of law, nothing in this section shall prohibit a licensed pharmacist from engaging in clinical services associated with collaborative drug therapy management, in order to gain experience necessary to qualify under clause (C) of subparagraph (i) or (ii) of paragraph b of this subdivision, provided that such practice is under the supervision of a pharmacist that currently meets the referenced requirement, and that such practice is authorized under the written agreement or protocol with the physician.

d. Notwithstanding any provision of this section, nothing herein shall authorize the pharmacist to diagnose disease. In the event that a treating physician may disagree with the exercise of professional judgment by a pharmacist, the judgment of the treating physician shall prevail.

3. The physician who is a party to a written agreement or protocol authorizing collaborative drug therapy management shall be employed by or otherwise affiliated with the same facility with which the pharmacist is also employed or affiliated.

4. The existence of a written agreement or protocol on collaborative drug therapy management and the patient's right to choose to not participate in collaborative drug therapy management shall be disclosed to any patient who is eligible to receive collaborative drug therapy management. Collaborative drug therapy management shall not be utilized unless the patient or the patient's authorized representative consents, in writing, to such management. If the patient or the patient's authorized representative consents, it shall be noted on the patient's medical record. If the patient or the patient's authorized representative who consented to collaborative drug therapy management chooses to no longer participate in such management, at any time, it shall be noted on the patient's medical record. In addition, the existence of the written agreement or protocol and the patient's consent to such management shall be disclosed to the patient's primary physician and any other treating physician or healthcare provider.

5. Participation in a written agreement or protocol authorizing collaborative drug therapy management shall be voluntary, and no patient, physician, pharmacist, or facility shall be required to participate.

6. Nothing in this section shall be deemed to limit the scope of practice of pharmacy nor be deemed to limit the authority of pharmacists and physicians to engage in medication management prior to the effective date of this section and to the extent authorized by law.

1 § 6802. Definitions. 1. "Pharmacy" means any place in which drugs,
2 prescriptions or poisons are possessed for the purpose of compounding,
3 preserving, dispensing or retailing, or in which drugs, prescriptions or
4 poisons are compounded, preserved, dispensed or retailed, or in which
5 such drugs, prescriptions or poisons are by advertising or otherwise
6 offered for sale at retail.

7 3. "Formulary" means the latest edition of the official national
8 formulary, and its supplement.

9 4. "Pharmacopeia", when not otherwise limited, means the latest
10 edition of the official United States pharmacopeia, and its supplement.

11 5. "Homeopathic pharmacopeia" means the official homeopathic pharma-
12 copeia of the United States, and its supplement.

13 6. "Official compendium" means the official United States pharmacop-
14 eia, official homeopathic pharmacopeia of the United States, official
15 national formulary, or their supplements.

16 7. "Drugs" means:

17 a. Articles recognized in the official United States pharmacopeia,
18 official homeopathic pharmacopeia of the United States, or official
19 national formulary.

20 b. Articles intended for use in the diagnosis, cure, mitigation,
21 treatment or prevention of disease in man or animals.

22 c. Articles (other than food) intended to affect the structure or any
23 function of the body of man or animals.

24 d. Articles intended for use as a component of any article specified
25 in paragraph a, b, or c of this subdivision; but does not include
26 devices or their components, parts or accessories.

27 8. "Cosmetics" means:

28 a. Articles intended to be rubbed, poured, sprinkled or sprayed on,
29 introduced into or otherwise applied to the human body for cleansing,
30 beautifying, promoting attractiveness, or altering the appearance.

31 b. Articles intended for use as a component of any such articles;
32 except that the term shall not include soap.

33 9. "Poison", where not otherwise limited, means any drug, chemical or
34 preparation likely to be destructive to adult human life in quantity of
35 sixty grains or less.

36 10. "Label" means a display of written, printed or pictorial matter
37 upon the immediate container of any drug, device or cosmetic. Any
38 requirement made by or under authority of this title, that any word,
39 statement, or other information appear on the label shall not be consid-
40 ered to be complied with unless such word, statement or other informa-
41 tion also appears on the outside container or wrapper, if there be any,
42 of the retail package of such drug, device or cosmetic or is easily
43 legible through the outside container or wrapper.

44 11. "Immediate container" does not include package liners.

45 12. "Labeling" means all labels and other written, printed or pictori-
46 al matter:

47 a. Upon any drug, device or cosmetic or any of its containers or wrap-
48 pers, or

49 b. Accompanying such drug, device or cosmetic.

50 13. "Misbranding". If a drug, device or cosmetic is alleged to be
51 misbranded because the labeling is misleading, or if an advertisement is
52 alleged to be false because it is misleading then in determining whether
53 the labeling or advertisement is misleading there shall be taken into
54 account (among other things) not only representations made or suggested
55 by statement, word, design, device, sound or any combination thereof,
56 but also the extent to which the labeling fails to reveal facts material

1 in the light of such representations or material with respect to conse-
2 quences which may result from the use of the drug, device, or cosmetic
3 to which the labeling or advertising relates under the conditions of use
4 prescribed in the labeling or advertising thereof or under such condi-
5 tions of use as are customary or usual. No drug, device or cosmetic
6 which is subject to, and complies with regulations promulgated under the
7 provisions of the Federal Food, Drug, and Cosmetic Act, relating to
8 adulteration and misbranding shall be deemed to be adulterated or
9 misbranded in violation of the provisions of this title because of its
10 failure to comply with the board's regulations, or the rules of the
11 state board of pharmacy, insofar as the regulations are in conflict with
12 regulations relating to adulteration and misbranding under the Federal
13 Food, Drug and Cosmetic Act.

14 14. "Antiseptic". The representation of a drug, device or cosmetic in
15 its labeling, as an antiseptic, shall be considered to be a represen-
16 tation that it is a germicide, except in the case of a drug purporting
17 to be, or represented as, an antiseptic for inhibitory use as a wet
18 dressing, ointment, dusting powder, or such other use as involves
19 prolonged contact with the body.

20 15. "New drug" means:

21 a. Any drug not generally recognized, among experts qualified by
22 scientific training and experience to evaluate the safety and effective-
23 ness of drugs, as safe and effective for use under the conditions
24 prescribed, recommended or suggested by the drug's labeling, except that
25 such a drug not so recognized shall not be deemed to be a "new drug" if
26 at any time prior to September first, nineteen hundred thirty-nine it
27 was subject to the former federal food and drug act of June thirtieth,
28 nineteen hundred six, as amended, and if at such time its labeling
29 contained the same representations concerning the conditions of its use;

30 b. Any drug, the composition of which is such that the drug, as a
31 result of investigations to determine its safety and effectiveness for
32 use under such conditions, has become recognized, but which has not
33 otherwise than in such investigations been used to a material extent or
34 for a material time under such conditions.

35 16. "Device" means instruments, apparatus, and contrivances, including
36 their components, parts and accessories, intended:

37 a. For use in the diagnosis, cure, mitigation, treatment, or
38 prevention of disease in man or animals; or

39 b. To affect the structure or any function of the body of man or
40 animals.

41 17. The term "Federal Food, Drug and Cosmetic Act" means the Federal
42 Food, Drug, and Cosmetic Act of the United States of America, approved
43 June twenty-fifth, nineteen hundred thirty-eight, officially cited as
44 public document number seven hundred seventeen--seventy-fifth congress
45 (chapter six hundred seventy-five--third session), and all its amend-
46 ments now or hereafter enacted.

47 18. "Wholesaler" means a person who bottles, packs or purchases drugs,
48 devices or cosmetics for the purpose of selling or reselling to pharma-
49 cies or to other channels as provided in this title.

50 19. "Advertisement" means all representations disseminated in any
51 manner or by any means, other than by labeling, for the purpose of
52 inducing, or which are likely to induce, directly or indirectly, the
53 purchase of drugs, devices or cosmetics.

54 20. "Controlled substance" means any drug defined as a controlled
55 substance by article thirty-three of this chapter.

1 21. "Manufacturer" means a person who compounds, mixes, prepares,
2 produces, and bottles or packs drugs, cosmetics or devices for the
3 purpose of distributing or selling to pharmacies or to other channels of
4 distribution.

5 22. "Administer", for the purpose of section sixty-eight hundred one
6 of this title, means:

7 a. the direct application of an immunizing agent to adults, whether by
8 injection, ingestion, inhalation or any other means, pursuant to a
9 patient specific order or non-patient specific regimen prescribed or
10 ordered by a physician or certified nurse practitioner, for: immuniza-
11 tions to prevent influenza, pneumococcal, acute herpes zoster, hepatitis
12 A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-
13 la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease
14 and medications required for emergency treatment of anaphylaxis; and
15 other immunizations recommended by the advisory committee on immuniza-
16 tion practices of the centers for disease control and prevention for
17 patients eighteen years of age or older if the commissioner of education
18 in consultation with the commissioner determines that an immunization:

19 (i) (A) may be safely administered by a licensed pharmacist within
20 their lawful scope of practice; and (B) is needed to prevent the trans-
21 mission of a reportable communicable disease that is prevalent in New
22 York state; or (ii) is a recommended immunization for such patients who:
23 (A) meet age requirements, (B) lack documentation of such immunization,
24 (C) lack evidence of past infection, or (D) have an additional risk
25 factor or another indication as recommended by the advisory committee on
26 immunization practices of the centers for disease control and
27 prevention. If the commissioner determines that there is an outbreak of
28 disease, or that there is the imminent threat of an outbreak of disease,
29 then the commissioner may issue a non-patient specific regimen applica-
30 ble statewide.

31 b. the direct application of an immunizing agent to children between
32 the ages of two and eighteen years of age, whether by injection, inges-
33 tion, inhalation or any other means, pursuant to a patient specific
34 order or non-patient specific regimen prescribed or ordered by a physi-
35 cian or certified nurse practitioner, for immunization to prevent influ-
36 enza and medications required for emergency treatment of anaphylaxis
37 resulting from such immunization. If the commissioner determines that
38 there is an outbreak of influenza, or that there is the imminent threat
39 of an outbreak of influenza, then the commissioner may issue a non-pa-
40 tient specific regimen applicable statewide.

41 23. "Electronic prescription" means a prescription created, recorded,
42 or stored by electronic means; issued with an electronic signature; and
43 transmitted by electronic means, in accordance with regulations of the
44 commissioner and federal regulations; provided, however, that an
45 original hard copy prescription that is created electronically or other-
46 wise may be transmitted from the prescriber to the pharmacist by facsim-
47 ile and must be manually signed. "Electronic" means of or relating to
48 technology having electrical, digital, magnetic, wireless, optical,
49 electromagnetic, or similar capabilities. "Electronic signature" means
50 an electronic sound, symbol, or process, attached to or logically asso-
51 ciated with an electronic prescription and executed or adopted by a
52 person with the intent to sign the prescription, in accordance with
53 regulations of the commissioner and federal regulations.

54 24. "Compounding" means the combining, admixing, mixing, diluting,
55 pooling, reconstituting, or otherwise altering of a drug or bulk drug
56 substance to create a drug with respect to an outsourcing facility under

1 section 503B of the Federal Food, Drug and Cosmetic Act and further
2 defined in this section.

3 25. "Outsourcing facility" means a facility that:

4 a. is engaged in the compounding of sterile drugs;

5 b. is currently registered as an outsourcing facility with the
6 Secretary of Health and Human Services; and

7 c. complies with all applicable requirements of federal and state law,
8 including the Federal Food, Drug and Cosmetic Act.

9 26. "Sterile drug" means a drug that is intended for parenteral admin-
10 istration, an ophthalmic or oral inhalation drug in aqueous format, or a
11 drug that is required to be sterile under federal or state law.

12 27. "Biological product" means a biological product as defined in
13 subsection (i) of section 351 of the Public Health Service Act, 42
14 U.S.C. Section 262(i).

15 28. "Interchangeable biological product" means a biological product
16 licensed by the United States Food and Drug Administration pursuant to
17 42 U.S.C. Section 262(k)(4) as set forth in the latest edition or
18 supplement of the United States Food and Drug Administration Lists of
19 Licensed Biological Products with Reference Product Exclusivity and
20 Biosimilarity or Interchangeability Evaluations, sometimes referred to
21 as the "Purple Book", or a biological product determined by the United
22 States Food and Drug Administration to be therapeutically equivalent as
23 set forth in the latest edition or supplement of the United States Food
24 and Drug Administration Approved Drug Products with Therapeutic Equiv-
25 alence Evaluations, sometimes referred to as the "Orange Book".

26 § 6803. Practice of pharmacy and use of title "pharmacist". Only a
27 person licensed or otherwise authorized under this title shall practice
28 pharmacy or use the title "pharmacist" or any derivative.

29 § 6804. State board of pharmacy. A state board of pharmacy shall be
30 appointed by the regents on recommendation of the commissioner for the
31 purpose of assisting the regents and the department on matters of
32 professional licensing and professional conduct in accordance with
33 section sixty-five hundred eight of this article. The board shall be
34 composed of not less than nine pharmacists licensed in this state for at
35 least five years and two registered pharmacy technicians. The initial
36 registered pharmacy technician members of the state board of pharmacy
37 need not be licensed prior to their appointment but shall have met all
38 other requirements of licensure pursuant to section sixty-eight hundred
39 forty-four of this article except for filing an application and paying a
40 fee. An executive secretary to the board shall be appointed by the
41 regents on recommendation of the commissioner and shall be a pharmacist
42 licensed in this state for at least five years. The board shall provide
43 assistance to the department:

44 1. To regulate the practice of pharmacy, registered pharmacy techni-
45 cians and the employment of interns and employees in pharmacies,

46 2. To regulate and control the sale, distribution, character and stan-
47 dard of drugs, poisons, cosmetics, devices and new drugs,

48 3. To prevent the sale or distribution of such drugs, poisons, cosmet-
49 ics, devices and new drugs as do not conform to the provisions of this
50 chapter,

51 4. To investigate alleged violations of the provisions of this title,
52 and

53 5. To issue limited permits or registrations.

54 § 6805. Requirements for a professional license. 1. To qualify for a
55 pharmacist's license, an applicant shall fulfill the following require-
56 ments:

1 a. Application: file an application with the department;
2 b. Education: have received an education, including a bachelor's or
3 equivalent degree in pharmacy, in accordance with the commissioner's
4 regulations;
5 c. Experience: have experience satisfactory to the board and in
6 accordance with the commissioner's regulations;
7 d. Examination: pass an examination satisfactory to the board and in
8 accordance with the commissioner's regulations;
9 e. Age: be at least twenty-one years of age;
10 f. Citizenship or immigration status: be a United States citizen or an
11 alien lawfully admitted for permanent residence in the United States;
12 g. Character: be of good moral character as determined by the depart-
13 ment; and
14 h. Fees: pay a fee of one hundred seventy-five dollars to the depart-
15 ment for admission to a department conducted examination and for an
16 initial license, a fee of eighty-five dollars for each re-examination, a
17 fee of one hundred fifteen dollars for an initial license for persons
18 not requiring admission to a department conducted examination, and a fee
19 of one hundred fifty-five dollars for each triennial registration peri-
20 od.
21 2. On or before April first, nineteen hundred seventy-two, any person
22 who holds a valid license as "druggist" in this state shall make appli-
23 cation and on the payment of fees specified in this title be licensed by
24 the department as a pharmacist. Such person shall have all of the
25 rights, privileges, duties and responsibilities of a pharmacist.
26 § 6806. Limited permits. 1. The department may issue a limited permit
27 for employment as a "pharmacy intern" to:
28 a. A student enrolled in the last two years of a registered program in
29 pharmacy, or
30 b. A graduate of a program in pharmacy which meets standards estab-
31 lished by the commissioner's regulations who is engaged in meeting the
32 experience requirements or whose application for initial licensure is
33 pending with the department.
34 2. A pharmacy intern may, as determined by the commissioner's regu-
35 lations, practice as a pharmacist under the immediate personal super-
36 vision of a licensed pharmacist. A pharmacy intern may also receive a
37 certificate of administration if he or she provides satisfactory
38 evidence to the commissioner that he or she meets the requirements of
39 subdivision three of this section.
40 3. No pharmacy intern shall administer immunizing agents without
41 receiving training satisfactory to the commissioner, as prescribed in
42 regulations of the commissioner, which shall include, but not be limited
43 to: techniques for screening individuals and obtaining informed consent;
44 techniques of administration; indications, precautions and contraindica-
45 tions in the use of an agent or agents; recordkeeping of immunization
46 and information; and handling emergencies, including anaphylaxis and
47 needlestick injuries. To receive a certification to administer immuniza-
48 tions, the pharmacy intern shall provide documentation, on a form
49 prescribed by the department, from the dean or other appropriate offi-
50 cial of the registered program that the intern has completed the
51 required training, pursuant to regulations of the commissioner.
52 4. A limited permit issued to a pharmacy intern shall have an expira-
53 tion date of five years from the date of issue. Limited permits may be
54 renewed once for a period not to exceed two years.
55 5. The fee for each limited permit issued to a pharmacy intern shall
56 be seventy dollars.

6. In the case of a pharmacy intern, certified to administer immunizations, administration must be conducted under the immediate personal supervision of a licensed pharmacist certified to administer vaccines. A person receiving a vaccine must be informed that a pharmacy intern, certified to administer immunizations, will be administering the vaccine and of the option to receive the vaccination from a certified pharmacist.

§ 6807. Exempt persons; special provisions. 1. This title shall not be construed to affect or prevent:

a. Unlicensed assistants from being employed in licensed pharmacies for purposes other than the practice of pharmacy;

b. Any physician, dentist, veterinarian or other licensed health care provider legally authorized to prescribe drugs under this title who is not the owner of a pharmacy or who is not in the employ of such owner, from supplying his patients with such drugs as the physician, dentist, veterinarian or other licensed health care provider legally authorized to prescribe drugs under this title deems proper in connection with his practice, provided, however, that all such drugs shall be dispensed in a container labeled with the name and address of the dispenser and patient, directions for use, and date of delivery, and in addition, such drug shall bear a label containing the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription specifically states on the prescription in his own handwriting, that the name of the drug and the strength thereof should not appear on the label; provided further that if such drugs are controlled substances, they shall be dispensed pursuant to the requirements of article thirty-three of this chapter;

c. Any merchant from selling proprietary medicines, except those which are poisonous, deleterious or habit forming, or materials and devices specifically exempted by regulations of the department or by provisions of this chapter;

d. Any personnel in an institution of higher learning from using prescription-required drugs on the premises for authorized research, experiments or instruction, in accordance with the department's regulations and, if such drugs are controlled substances, in accordance with title three of article thirty-three of this chapter; or

e. The necessary and ordinary activities of manufacturers and wholesalers, subject to the provisions of article thirty-three of this chapter.

2. a. Notwithstanding the provisions of paragraph b of subdivision one of this section, no prescriber who is not the owner of a pharmacy or who is not in the employ of such owner, may dispense more than a seventy-two-hour supply of drugs, except for:

(i) persons practicing in hospitals as defined in section twenty-eight hundred one of this chapter;

(ii) the dispensing of drugs at no charge to their patients;

(iii) persons whose practices are situated ten miles or more from a registered pharmacy;

(iv) the dispensing of drugs in a clinic, infirmary or health service that is operated by or affiliated with a post-secondary institution;

(v) persons licensed pursuant to title eight of this article;

(vi) the dispensing of drugs in a medical emergency as defined in subdivision six of section sixty-eight hundred ten of this title;

(vii) the dispensing of drugs that are diluted, reconstituted or compounded by a prescriber;

(viii) the dispensing of allergenic extracts; or

1 (ix) the dispensing of drugs pursuant to an oncological or AIDS proto-
2 col.

3 b. The commissioner may promulgate regulations to implement this
4 subdivision and may, by regulation, establish additional renewable
5 exemptions for a period not to exceed one year from the provisions of
6 paragraph a of this subdivision.

7 3. A pharmacist may dispense drugs and devices to a registered profes-
8 sional nurse, and a registered professional nurse may possess and admin-
9 ister, drugs and devices, pursuant to a non-patient specific regimen
10 prescribed or ordered by a licensed physician or certified nurse practi-
11 tioner, pursuant to regulations promulgated by the commissioner and by
12 provisions of this chapter.

13 § 6808. Registering and operating establishments. 1. Registration
14 requirement. No person, firm, corporation or association shall possess
15 drugs, prescriptions or poisons for the purpose of compounding, dispens-
16 ing, retailing, wholesaling, or manufacturing, or shall offer drugs,
17 prescriptions or poisons for sale at retail or wholesale unless regis-
18 tered by the department as a pharmacy, wholesaler, manufacturer or
19 outsourcing facility.

20 2. Pharmacies. a. Obtaining a registration. A pharmacy shall be
21 registered as follows:

22 (i) The application shall be made on a form prescribed by the depart-
23 ment.

24 (ii) The application shall be accompanied by a fee of three hundred
25 forty-five dollars.

26 (iii) To secure and retain a registration, a pharmacy must be equipped
27 with facilities, apparatus, utensils and stocks of drugs and medicines
28 sufficient to permit the prompt and efficient compounding and dispensing
29 of prescriptions, as prescribed by regulation.

30 b. Renewal of registration. All pharmacy registrations shall be
31 renewed on dates set by the department. The triennial registration fee
32 shall be two hundred sixty dollars, or a prorated portion thereof as
33 determined by the department. At the time of renewal, the owner of every
34 pharmacy shall report under oath to the department any facts required by
35 the state board of pharmacy.

36 c. Display of registration. The registration shall be conspicuously
37 displayed at all times in the pharmacy. The names of the owner or owners
38 of a pharmacy shall be conspicuously displayed upon the exterior of such
39 establishment. The names so displayed shall be presumptive evidence of
40 ownership of such pharmacy by such person or persons. In the event that
41 the owner of a licensed pharmacy is not a licensed pharmacist, the phar-
42 macy registration issued shall also bear the name of the licensed phar-
43 macist having personal supervision of the pharmacy. In the event that
44 such licensed pharmacist shall no longer have personal supervision of
45 the pharmacy, the owner shall notify the department of such fact and of
46 the name of the licensed pharmacist replacing the pharmacist named on
47 the license and shall apply for an amended registration showing the
48 change. The amended registration must be attached to the original regis-
49 tration and displayed in the same manner. Both the owner and the super-
50 vising pharmacist shall be responsible for carrying out the provisions
51 of this title.

52 d. Change of location. In the event that the location of a pharmacy
53 shall be changed, the owner shall apply to the department for inspection
54 of the new location and endorsement of the registration for the new
55 location. The fee for inspection and endorsement shall be fifty dollars.

1 unless it appears to the satisfaction of the department that the change
2 in location is of temporary nature due to fire, flood or other disaster.

3 e. Conduct of a pharmacy. Every owner of a pharmacy is responsible for
4 the strength, quality, purity and the labeling thereof of all drugs,
5 toxic substances, devices and cosmetics, dispensed or sold, subject to
6 the guaranty provisions of this title and this chapter. Every owner of a
7 pharmacy or every pharmacist in charge of a pharmacy shall be responsi-
8 ble for the proper conduct of their pharmacy. Every pharmacy shall be
9 under the immediate supervision and management of a licensed pharmacist
10 at all hours when open. No pharmacist shall have personal supervision
11 of more than one pharmacy at the same time.

12 f. A pharmacy as a department. When a pharmacy is operated as a
13 department of a larger commercial establishment, the area comprising the
14 pharmacy shall be physically separated from the rest of the establish-
15 ment, so that access to the pharmacy and drugs is not available when a
16 pharmacist is not on duty. Identification of the area within the pharma-
17 cy by use of the words "drugs", "medicines", "drug store", or "pharmacy"
18 or similar terms shall be restricted to the area licensed by the depart-
19 ment as a pharmacy.

20 g. Limited pharmacy registration. (i) When, in the opinion of the
21 department, a high standard of patient safety, consistent with good
22 patient care, can be provided by the registering of a pharmacy within a
23 hospital, nursing home or extended care facility which does not meet all
24 of the requirements for registration as a pharmacy, the department may
25 waive any requirements pertaining to full-time operation by a licensed
26 pharmacist, minimum equipment, minimum space and waiting area, provided
27 that when the waiver of any of the above requirements is granted by the
28 board, the pharmaceutical services to be rendered by the pharmacy shall
29 be limited to furnishing drugs to patients registered for treatment by
30 the hospital, and to in-patients for treatment by the nursing home or
31 extended care facility.

32 (ii) When in the opinion of the department, a high standard of patient
33 safety, consistent with good patient care, can be provided by the regis-
34 tering of a pharmacy within a facility distributing dialysis solutions
35 for patients suffering from end stage renal disease and where the phar-
36 maceutical services to be rendered by the pharmacy shall be limited to
37 furnishing dialysis solutions to patients for whom such has been
38 prescribed by a duly authorized prescriber, the department may waive
39 certain requirements, including, but not limited to, full-time operation
40 by a licensed pharmacist, minimum equipment, and minimum space and wait-
41 ing area. Such solutions shall only be dispensed by employees who have
42 completed an approved training program and who have demonstrated profi-
43 ciency to perform the task or tasks of assembling, labeling or deliver-
44 ing a patient order and who work under the general supervision of a
45 licensed pharmacist who shall be responsible for the distribution,
46 record keeping, labeling and delivery of all dialysis solutions
47 dispensed by the distributor as required by the department.

48 (iii) The department shall promulgate such rules or regulations
49 consistent with this paragraph as are necessary to ensure the safe
50 distribution of such dialysis solutions, including establishment regis-
51 tration and proper record keeping, storage, and labeling.

52 (iv) The initial registration fee and renewal fee for a limited phar-
53 macy shall be three hundred forty-five dollars for each triennial regis-
54 tration period.

55 h. Applicant registration. An applicant for registration as a pharmacy
56 shall be of good moral character, as determined by the department. In

1 the case of a corporate applicant, the requirement shall extend to all
2 officers and directors and to stockholders having a ten percent or
3 greater interest in the corporation.

4 3. Wholesaler's or manufacturer's registration. a. Obtaining a regis-
5 tration. A wholesaler or manufacturer shall be registered as follows:

6 (i) The application shall be made on a form prescribed by the depart-
7 ment.

8 (ii) The application shall be accompanied by a fee of eight hundred
9 twenty-five dollars.

10 b. Renewal of registration. All wholesalers' and manufacturers' regis-
11 trations shall be renewed on dates set by the department. The triennial
12 registration fee shall be five hundred twenty dollars, or a prorated
13 portion thereof as determined by the department.

14 c. Display of registration. The registration shall be displayed
15 conspicuously at all times in the place of business.

16 d. Change of location. In the event that the location of such place of
17 business shall be changed, the owner shall apply to the department for
18 inspection of the new location and endorsement of the registration for
19 the new location. The fee for inspection and endorsement shall be one
20 hundred seventy dollars, unless it appears to the satisfaction of the
21 department that the change in location is of a temporary nature due to
22 fire, flood or other disaster.

23 4. Outsourcing facility's registration. a. Obtaining a registration.
24 An outsourcing facility shall be registered as follows:

25 (i) An application for initial registration or renewal of registration
26 shall be made on a form prescribed by the department.

27 (ii) An application for initial registration shall be accompanied by a
28 fee of eight hundred twenty-five dollars.

29 b. Renewal of registration. All outsourcing facilities' registrations
30 shall be renewed on a date set by the department. The triennial regis-
31 tration fee shall be five hundred twenty dollars, or a prorated portion
32 thereof as determined by the department.

33 c. Display of registration. The registration shall be displayed
34 conspicuously in the place of business.

35 d. Change of location. In the event that the location of such place of
36 business shall be changed, the owner shall apply to the department for
37 inspection of the new location and endorsement of the registration for
38 the new location. The fee for inspection and endorsement shall be one
39 hundred seventy-five dollars, unless it appears to the satisfaction of
40 the department that the change in location is of a temporary nature due
41 to fire, flood or other disaster.

42 e. Report. Upon initially registering as an outsourcing facility and
43 every six months thereafter, each outsourcing facility shall submit to
44 the executive secretary of the state board of pharmacy a report:

45 (i) identifying the drugs compounded by such outsourcing facility
46 during the previous six-month period; and

47 (ii) with respect to each drug identified under subparagraph (i) of
48 this paragraph, providing the active ingredient; the source of such
49 active ingredient; the National Drug Code number of the source drug or
50 bulk active ingredient, if available; the strength of the active ingre-
51 dient per unit; the dosage form and route of administration; the package
52 description; the number of individual units produced; and the National
53 Drug Code number of the final product, if assigned.

54 f. Conduct of outsourcing facility. Every owner of an outsourcing
55 facility is responsible for the strength, quality, purity and labeling
56 thereof of all compounded drugs, subject to the guaranty provisions of

1 this title and this chapter. Every outsourcing facility shall be under
2 the immediate supervision and management of a pharmacist licensed to
3 practice in New York state.

4 g. Applicant for registration. An applicant for registration of an
5 outsourcing facility shall be of good moral character, as determined by
6 the department. In the case of a corporate applicant, the requirement
7 shall extend to all officers and directors and stakeholders having a ten
8 percent or greater interest in the corporation.

9 5. Inspection. The state board of pharmacy and the department, and
10 their employees designated by the commissioner, shall have the right to
11 enter any pharmacy, wholesaler, manufacturer, outsourcing facility or
12 vehicle and to inspect, at reasonable times, such factory, warehouse,
13 establishment or vehicle and all records required by this title, perti-
14 nent equipment, finished and unfinished materials, containers, and
15 labels.

16 6. Penalties. A pharmacy, wholesaler, manufacturer or outsourcing
17 facility registered under this section shall be under the supervision of
18 the department and shall be subject to disciplinary proceedings and
19 penalties in accordance with subtitle three of title one of this article
20 in the same manner and to the same extent as individuals and profes-
21 sional service corporations with respect to their licenses and registra-
22 tions, provided that failure to comply with the requirements of this
23 section shall constitute professional misconduct.

24 7. Sale of drugs at auction. No controlled substance or substances and
25 no poisonous or deleterious drugs or drugs in bulk or in opened contain-
26 ers shall be sold at auction unless the place where such drugs are sold
27 at auction shall have been registered by the board, and unless such sale
28 shall be under the personal supervision of a licensed pharmacist. Drugs
29 in open containers shall not be sold at auction unless the seller shall
30 have in his or her possession a certificate of the board showing that
31 such drugs have been inspected and meet the requirements of this title.
32 In the event that the drug so sold is one as to which this title or any
33 federal statute or any regulation adopted pursuant to this title or an
34 applicable federal statute require that the expiration date be stated on
35 each package, such drug may not be sold at auction after such expiration
36 date or when such expiration date will occur within a period of thirty
37 days or less from the date of sale.

38 § 6809. Identification of pharmacists. Every pharmacist on duty shall
39 be identified by a badge designed by the state board of pharmacy, which
40 shall contain his or her name and title.

41 § 6809-a. Registration of nonresident establishments. 1. Definition.
42 The term "nonresident establishment" shall mean any pharmacy, manufac-
43 turer, wholesaler, or outsourcing facility located outside of the state
44 that ships, mails or delivers prescription drugs or devices to other
45 establishments, authorized prescribers and/or patients residing in this
46 state. Such establishments shall include, but not be limited to, pharma-
47 cies that transact business through the use of the internet.

48 2. Registration. All nonresident establishments that ship, mail, or
49 deliver prescription drugs and/or devices to other registered establish-
50 ments, authorized prescribers, and/or patients into this state shall be
51 registered with the department; except that such registration shall not
52 apply to intra-company transfers between any division, affiliate,
53 subsidiaries, parent or other entities under complete common ownership
54 and control. The provisions of this subdivision shall apply solely to
55 nonresident establishments and shall not affect any other provision of
56 this title.

1 3. Agent of record. Each nonresident establishment that ships, mails
2 or delivers drugs and/or devices into this state shall designate a resi-
3 dent agent in this state for service of process pursuant to rule three
4 hundred eighteen of the civil practice law and rules.

5 4. Conditions of registration. As a condition of registration, a
6 nonresident establishment shall comply with the following requirements:

7 a. Be licensed and/or registered and in good standing with the state
8 of residence;

9 b. Maintain, in readily retrievable form, records of drugs and/or
10 devices shipped into this state;

11 c. Supply, upon request, all information needed by the department to
12 carry out the department's responsibilities under the laws and rules and
13 regulations pertaining to nonresident establishments;

14 d. Comply with all statutory and regulatory requirements of the state
15 where the nonresident establishment is located, for prescription drugs
16 or devices shipped, mailed or delivered into this state, except that for
17 controlled substances shipped, mailed or delivered into this state, the
18 nonresident pharmacy shall follow federal law and New York law relating
19 to controlled substances;

20 e. The application shall be made in the manner and form prescribed by
21 the department;

22 f. The application of establishments to be registered as a manufactur-
23 er, wholesaler or outsourcing facility of drugs and/or devices shall be
24 accompanied by a fee as provided in section sixty-eight hundred eight of
25 this title; and

26 g. The application of establishments to be registered as a nonresident
27 pharmacy shall be accompanied by a fee of three hundred forty-five
28 dollars and shall be renewed triennially at a fee of two hundred sixty
29 dollars.

30 5. Additional requirements. Nonresident pharmacies registered pursuant
31 to this section shall:

32 a. Provide a toll-free telephone number that is available during
33 normal business hours and at least forty hours per week, to enable
34 communication between a patient in this state and a pharmacist at the
35 pharmacy who has access to the patient's records; and

36 b. Place such toll-free telephone number on a label affixed to each
37 drug or device container.

38 6. Disciplinary action. Except in emergencies that constitute an imme-
39 diat threat to public health, the department shall not prosecute a
40 complaint or otherwise take formal action against a nonresident estab-
41 lishment based upon delivery of a drug into this state or a violation of
42 law, rule, or regulation of this state if the agency having jurisdiction
43 in the state where the nonresident establishment is based commences
44 action on the violation complained of within one hundred twenty days
45 from the date that the violation was reported; provided however, that
46 the department may prosecute a complaint or take formal action against a
47 nonresident establishment if it determines that the agency having juris-
48 isdiction in the state where the nonresident establishment is based has
49 unreasonably delayed or otherwise failed to take prompt and appropriate
50 action on a reported violation.

51 7. Revocation or suspension. A nonresident establishment that fails to
52 comply with the requirements of this section shall be subject to revoca-
53 tion or suspension of its registration and other applicable penalties in
54 accordance with the provisions of subtitle three of title one of this
55 article.

1 8. Exception. The department may grant an exception from the registra-
2 tion requirements of this section on the application of a nonresident
3 establishment that restricts its sale or dispensing of drugs and/or
4 devices to residents of this state to isolated transactions.

5 9. Rules and regulations. The department shall promulgate rules and
6 regulations to implement the provisions of this section.

7 § 6810. Prescriptions. 1. No drug for which a prescription is required
8 by the provisions of the Federal Food, Drug and Cosmetic Act or by the
9 commissioner shall be distributed or dispensed to any person except upon
10 a prescription written by a person legally authorized to issue such
11 prescription. Such drug shall be compounded or dispensed by a licensed
12 pharmacist, and no such drug shall be dispensed without affixing to the
13 immediate container in which the drug is sold or dispensed a label bear-
14 ing the name and address of the owner of the establishment in which it
15 was dispensed, the date compounded, the number of the prescription under
16 which it is recorded in the pharmacist's prescription files, the name of
17 the prescriber, the name and address of the patient, and the directions
18 for the use of the drug by the patient as given upon the prescription.
19 All labels shall conform to such rules and regulations as promulgated by
20 the commissioner pursuant to section sixty-eight hundred twenty-nine of
21 this title. The prescribing and dispensing of a drug which is a
22 controlled substance shall be subject to additional requirements
23 provided in article thirty-three of this chapter. The words "drug" and
24 "prescription required drug" within the meaning of this title shall not
25 be construed to include soft or hard contact lenses, eyeglasses, or any
26 other device for the aid or correction of vision. Nothing in this subdi-
27 vision shall prevent a pharmacy from furnishing a drug to another phar-
28 macy which does not have such drug in stock for the purpose of filling a
29 prescription.

30 2. a. A prescription may not be refilled unless it bears a contrary
31 instruction and indicates on its face the number of times it may be
32 refilled. A prescription may not be refilled more times than allowed on
33 the prescription. The date of each refilling must be indicated on the
34 original prescription. Prescriptions for controlled substances shall be
35 refilled only pursuant to article thirty-three of this chapter.

36 b. A pharmacy registered with the department pursuant to section
37 sixty-eight hundred eight or sixty-eight hundred nine-a of this title
38 may not deliver a new or refilled prescription off premises without the
39 consent of the patient or an individual authorized to consent on the
40 patient's behalf. For the purposes of this section, consent may be
41 obtained in the same manner and process by which consent is deemed
42 acceptable under the federal Medicare Part D program.

43 c. Pharmacy providers who deliver medication without patient or
44 authorized individual consent will be required to accept the return of
45 the medication from the patient, provide that patient credit for any
46 charges they may have paid, and will be required to destroy those medi-
47 cations sent without consent on delivery in accordance with applicable
48 state and federal law. Nothing in this section shall be deemed to inter-
49 fere with the requirements for refill reminder or medication adherence
50 programs. Nothing in this section is intended to apply to long-term
51 care pharmacy dispensing and delivery.

52 3. A copy of a prescription for a controlled substance shall not be
53 furnished to the patient but may be furnished to any licensed practi-
54 tioner authorized to write such prescription. Copies of other
55 prescriptions shall be furnished to the patient at his or her request,

1 but such copies are issued for the informational purposes of the pres-
2 cribers only, and shall be so worded.

3 4. a. Oral prescriptions for controlled substances shall be filled
4 pursuant to article thirty-three of this chapter. A pharmacist may fill
5 an oral prescription for a drug, other than a controlled substance, made
6 by a practitioner legally authorized to prescribe drugs. An oral
7 authorization for the refill of a prescription, other than a
8 prescription for a controlled substance, may be made by a practitioner
9 legally authorized to prescribe drugs. The pharmacist receiving such
10 oral authorization for the refill of a prescription shall write on the
11 reverse side of the original prescription the date, time, and name of
12 the practitioner authorizing the refill of the prescription. An oral
13 prescription or an oral authorization for the refill of a prescription
14 for the drug, other than a controlled substance, may be communicated by
15 an employee of the prescribing practitioner; provided, however, the
16 pharmacist shall:

17 (i) contemporaneously reduce such prescription to writing;
18 (ii) dispense the substance in conformity with the labeling require-
19 ments applicable to a written prescription; and
20 (iii) make a good faith effort to verify the employee's identity if
21 the employee is unknown to the pharmacist.

22 b. Oral prescriptions for patients in general hospitals, nursing
23 homes, residential health care facilities as defined in section twenty-
24 eight hundred one of this chapter, hospitals as defined in subdivision
25 ten of section 1.03 of the mental hygiene law, or facilities operated by
26 the office for people with developmental disabilities, may be communi-
27 cated to a pharmacist serving as a vendor of pharmaceutical services
28 based upon a contractual arrangement by an agent designated by and under
29 the direction of the prescriber or the institution. Such agent shall be
30 a health care practitioner currently licensed and registered under this
31 article.

32 5. Records of all prescriptions filled or refilled shall be maintained
33 for a period of at least five years and upon request made available for
34 inspection and copying by a representative of the department. Such
35 records shall indicate date of filling or refilling, doctor's name,
36 patient's name and address and the name or initials of the pharmacist
37 who prepared, compounded, or dispensed the prescription. Records of
38 prescriptions for controlled substances shall be maintained pursuant to
39 requirements of article thirty-three of this chapter.

40 6. a. Every prescription written in this state by a person authorized
41 to issue such prescription shall be on prescription forms containing one
42 line for the prescriber's signature. The prescriber's signature shall
43 validate the prescription. Every electronic prescription shall provide
44 for the prescriber's electronic signature, which shall validate the
45 electronic prescription. Imprinted conspicuously on every prescription
46 written in this state in eight-point upper case type immediately below
47 the signature line shall be the words: "THIS PRESCRIPTION WILL BE
48 FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW".
49 Unless the prescriber writes d a w in such box in the prescriber's own
50 handwriting or, in the case of electronic prescriptions, inserts an
51 electronic direction to dispense the drug as written, the prescriber's
52 signature or electronic signature shall designate approval of substi-
53 tution by a pharmacist of a drug product pursuant to paragraph (o) of
54 subdivision one of section two hundred six of this chapter. No other
55 letters or marks in such box shall prohibit substitution. No
56 prescription forms used or intended to be used by a person authorized to

1 issue a prescription shall have 'd a w' preprinted in such box. Such box
2 shall be placed directly under the signature line and shall be three-
3 quarters inch in length and one-half inch in height, or in comparable
4 form for an electronic prescription as may be specified by regulation of
5 the commissioner. Immediately below such box shall be imprinted in six
6 point type the words "Dispense As Written". Notwithstanding any other
7 provision of law, no state official, agency, board or other entity shall
8 promulgate any regulation or guideline modifying those elements of the
9 prescription form's contents specified in this subdivision. To the
10 extent otherwise permitted by law, a prescriber may modify only those
11 elements of the prescription form's contents not specified in this
12 subdivision. Notwithstanding any other provision of this section or any
13 other law, when a generic drug is not available and the brand name drug
14 originally prescribed is available and the pharmacist agrees to dispense
15 the brand name product for a price that will not exceed the price that
16 would have been charged for the generic substitute had it been avail-
17 able, substitution of a generic drug product will not be required. If
18 the generic drug product is not available and a medical emergency situ-
19 ation, which for purposes of this section is defined as any condition
20 requiring alleviation of severe pain or which threatens to cause disa-
21 bility or take life if not promptly treated, exists, then the pharmacist
22 may dispense the brand name product at his or her regular price. In such
23 instances the pharmacist must record the date, hour and nature of the
24 medical emergency on the back of the prescription and keep a copy of all
25 such prescriptions.

26 b. The prescriber shall inform the patient whether he or she has
27 prescribed a brand name or its generic equivalent drug product.

28 c. The provisions of this subdivision shall not apply to a hospital as
29 defined in article twenty-eight of this chapter.

30 d. No prescriber shall be subjected to civil liability arising solely
31 from authorizing, in accordance with this subdivision, the substitution
32 by a pharmacist of a drug product pursuant to paragraph (o) of subdivi-
33 sion one of section two hundred six of this chapter.

34 7. a. No prescription for a drug written in this state by a person
35 authorized to issue such prescription shall be on a prescription form
36 which authorizes the dispensing or compounding of any other drug. No
37 drug shall be dispensed by a pharmacist when such prescription form
38 includes any other drug.

39 b. With respect to drugs other than controlled substances, the
40 provisions of this subdivision shall not apply to pharmacists employed
41 by or providing services under contract to general hospitals, nursing
42 homes, residential health care facilities as defined in section twenty-
43 eight hundred one of this chapter, hospitals as defined in subdivision
44 ten of section 1.03 of the mental hygiene law, or facilities operated by
45 the office for people with developmental disabilities, who dispense
46 drugs in the course of said employment or in the course of providing
47 such services under contract. With respect to such pharmacists, each
48 prescription shall be transcribed on a patient specific prescription
49 form.

50 8. Every prescription, whether or not for a controlled substance,
51 written in this state by a person authorized to issue such prescription
52 and containing the prescriber's signature shall, in addition to such
53 signature, be imprinted or stamped legibly and conspicuously with the
54 printed name of the prescriber who has signed the prescription. The
55 imprinted or stamped name of the signing prescriber shall appear in an
56 appropriate location on the prescription form and shall not be entered

1 in or upon any space or line reserved for the prescriber's signature.
2 The imprinted or stamped name shall not be employed as a substitute for,
3 or fulfill any legal requirement otherwise mandating that the
4 prescription be signed by the prescriber.

5 9. No person, corporation, association or other entity, not licensed
6 to issue a prescription pursuant to this article, shall willfully cause
7 prescription forms, blanks or facsimiles thereof to be disseminated to
8 any person other than a person who is licensed to issue a prescription
9 pursuant to this article. A violation of this subdivision shall be a
10 class B misdemeanor punishable in accordance with the provisions of the
11 penal law.

12 10. Notwithstanding any other provision of this section or any other
13 law to the contrary, effective three years subsequent to the date on
14 which regulations establishing standards for electronic prescriptions
15 are promulgated by the commissioner pursuant to subdivision three of
16 section two hundred eighty-one of this chapter, no practitioner shall
17 issue any prescription in this state, unless such prescription is made
18 by electronic prescription from the practitioner to a pharmacy, except
19 for prescriptions: a. issued by veterinarians; b. issued or dispensed in
20 circumstances where electronic prescribing is not available due to
21 temporary technological or electrical failure, as set forth in regu-
22 lation; c. issued by practitioners who have received a waiver or a
23 renewal thereof for a specified period determined by the commissioner,
24 not to exceed one year, from the requirement to use electronic prescrib-
25 ing, pursuant to a process established in regulation by the commissioner
26 due to economic hardship, technological limitations that are not reason-
27 ably within the control of the practitioner, or other exceptional
28 circumstance demonstrated by the practitioner; d. issued by a practi-
29 titioner under circumstances where, notwithstanding the practitioner's
30 present ability to make an electronic prescription as required by this
31 subdivision, such practitioner reasonably determines that it would be
32 impractical for the patient to obtain substances prescribed by electron-
33 ic prescription in a timely manner, and such delay would adversely
34 impact the patient's medical condition, provided that if such
35 prescription is for a controlled substance, the quantity that does not
36 exceed a five-day supply if the controlled substance was used in accord-
37 ance with the directions for use; or e. issued by a practitioner to be
38 dispensed by a pharmacy located outside the state, as set forth in regu-
39 lation.

40 10-a. A pharmacy that receives an electronic prescription from the
41 person issuing the prescription may, if the prescription has not been
42 dispensed and at the request of the patient or a person authorized to
43 make the request on behalf of the patient, immediately transfer or
44 forward such prescription to an alternative pharmacy designated by the
45 requesting party.

46 11. In the case of a prescription issued by a practitioner under para-
47 graph b of subdivision ten of this section, the practitioner shall be
48 required to indicate in the patient's health record that the
49 prescription was issued other than electronically due to temporary tech-
50 nological or electrical failure.

51 12. In the case of a prescription issued by a practitioner under para-
52 graph d or e of subdivision ten of this section, the practitioner shall,
53 upon issuing such prescription, indicate in the patient's health record
54 either that the prescription was issued other than electronically
55 because it: a. was impractical to issue an electronic prescription in a
56 timely manner and such delay would have adversely impacted the patient's

1 medical condition, or b. was to be dispensed by a pharmacy located
2 outside the state.

3 13. The waiver process established in regulation pursuant to paragraph
4 c of subdivision ten of this section shall provide that a practitioner
5 prescribing under a waiver must notify the department in writing prompt-
6 ly upon gaining the capability to use electronic prescribing, and that a
7 waiver shall terminate within a specified period of time after the prac-
8 itioner gains such capability.

9 14. Notwithstanding any other provision of law to the contrary, no
10 outsourcing facility may distribute or dispense any drug to any person
11 pursuant to a prescription unless it is also registered as a pharmacy in
12 this state and meets all other applicable requirements of federal and
13 state law.

14 15. Notwithstanding any other provisions of this section or any other
15 law to the contrary, a practitioner shall not be required to issue
16 prescriptions electronically if he or she certifies to the department,
17 in a manner specified by the department, that he or she will not issue
18 more than twenty-five prescriptions during a twelve-month period.
19 Prescriptions in both oral and written form for both controlled
20 substances and non-controlled substances shall be included in determin-
21 ing whether the practitioner will reach the limit of twenty-five
22 prescriptions.

23 a. A certification shall be submitted in advance of the twelve-month
24 certification period, except that a twelve-month certification submitted
25 on or before July first, two thousand sixteen, may begin March twenty-
26 seventh, two thousand sixteen.

27 b. A practitioner who has made a certification under this subdivision
28 may submit an additional certification on or before the expiration of
29 the current twelve-month certification period, for a maximum of three
30 twelve-month certifications.

31 c. A practitioner may make a certification under this subdivision
32 regardless of whether he or she has previously received a waiver under
33 paragraph c of subdivision ten of this section.

34 § 6811. Misdemeanors. It shall be a class A misdemeanor for:

35 1. Any person knowingly or intentionally to prevent or refuse to
36 permit any board member or department representative to enter a pharmacy
37 or any other establishment for the purpose of lawful inspection;

38 2. Any person whose license has been revoked to refuse to deliver the
39 license;

40 3. Any pharmacist to display his or her license or permit it to be
41 displayed in a pharmacy of which he or she is not the owner or in which
42 he or she is not employed, or any owner to fail to display in his or her
43 pharmacy the license of the pharmacist employed in such pharmacy;

44 4. Any holder of a license to fail to display the license;

45 5. Any owner of a pharmacy to display or permit to be displayed in his
46 or her pharmacy the license of any pharmacist not employed in such phar-
47 macy;

48 6. Any person to carry on, conduct or transact business under a name
49 which contains as a part thereof the words "drugs", "medicines", "drug
50 store", "apothecary", or "pharmacy", or similar terms or combination of
51 terms, or in any manner by advertisement, circular, poster, sign or
52 otherwise describe or refer to the place of business conducted by such
53 person, or describe the type of service or class of products sold by
54 such person, by the terms "drugs", "medicine", "drug store", "apothecary",
55 or "pharmacy", unless the place of business so conducted is a
56 pharmacy licensed by the department;

1 7. Any person to enter into an agreement with a physician, dentist,
2 podiatrist or veterinarian for the compounding or dispensing of secret
3 formula (coded) prescriptions;

4 8. Any person to manufacture, sell, deliver for sale, hold for sale or
5 offer for sale of any drug, device or cosmetic that is adulterated or
6 misbranded;

7 9. Any person to adulterate or misbrand any drug, device or cosmetic;

8 10. Any person to receive in commerce any drug, device or cosmetic
9 that is adulterated or misbranded, and to deliver or proffer delivery
10 thereof for pay or otherwise;

11 11. Any person to sell, deliver for sale, hold for sale, or offer for
12 sale any drug, device or cosmetic in violation of this title;

13 12. Any person to disseminate any false advertisement;

14 13. Any person to refuse to permit entry or inspection as authorized
15 by this title;

16 14. Any person to forge, counterfeit, simulate, or falsely represent,
17 or without proper authority using any mark, stamp, tag, label or other
18 identification device authorized or required by rules and regulations
19 promulgated under the provisions of this title;

20 15. Any person to use for his or her own advantage, or reveal, other
21 than to the commissioner or his or her duly authorized representative,
22 or to the courts when relevant in any judicial proceedings under this
23 title, any information acquired under authority of this title or
24 concerning any method or process, which is a trade secret;

25 16. Any person to alter, mutilate, destroy, obliterate or remove the
26 whole or any part of the labeling of, or the doing of any other act with
27 respect to a drug, device, or cosmetic, if such act is done while such
28 article is held for sale and results in such article being misbranded;

29 17. Any person to violate any of the provisions of section sixty-eight
30 hundred ten of this title;

31 18. Any person to violate any of the provisions of section sixty-eight
32 hundred sixteen of this title;

33 19. Any person, to sell at retail or give away in tablet form bichlo-
34 ride of mercury, mercuric chloride or corrosive sublimate, unless such
35 bichloride of mercury, mercuric chloride or corrosive sublimate, when so
36 sold, or given away, shall conform to the provisions of national formu-
37 lary XII. Nothing contained in this paragraph shall be construed to
38 prohibit the sale and dispensing of bichloride of mercury in any form,
39 shape, or color, when combined or compounded with one or more other
40 drugs or excipients, for the purposes of internal medication only, or
41 when sold in bulk in powder form, or to any preparation containing one-
42 tenth of a grain or less of bichloride of mercury;

43 20. Any pharmacy to fail to properly post the list required by section
44 sixty-eight hundred twenty-six of this title;

45 21. Any pharmacy to change its current selling price without changing
46 the listed price as provided by section sixty-eight hundred twenty-six
47 of this title;

48 22. Any person to refuse to permit access to or copying of any record
49 as required by this title;

50 23. Any manufacturer to sell or offer for sale any drug not manufac-
51 tured, prepared or compounded under the personal supervision of a chem-
52 ist or licensed pharmacist or not labeled with the full name of the
53 manufacturer or seller; or

54 24. Any outsourcing facility to sell or offer to sell any drug that is
55 not both compounded under the personal supervision of a licensed pharma-
56 cist and labeled with the full name of the outsourcing facility.

1 § 6812. Special provisions. 1. Where any pharmacy, manufacturer,
2 wholesaler or outsourcing facility registered by the department is
3 damaged by fire the board shall be notified within a period of forty-
4 eight hours, and the board shall have power to impound all drugs for
5 analysis and condemnation, if found unfit for use. Where a pharmacy is
6 discontinued, the owner of its prescription records shall notify the
7 department as to the disposition of said prescription records, and in no
8 case shall records be sold or given away to a person who does not
9 currently possess a registration to operate a pharmacy.

10 2. Nothing in this title shall be construed as requiring the prose-
11 cution or the institution of injunction proceedings for minor violations
12 of this title whenever the public interest will be adequately served by
13 a suitable written notice of warning.

14 3. The executive secretary of the state board of pharmacy is author-
15 ized to conduct examinations and investigations for the purposes of this
16 title through officers and employees of the United States, or through
17 any health, food, or drug officer or employee of any city, county or
18 other political subdivision of this state.

19 § 6813. Seizure. 1. Any drug, device or cosmetic that is adulterated,
20 misbranded or may not be sold under the provisions of this chapter, may
21 be seized on petition or complaint of the board and condemned in the
22 supreme court of any county in which it is found. Seizure shall be made:

23 a. by process pursuant to the petition or complaint, or
24 b. if the secretary or other officer designated by him or her has
25 probable cause to believe that the article:

26 (i) is adulterated; or
27 (ii) is so misbranded as to be dangerous to health. The article shall
28 be seized by order of such officer. The order shall describe the article
29 to be seized, the place where the article is located, and the officer or
30 employee making the seizure. The officer, in lieu of taking actual
31 possession, may affix a tag or other appropriate marking to the article
32 giving notice that the article has been quarantined and warning all
33 persons not to remove or dispose of it by sale or otherwise until
34 permission for removal or disposal is given by the officer or the court.
35 In case of seizures or quarantine, pursuant to such order, the jurisdic-
36 tion of such court shall attach upon such seizure or quarantine, and a
37 petition or complaint for condemnation shall be filed promptly.

38 2. The procedure for cases under this section shall conform as much as
39 possible to the procedure for attachment. Any issue of fact joined in
40 any case under this section shall be tried by jury on the demand of
41 either party. The court at any time after seizure and up to the time of
42 trial shall allow by order any party or his or her agent or attorney to
43 obtain a representative sample of the condemned material, a true copy of
44 the analysis on which the proceeding was based, and the identifying
45 marks or numbers, if any, on the packages from which the samples
46 analyzed were obtained.

47 3. Any drug, device or cosmetic condemned under this section shall be
48 disposed of by destruction or sale as the court may direct after the
49 decree in accordance with the provisions of this section. The proceeds
50 of the sale, if any, shall be paid into the state treasury after
51 deduction for legal costs and charges. However, the drug, device or
52 cosmetic shall not be sold contrary to the provisions of this title.
53 After entry of the decree, if the owner of the condemned articles pays
54 the costs of the proceeding and posts a sufficient bond as security that
55 the articles will not be disposed of contrary to the provisions of this
56 title, the court may by order direct that the seized articles be deliv-

1 ered to the owner to be destroyed or brought into conformance with this
2 title under supervision of the secretary. The expenses of the super-
3 vision shall be borne by the person obtaining the release under bond.
4 Any drug condemned by reason of its being a new drug which may not be
5 sold under this title shall be disposed of by destruction.

6 4. When the decree of condemnation is entered, court costs and fees,
7 storage and other expense shall be awarded against the person, if any,
8 intervening as claimant of the condemned articles.

9 5. In any proceeding against the board, or the secretary, or an agent
10 of either, because of seizure, or quarantine, under this section, the
11 board, or the secretary, or such agent shall not be liable if the court
12 finds that there was probable cause for the acts done by them.

13 § 6814. Records of shipment. For the purpose of enforcing provisions
14 of this title, carriers engaged in commerce, and persons receiving
15 drugs, devices or cosmetics in commerce or holding such articles so
16 received, shall, upon the request of an officer duly assigned by the
17 secretary, permit such officer, at reasonable times, to have access to
18 and to copy all records showing the movement in commerce of any drug,
19 device or cosmetic, or the holding thereof during or after such move-
20 ment, and the quantity, shipper, and consignee thereof; and it shall be
21 unlawful for any such carrier or person to fail to permit such access to
22 and copying of any such record so requested when such request is accom-
23 panied by a statement in writing specifying the nature or kind of drug,
24 device or cosmetic to which such request relates; provided, that
25 evidence obtained under this section shall not be used in a criminal
26 prosecution of the person from whom obtained; provided further, that
27 carriers shall not be subject to the other provisions of this title by
28 reason of their receipt, carriage, holding or delivery of drugs, devices
29 or cosmetics in the usual course of business as carriers.

30 § 6815. Adulterating, misbranding and substituting. 1. Adulterated
31 drugs. A drug or device shall be deemed to be adulterated:

32 a. (i) If it consists in whole or in part of any filthy, putrid, or
33 decomposed substance; or (ii) if it has been prepared, packed, or held
34 under insanitary conditions whereby it may have been contaminated with
35 filth, or whereby it may have been rendered injurious to health; or
36 (iii) if it is a drug and its container is composed, in whole or in
37 part, of any poisonous or deleterious substance which may render the
38 contents injurious to health; or (iv) if it is a drug and it bears or
39 contains, for purposes of coloring only, a coal-tar color other than one
40 from a batch that has been certified in accordance with regulations
41 provided in this title.

42 b. If it purports to be, or is represented as, a drug the name of
43 which is recognized in an official compendium, and its strength differs
44 from, or its quality or purity falls below, the standard set forth in
45 such compendium. Such determination as to strength, quality or purity
46 shall be made in accordance with the tests or methods of assay set forth
47 in such compendium, or, in the absence or inadequacy of such tests or
48 methods of assay, then in accordance with tests or methods of assay
49 prescribed by regulations of the board of pharmacy as promulgated under
50 this title. Deviations from the official assays may be made in the quan-
51 tities of samples and reagents employed, provided they are in proportion
52 to the quantities stated in the official compendium. No drug defined in
53 an official compendium shall be deemed to be adulterated under this
54 paragraph because (i) it exceeds the standard of strength therefor set
55 forth in such compendium, if such difference is plainly stated on its
56 label; or (ii) it falls below the standard of strength, quality, or

1 purity therefor set forth in such compendium if such difference is
2 plainly stated on its label, except that this subparagraph shall apply
3 only to such drugs, or classes of drugs, as are specified in regulations
4 which the board shall promulgate when, as applied to any drug, or class
5 of drugs, the prohibition of such difference is not necessary for the
6 protection of the public health. Whenever a drug is recognized in both
7 the United States pharmacopoeia and the homeopathic pharmacopoeia of the
8 United States, it shall be subject to the requirements of the United
9 States pharmacopoeia unless it is labeled and offered for sale as a
10 homeopathic drug, in which case it shall be subject to the provisions of
11 the homeopathic pharmacopoeia of the United States and not to those of
12 the United States pharmacopoeia.

13 c. If it is not subject to the provisions of paragraph b of this
14 subdivision and its strength differs from, or its purity or quality
15 falls below, that which it purports or is represented to possess.

16 d. If it is a drug and any substance has been (i) mixed or packed
17 therewith so as to reduce its quality or strength or (ii) substituted
18 wholly or in part therefor.

19 e. If it is sold under or by a name not recognized in or according to
20 a formula not given in the United States pharmacopoeia or the national
21 formulary but that is found in some other standard work on pharmacology
22 recognized by the board, and it differs in strength, quality or purity
23 from the strength, quality or purity required, or the formula prescribed
24 in, the standard work.

25 2. Misbranded and substituted drugs and devices. A drug or device
26 shall be deemed to be misbranded:

27 a. If its labeling is false or misleading in any particular.

28 b. If in package form, unless it bears a label containing: (i) the
29 name and place of business of the manufacturer, packer, or distributor,
30 and (ii) an accurate statement of the quantity of the contents in terms
31 of weight, measure, or numerical count; provided, that under subpara-
32 graph (ii) of this paragraph the board may establish reasonable vari-
33 ations as to quantity and exemptions as to small packages.

34 c. If any word, statement, or other information required by or under
35 authority of this title to appear on the label or labeling is not promi-
36 nently placed thereon with such conspicuousness, as compared with other
37 words, statements, designs, or devices, in the labeling, and in such
38 terms as to render it likely to be read and understood by the ordinary
39 individual under customary conditions of purchase and use.

40 d. If it is for use by man and contains any quantity of the narcotic
41 or hypnotic substance alpha eucaïne, barbituric acid, beta eucaïne,
42 bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin,
43 marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or
44 any chemical derivative of such substance, which derivative has been by
45 the secretary, after investigation, found to be, and by regulations
46 under this title, or by regulations promulgated by the board, designated
47 as, habit forming; unless its label bears the name and quantity, or
48 proportion, of such substance or derivative and in juxtaposition there-
49 with the statement "Warning--May be habit forming".

50 e. If it is a drug and is not designated solely by a name recognized
51 in an official compendium unless its label bears: (i) the common or
52 usual name of the drug, if such there be, and (ii) in case it is fabri-
53 cated from two or more ingredients, the common or usual name of each
54 active ingredient, including the kind and quantity by percentage or
55 amount of any alcohol, and also including, whether active or not, the
56 name and quantity or proportion of any bromides, ether, chloroform,

1 acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine,
2 hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain,
3 strophanthin, strychnine, thyroid, or any derivative or preparation of
4 any such substances, contained therein; provided that, to the extent
5 that compliance with the requirements of subparagraph (ii) of this para-
6 graph is impracticable, exemptions shall be established by regulations
7 promulgated by the board.

8 f. Unless its labeling bears: (i) adequate directions for use, and
9 (ii) such adequate warnings against use in those pathological condi-
10 tions or by children where its use may be dangerous to health, or
11 against unsafe dosage or methods or duration of administration or appli-
12 cation, in such manner and form, as are necessary for the protection of
13 users; provided, that, where any requirement of subparagraph (i) of this
14 paragraph, as applied to any drug or device, is not necessary for the
15 protection of the public health, the board shall promulgate regulations
16 exempting such drug or device from such requirement.

17 g. If it purports to be a drug the name of which is recognized in an
18 official compendium, unless it is packaged and labeled as prescribed
19 therein; provided, that, the method of packing may be modified with the
20 consent of the secretary in accordance with regulations promulgated by
21 the board. Whenever a drug is recognized in both the United States phar-
22 macopoeia and the homeopathic pharmacopoeia of the United States, it
23 shall be subject to the requirements of the United States pharmacopoeia
24 with respect to packaging and labeling unless it is labeled and offered
25 for sale as a homeopathic drug, in which case it shall be subject to the
26 provisions of the homeopathic pharmacopoeia of the United States, and
27 not to those of the United States pharmacopoeia.

28 h. (i) If it is a drug and its container is so made, formed or filled
29 as to be misleading; (ii) if it is an imitation of another drug; (iii)
30 if it is offered for sale under the name of another drug; or (iv) if it
31 bears a copy, counterfeit, or colorable imitation of the trademark,
32 label, container or identifying name or design of another drug.

33 i. If it is dangerous to health when used in the dosage, or with the
34 frequency or duration prescribed, recommended or suggested in the label-
35 ing thereof.

36 j. Except as required by article thirty-three of this chapter, the
37 labeling provisions of this title shall not apply to the compounding and
38 dispensing of drugs on the written prescription of a physician, a
39 dentist, a podiatrist or a veterinarian, which prescription when filled
40 shall be kept on file for at least five years by the pharmacist or drug-
41 gist. Such drug shall bear a label containing the name and place of
42 business of the dispenser, the serial number and date of the
43 prescription, directions for use as may be stated in the prescription,
44 name and address of the patient and the name of the physician or other
45 practitioner authorized by law to issue the prescription. In addition,
46 such label shall contain the proprietary or brand name of the drug and,
47 if applicable, the strength of the contents, unless the person issuing
48 the prescription explicitly states on the prescription, in his or her
49 own handwriting, that the name of the drug and the strength thereof
50 should not appear on the label.

51 § 6816. Omitting to label drugs, or labeling them wrongly. 1. a. Any
52 person, who, in putting up any drug, medicine, or food or preparation
53 used in medical practice, or making up any prescription, or filling any
54 order for drugs, medicines, food or preparation puts any untrue label,
55 stamp or other designation of contents upon any box, bottle or other
56 package containing a drug, medicine, food or preparation used in medical

1 practice, or substitutes or dispenses a different article for or in lieu
2 of any article prescribed, ordered, or demanded, except where required
3 pursuant to section sixty-eight hundred sixteen-a of this title, or puts
4 up a greater or lesser quantity of any ingredient specified in any such
5 prescription, order or demand than that prescribed, ordered or demanded,
6 except where required pursuant to paragraph (g) of subdivision two of
7 section three hundred sixty-five-a of the social services law, or other-
8 wise deviates from the terms of the prescription, order or demand by
9 substituting one drug for another, except where required pursuant to
10 section sixty-eight hundred sixteen-a of this title, is guilty of a
11 misdemeanor; provided, however, that except in the case of physicians'
12 prescriptions, nothing herein contained shall be deemed or construed to
13 prevent or impair or in any manner affect the right of an apothecary,
14 druggist, pharmacist or other person to recommend the purchase of an
15 article other than that ordered, required or demanded, but of a similar
16 nature, or to sell such other article in place or in lieu of an article
17 ordered, required or demanded, with the knowledge and consent of the
18 purchaser. Upon a second conviction for a violation of this section the
19 offender must be sentenced to the payment of a fine not to exceed one
20 thousand dollars and may be sentenced to imprisonment for a term not to
21 exceed one year. The third conviction of a violation of any of the
22 provisions of this section, in addition to rendering the offender liable
23 to the penalty prescribed by law for a second conviction, shall forfeit
24 any right which he or she may possess under the law of this state at the
25 time of such conviction, to engage as proprietor, agent, employee or
26 otherwise, in the business of an apothecary, pharmacist, or druggist, or
27 to compound, prepare or dispense prescriptions or orders for drugs,
28 medicines or foods or preparations used in medical practice; and the
29 offender shall be by reason of such conviction disqualified from engag-
30 ing in any such business as proprietor, agent, employee or otherwise or
31 compounding, preparing or dispensing medical prescriptions or orders for
32 drugs, medicines, or foods or preparations used in medical practice.

33 b. The provisions of this section shall not apply to the practice of a
34 practitioner who is not the proprietor of a store for the dispensing or
35 retailing of drugs, medicines and poisons, or who is not in the employ
36 of such a proprietor, and shall not prevent practitioners from supplying
37 their patients with such articles as they may deem proper, and except as
38 to the labeling of poisons shall not apply to the sale of medicines or
39 poisons at wholesale when not for the use or consumption by the purchas-
40 er; provided, however, that the sale of medicines or poisons at whole-
41 sale shall continue to be subject to such regulations as from time to
42 time may be lawfully made by the board of pharmacy or by any competent
43 board of health.

44 c. The provisions of this section shall not apply to a limited pharma-
45 cy which prepares a formulary containing the brand names and the generic
46 names of drugs and of manufacturers which it stocks, provided that it
47 furnishes a copy of such formulary to each physician on its staff and
48 the physician signs a statement authorizing the hospital to supply the
49 drug under any generic or non-proprietary name listed therein and in
50 conformity with the regulations of the commissioner.

51 2. For the purposes set forth in this section, the terms prescription,
52 order or demand shall apply only to those items subject to provisions of
53 subdivision one of section sixty-eight hundred ten of this title. The
54 written order of a physician for items not subject to provisions of
55 subdivision one of section sixty-eight hundred ten of this title shall
56 be construed to be a direction, a fiscal order or a voucher.

1 § 6816-a. When substitution is required. 1. A pharmacist shall substi-
2 tute a less expensive drug product containing the same active ingredi-
3 ents, dosage form and strength as the drug product prescribed, ordered
4 or demanded, provided that the following conditions are met:

5 a. The prescription is written on a form which meets the requirements
6 of subdivision six of section sixty-eight hundred ten of this title and
7 the prescriber does not prohibit substitution, or in the case of oral
8 prescriptions, the prescriber must expressly state whether substitution
9 is to be permitted or prohibited. Any oral prescription that does not
10 include such an express statement shall not be filled; and

11 b. The substituted drug product is contained in the list of drug
12 products established pursuant to paragraph (o) of subdivision one of
13 section two hundred six of this chapter; and

14 c. The pharmacist shall indicate on the label affixed to the immediate
15 container in which the drug is sold or dispensed the name and strength
16 of the drug product and its manufacturer unless the prescriber specif-
17 ically states otherwise. The pharmacist shall record on the prescription
18 form the brand name or the name of the manufacturer of the drug product
19 dispensed.

20 2. In the event a patient chooses to have a prescription filled by an
21 out of state dispenser, the laws of that state shall prevail.

22 3. A pharmacist shall substitute a less expensive biological product
23 for a prescribed biological product provided that all of the following
24 conditions are met:

25 a. the substituted biological product is either an interchangeable
26 biological product for the prescribed product or the substituted biolog-
27 ical product is one for which the prescribed product is an interchangea-
28 ble biological product;

29 b. the prescriber does not designate that a substitution is prohibited
30 as described in subdivision six of section sixty-eight hundred ten of
31 this title; and

32 c. the pharmacist indicates on the label affixed to the immediate
33 container in which the biological product is sold or distributed the
34 name and strength of the product and its manufacturer unless the pres-
35 criber specifically states otherwise.

36 4. a. Within five business days following the dispensing of a substi-
37 tuted biological product, the dispensing pharmacist or the pharmacist's
38 designee shall communicate to the prescriber the specific product
39 provided to the patient, including the name of the product and the
40 manufacturer. The communication shall be conveyed to the prescriber (i)
41 by making an entry that is electronically accessible to the prescriber
42 through an interoperable electronic medical records system, an electron-
43 ic prescribing technology or a pharmacy record; or (ii) by using facsim-
44 ile, electronic transmission or other electronic means. If an electronic
45 means described in this paragraph is not available to the pharmacist at
46 the time of communication, the dispensing pharmacist or the pharmacist's
47 designee may communicate the information by telephone.

48 b. Communication under paragraph a of this subdivision shall not be
49 required where:

50 (i) there is no FDA-approved interchangeable biological product for
51 the product prescribed; or

52 (ii) a refill prescription is not changed from the product dispensed
53 on the prior filling of the prescription.

54 5. The department shall maintain a link on its web site to the current
55 list of all biological products determined by the Federal Food and Drug

1 Administration to be an interchangeable biological product for a specif-
2 ic biological product.

3 § 6819. Regulations making exceptions. The board shall promulgate
4 regulations exempting from any labeling requirement of this title drugs,
5 devices and cosmetics which are, in accordance with the practice of the
6 trade, to be processed, labeled, or repacked in substantial quantities
7 at establishments other than those where originally processed or packed,
8 on condition that such drugs, devices and cosmetics are not adulterated
9 or misbranded under the provisions of this title upon removal from such
10 processing, labeling, or repacking establishment.

11 § 6820. Certification of coal-tar colors for drugs and cosmetics. The
12 board shall promulgate regulations providing for the listing of coal-tar
13 colors which are harmless and suitable for use in drugs for purposes of
14 coloring only and for use in cosmetics and for the certification of
15 batches of such colors, with or without harmless diluents.

16 § 6821. Poison schedules; register. 1. The following schedules shall
17 remain in force until revised by the board and approved by the depart-
18 ment.

19 Schedule A. Arsenic, atropine, corrosive sublimate, potassium cyanide,
20 chloral hydrate, hydrocyanic acid, strychnine and all other poisonous
21 vegetable alkaloids and their salts and oil of bitter almond containing
22 hydrocyanic acid.

23 Schedule B. Aconite, belladonna, cantharides, colchicum, conium cotton
24 root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus,
25 oil of savin, oil of tansy, veratrum viride and their pharmaceutical
26 preparations, arsenical solutions, carbolic acid, chloroform, creosote,
27 croton oil, white precipitate, methyl or wood alcohol, mineral acids,
28 oxalic acid, paris green, salts of lead, salts of zinc, or any drug,
29 chemical or preparation which is liable to be destructive to adult human
30 life in quantities of sixty grains or less.

31 2. It shall be unlawful for any person to sell at retail or to furnish
32 any of the poisons of schedules A and B without affixing or causing to
33 be affixed to the bottle, box, vessel or package, a label with the name
34 of the article and the word "poison" distinctly shown and with the name
35 and place of business of the seller all printed in red ink together with
36 the name of such poisons printed or written thereupon in plain, legible
37 characters.

38 3. Manufacturers and wholesale dealers in drugs, medicines, pharmaceu-
39 tical preparations, chemicals or poisons shall affix or cause to be
40 affixed to every bottle, box, parcel or outer enclosure of any original
41 package containing any of the articles of schedule A, a suitable label
42 or brand in red ink with the word "poison" upon it.

43 4. Every person who disposes of or sells at retail or furnishes any
44 poisons included in schedule A shall, before delivering the same, enter
45 in a book kept for that purpose the date of sale, the name and address
46 of the purchaser, the name and the quantity of the poison, the purpose
47 for which it is purchased and the name of the dispenser. The poison
48 register shall be always open for inspection by the proper authorities
49 and shall be preserved for at least five years after the last entry.
50 Such person shall not deliver any of the poisons of schedule A or sched-
51 ule B until he or she has satisfied himself or herself that the purchas-
52 er is aware of its poisonous character and that the poison is to be used
53 for a legitimate purpose. The provisions of this subdivision do not
54 apply to the dispensing of drugs or poisons on a doctor's prescription.

1 5. The board may add to or may delete from any of the schedules from
2 time to time as such action becomes necessary for the protection of the
3 public.

4 § 6822. Examinations and investigations. The secretary is authorized
5 to conduct examinations and investigations for the purposes of this
6 title through officers and employees of the United States, or through
7 any health, food, or drug officer or employee of any city, county or
8 other political subdivision of this state, duly commissioned by the
9 secretary as an officer of the board.

10 § 6823. Factory inspection. For purposes of enforcement of this title,
11 officers duly designated by the secretary are authorized:

12 1. to enter, at reasonable times, any factory, warehouse or establish-
13 ment in which drugs, devices or cosmetics are manufactured, processed,
14 packed, or held, for introduction into commerce or are held after such
15 introduction, or to enter any vehicle being used to transport or hold
16 such drugs, devices or cosmetics in commerce; and

17 2. to inspect, at reasonable times, such factory, warehouse, estab-
18 lishment or vehicle and all pertinent equipment, finished and unfinished
19 materials, containers, and labeling therein.

20 § 6824. Injunction proceedings. In addition to the remedies hereinaft-
21 er provided, the secretary is hereby authorized to apply to the court of
22 the proper venue for an injunction to restrain any person from:

23 1. introducing or causing to be introduced into commerce any adulter-
24 ated or misbranded drug, device or cosmetic; or

25 2. from introducing or causing to be introduced in commerce any new
26 drug which does not comply with the provisions of this title; or

27 3. from disseminating or causing to be disseminated a false advertise-
28 ment, without being compelled to allege or prove that an adequate remedy
29 at law does not exist.

30 § 6825. Proof required in prosecution for certain violations. 1. In an
31 action or proceeding, civil or criminal, against a person for violating
32 such provisions of this title which relate to the possession of,
33 compounding, retailing or dispensing of misbranded, substituted or
34 imitated drugs, poisons or cosmetics, when it shall be necessary that an
35 analysis be made for the purpose of establishing the quality of such
36 drug, poison or cosmetic so as to determine the fact of misbranding,
37 substituting or imitating, then it shall be required to prove at the
38 trial or hearing of such action or proceeding, that the person, taking
39 the same for analysis separated it into two representative parts,
40 hermetically or otherwise effectively and completely sealed, delivered
41 one such sealed part to the seller, manufacturer, wholesaler, pharma-
42 cist, or druggist from whose premises such sample was taken and deliv-
43 ered the other part so sealed to the chemist designated by the state
44 board of pharmacy; and the facts herein required to be proven shall be
45 alleged in the complaint or information by which such action or proceed-
46 ing was begun. The rules of the board shall be proven prima facie by the
47 certificate of the secretary.

48 2. Any person accused of violation of any of the provisions of this
49 title relating to adulterating, misbranding, substitution or imitation
50 shall not be prosecuted or convicted or suffer any of the penalties,
51 finer or forfeitures for such violation, if he or she establishes upon
52 the hearing or trial that the drug, device or cosmetic alleged to be
53 adulterated, misbranded, substituted or imitated was purchased by him or
54 her under a written guaranty of the manufacturer or seller to the effect
55 that said drug, device or cosmetic was not adulterated or misbranded,
56 within the meaning of this title and proves that he or she has not adul-

1 terated, misbranded, substituted or imitated the same, provided the
2 seller has taken due precaution to maintain the standard set for the
3 drug, device or cosmetic. A guaranty, in order to be a defense to a
4 prosecution or to prevent conviction or to afford protection, must state
5 that the drug, device or cosmetic to which it refers is not adulterated,
6 misbranded, substituted or imitated within the meaning of the provisions
7 of this title and must state also the full name and place of business of
8 the manufacturer, wholesaler, jobber or other person from whom the drug,
9 device or cosmetic was purchased, and the date of purchase. The act,
10 omission or failure of any officer, agent or other employee acting for
11 or employed by any person within the scope of his or her authority or
12 employment shall in every case be the act, omission or failure of such
13 person as well as that of the officer, agent or other employee, and such
14 person shall be equally liable for violations of this title by a part-
15 nership, association or corporation, and every member of the partnership
16 or association and the directors and general officers of the corporation
17 and the general manager of the partnership, association or corporation
18 shall be individually liable and any action, prosecution or proceeding
19 authorized by this title may be brought against any or all of such
20 persons. When any prosecution under this title is made on the complaint
21 of the board, any fines collected shall be paid into the state treasury
22 as provided by this title.

23 3. No publisher, radio-broadcast licensee, advertising agency, or
24 agency or medium for the dissemination of advertising, except the
25 manufacturer, packer, distributor, or seller of the commodity to which
26 the false advertisement relates, shall be subject to the penalties
27 provided by this title by reason of the dissemination by him or her of
28 any false advertisement, unless he or she has refused, on the request of
29 the secretary, to furnish the secretary the name and post-office address
30 of the manufacturer, packer, distributor, seller or advertising agency,
31 who caused him or her to disseminate such advertisement.

32 § 6826. Drug retail price lists. 1. Every pharmacy shall compile a
33 drug retail price list, which shall contain the names of the drugs on
34 the list provided by the board, and the pharmacy's corresponding retail
35 prices for each drug. Every pharmacy shall update its drug retail list
36 at least weekly and provide the time and date that the list was updated.
37 Every pharmacy shall provide the drug retail price list to any person
38 upon request.

39 2. a. The list provided by the board shall be prepared at least annu-
40 ally by the board and distributed to each pharmacy in the state. The
41 list shall be a compendium of the one hundred fifty most frequently
42 prescribed drugs together with their usual dosages for which a
43 prescription is required by the provisions of the "Federal Food, Drug,
44 and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as
45 amended, or by the commissioner. The board shall make the compendium
46 list available to each pharmacy free of charge, both in printed form and
47 in an electronic form that can be used to produce the pharmacy's drug
48 retail list. The board shall provide the compendium list to the depart-
49 ment.

50 b. The drug retail price list shall contain an advisory statement by
51 the department alerting consumers to the need to tell their health care
52 practitioner and pharmacist about all the medications they may be taking
53 and to ask them how to avoid harmful interactions between drugs, if any.
54 A pharmacy may include on its drug retail price list a statement: (i)
55 concerning discounts from its listed retail prices that may be available

1 to consumers and (ii) any limitations that the pharmacy may have as to
2 what group or groups of customers it serves.

3 3. The pharmacy's corresponding retail price means the actual price to
4 be paid by a retail purchaser to the pharmacy for any listed drug at the
5 listed dosage. However, upon implementation of the prescription drug
6 retail price list database by the department under this section, the
7 pharmacy's corresponding retail price shall mean the price sent to it by
8 the department under such section.

9 4. Pharmacies shall have a sign notifying people of the availability
10 of the drug retail price list and the availability of the department
11 prescription drug retail price list database and the web address of that
12 database, conspicuously posted at or adjacent to the place in the phar-
13 macy where prescriptions are presented for compounding and dispensing,
14 in the waiting area for customers, or in the area where prescribed drugs
15 are delivered.

16 5. Nothing contained herein shall prevent a pharmacy from changing and
17 charging the current retail price at any time, provided that the listed
18 price is updated at least weekly to reflect the new retail price.

19 6. The commissioner shall make regulations necessary to implement this
20 section, including how this section is applied to mail-order and inter-
21 net pharmacies.

22 § 6826-a. Reducing certain copayments. 1. Where an insured's copayment
23 for a drug exceeds the corresponding retail price for the same drug on
24 the pharmacy's drug retail price list, the pharmacist shall notify the
25 insured of this occurrence and charge no greater than the pharmacy's
26 corresponding retail price.

27 2. Where the drug being purchased is not on the drug retail price
28 list, and the copayment for the drug exceeds the pharmacy's usual and
29 customary price for that drug, the pharmacist shall notify the insured
30 of this occurrence and charge the lesser of the insured's copayment and
31 the pharmacy's usual and customary price for that drug.

32 § 6827. Mandatory continuing education. 1. a. Each licensed pharmacist
33 required under this title to register triennially with the department to
34 practice in the state shall comply with provisions of the mandatory
35 continuing education requirements prescribed in subdivision two of this
36 section except as set forth in paragraphs b and c of this subdivision.
37 Pharmacists who do not satisfy the mandatory continuing education
38 requirements shall not practice until they have met such requirements,
39 and they have been issued a registration certificate, except that a
40 pharmacist may practice without having met such requirements if he or
41 she is issued a conditional registration certificate pursuant to subdi-
42 vision three of this section.

43 b. In accord with the intent of this section, adjustment to the manda-
44 tory continuing education requirement may be granted by the department
45 for reasons of health certified by an appropriate health care profes-
46 sional, for extended active duty with the armed forces of the United
47 States, or for other good cause acceptable to the department which may
48 prevent compliance.

49 c. A licensed pharmacist not engaged in practice as determined by the
50 department, shall be exempt from the mandatory continuing education
51 requirement upon the filing of a statement with the department declaring
52 such status. Any licensee who returns to the practice of pharmacy during
53 the triennial registration period shall notify the department prior to
54 reentering the profession and shall meet such mandatory education
55 requirements as shall be prescribed by regulations of the commissioner.

1 2. During each triennial registration period an applicant for regis-
2 tration shall complete a minimum of forty-five hours of acceptable
3 formal continuing education, as specified in subdivision four of this
4 section, provided that no more than twenty-two hours of such continuing
5 education shall consist of self-study courses. Any pharmacist whose
6 first registration date following the effective date of this section
7 occurs less than three years from such effective date, but on or after
8 January first, nineteen hundred ninety-eight, shall complete continuing
9 education hours on a prorated basis at the rate of one and one-quarter
10 hours per month for the period beginning January first, nineteen hundred
11 ninety-seven up to the first registration date thereafter. A licensee
12 who has not satisfied the mandatory continuing education requirements
13 shall not be issued a triennial registration certificate by the depart-
14 ment and shall not practice unless and until a conditional registration
15 certificate is issued as provided for in subdivision three of this
16 section. Continuing education hours taken during one triennium may not
17 be transferred to a subsequent triennium.

18 3. The department, in its discretion, may issue a conditional regis-
19 tration to a licensee who fails to meet the continuing education
20 requirements established in subdivision two of this section but who
21 agrees to make up any deficiencies and complete any additional education
22 which the department may require. The fee for such a conditional regis-
23 tration shall be the same as, and in addition to, the fee for the trien-
24 nal registration. The duration of such conditional registration shall
25 be determined by the department but shall not exceed one year. Any
26 licensee who is notified of the denial of registration for failure to
27 submit evidence, satisfactory to the department, of required continuing
28 education and who practices pharmacy without such registration, may be
29 subject to disciplinary proceedings pursuant to section sixty-five
30 hundred ten of this article.

31 4. As used in subdivision two of this section, "acceptable formal
32 continuing education" shall mean formal courses of learning which
33 contribute to professional practice in pharmacy and which meet the stan-
34 dards prescribed by regulations of the commissioner. The department
35 may, in its discretion and as needed to contribute to the health and
36 welfare of the public, require the completion of continuing education
37 courses in specific subjects. To fulfill this mandatory continuing
38 education requirement, courses must be taken from a sponsor approved by
39 the department, pursuant to the regulations of the commissioner.

40 5. Pharmacists shall maintain adequate documentation of completion of
41 acceptable formal continuing education and shall provide such documenta-
42 tion at the request of the department. Failure to provide such documen-
43 tation upon the request of the department shall be an act of misconduct
44 subject to disciplinary proceedings pursuant to section sixty-five
45 hundred ten of this article.

46 6. The mandatory continuing education fee shall be forty-five dollars,
47 shall be payable on or before the first day of each triennial registra-
48 tion period, and shall be paid in addition to the triennial registration
49 fee required by section sixty-eight hundred five of this title.

50 § 6828. Certificates of administration. 1. No pharmacist shall admin-
51 ister immunizing agents without a certificate of administration issued
52 by the department pursuant to regulations of the commissioner.

53 2. The fee for a certificate of administration shall be one hundred
54 dollars and shall be paid on a triennial basis. A certificate may be
55 suspended or revoked in the same manner as a license to practice pharma-
56 cy.

1 § 6829. Interpretation and translation requirements for prescription
2 drugs and standardized medication labeling. 1. For the purposes of this
3 section, the following terms shall have the following meanings:

4 a. "Covered pharmacy" means any pharmacy that is part of a group of
5 eight or more pharmacies, located within New York state and owned by the
6 same corporate entity. For purposes of this section, "corporate entity"
7 shall include related subsidiaries, affiliates, successors, or assignees
8 doing business as or operating under a common name or trading symbol.

9 b. "Limited English proficient individual" or "LEP individual" means
10 an individual who identifies as being, or is evidently, unable to speak,
11 read or write English at a level that permits such individual to under-
12 stand health-related and pharmaceutical information communicated in
13 English.

14 c. "Translation" shall mean the conversion of a written text from one
15 language into an equivalent written text in another language by an indi-
16 vidual competent to do so and utilizing all necessary pharmaceutical and
17 health-related terminology. Such translation may occur, where appropri-
18 ate, in a separate document provided to an LEP individual that accompa-
19 nies his or her medication.

20 d. "Competent oral interpretation" means oral communication in which a
21 person acting as an interpreter comprehends a message and re-expresses
22 that message accurately in another language, utilizing all necessary
23 pharmaceutical and health-related terminology, so as to enable an LEP
24 individual to receive all necessary information in the LEP individual's
25 preferred pharmacy primary language.

26 e. "Pharmacy primary languages" shall mean those languages spoken by
27 one percent or more of the population, as determined by the U.S. Census,
28 for each region, as established by regulations promulgated pursuant to
29 this section, provided, however, that the regulations shall not require
30 translation or competent oral interpretation of more than seven
31 languages in any region.

32 f. "Mail order pharmacy" shall mean a pharmacy that dispenses most of
33 its prescriptions through the United States postal service or other
34 delivery system.

35 2. a. Every covered pharmacy shall provide free, competent oral inter-
36 pretation services and translation services to each LEP individual
37 requesting such services or filling a prescription that indicates that
38 the individual is limited English proficient at such covered pharmacy in
39 the LEP individual's preferred pharmacy primary language for the
40 purposes of counseling such individual about his or her prescription
41 medications or when soliciting information necessary to maintain a
42 patient medication profile, unless the LEP individual is offered and
43 refuses such services.

44 b. Every covered pharmacy shall provide free, competent oral interpre-
45 tation services and translation services of prescription medication
46 labels, warning labels and other written material to each LEP individual
47 filling a prescription at such covered pharmacy, unless the LEP individ-
48 ual is offered and refuses such services or the medication label, warn-
49 ing labels and other written materials have already been translated into
50 the language spoken by the LEP individual.

51 c. The services required by this section may be provided by a staff
52 member of the pharmacy or a third-party contractor. Such services must
53 be provided on an immediate basis but need not be provided in-person or
54 face-to-face in order to meet the requirements of this section.

55 3. Every covered pharmacy shall conspicuously post, at or adjacent to
56 each counter over which prescription drugs are sold, a notification of

1 the right to free, competent oral interpretation services and trans-
2 lation services for limited English proficient individuals as provided
3 for in subdivision two of this section. Such notifications shall be
4 provided in the pharmacy primary languages. The size, style and place-
5 ment of such notice shall be determined in accordance with rules promul-
6 gated pursuant to this section.

7 4. The commissioner shall promulgate regulations requiring that mail
8 order pharmacies conducting business in the state provide free, compe-
9 tent oral interpretation services and translation services to persons
10 filling a prescription through such mail order pharmacies whom are iden-
11 tified as LEP individuals. Such regulations shall take effect one year
12 after the effective date of this section; provided, however, that they
13 shall be promulgated pursuant to the requirements of the state adminis-
14 trative procedure act, address the concerns of affected stakeholders,
15 and reflect the findings of a thorough analysis of issues including:

16 a. how persons shall be identified as an LEP individual, in light of
17 the manner by which prescriptions are currently received by such mail
18 order pharmacies;

19 b. which languages shall be considered;

20 c. the manner and circumstances in which competent oral interpretation
21 services and translation services shall be provided;

22 d. the information for which competent oral interpretation services
23 and translation services shall be provided;

24 e. anticipated utilization, available resources, and cost consider-
25 ations; and

26 f. standards for monitoring compliance with regulations and ensuring
27 the delivery of quality competent oral interpretation services and
28 translation services.

29 The commissioner shall provide a report on implementation, utiliza-
30 tion, unanticipated problems, and corrective actions undertaken and
31 planned to the temporary president of the senate and the speaker of the
32 assembly no later than two years after the effective date of this
33 section.

34 5. Covered pharmacies shall not be liable for injuries resulting from
35 the actions of third-party contractors taken pursuant to and within the
36 scope of the contract with the covered pharmacy as long as the covered
37 pharmacy entered into such contract reasonably and in good faith to
38 comply with this section, and was not negligent with regard to the
39 alleged misconduct of the third-party contractor.

40 6. The regulations promulgated pursuant to this section shall estab-
41 lish a process by which covered pharmacies may apply and receive a waiv-
42 er from compliance with subdivisions two and three of this section upon
43 a showing that implementation would be unnecessarily burdensome when
44 compared to the need for such services.

45 7. The commissioner shall promulgate regulations to effectuate the
46 requirements of this section.

47 § 6830. Standardized patient-centered data elements. 1. The commis-
48 sioner shall develop rules and regulations requiring standardized
49 patient-centered data elements consistent with existing technology and
50 equipment to be used on all prescription medicine dispensed to patients
51 in this state.

52 2. When developing the requirements for patient-centered data elements
53 on prescription drug labels, the commissioner shall consider:

54 a. medical literacy research that identifies factors that improve
55 understandability of labels and promotes increased compliance with a
56 drug's intended use;

1 b. factors that improve the clarity of directions for use;
2 c. font types and sizes;
3 d. inclusion of only patient-centered information; and
4 e. the needs of special populations. To ensure public input, the
5 commissioner shall solicit input from the state board of pharmacy and
6 the state board of medicine, consumer groups, advocates for special
7 populations, pharmacists, physicians, other health care professionals
8 authorized to prescribe, and other interested parties.

9 § 6831. Special provisions relating to outsourcing facilities. 1.
10 Registration. Any outsourcing facility that is engaged in the compound-
11 ing of sterile drugs in this state shall be registered as an outsourcing
12 facility under the Federal Food, Drug and Cosmetic Act and be registered
13 as an outsourcing facility pursuant to this title.

14 2. New drugs. Sections 502(f)(1), 505 and 582 of the Federal Food,
15 Drug and Cosmetic Act shall not apply to a drug compounded in an
16 outsourcing facility registered under the Federal Food, Drug and Cosmet-
17 ic Act.

18 3. Prescriptions. Notwithstanding any other provision of law to the
19 contrary, no outsourcing facility may distribute or dispense any drug to
20 any person pursuant to a prescription unless it is also registered as a
21 pharmacy in this state and meets all other applicable requirements of
22 federal and state law.

23 4. Restrictions. Any drugs compounded in an outsourcing facility
24 registered pursuant to this title shall be compounded in accordance with
25 all applicable federal and state laws.

26 5. Labeling. Notwithstanding any other provision of law to the contra-
27 ry, the label of any drug compounded by an outsourcing facility shall
28 include, but not be limited to the following:

29 a. a statement that the drug is a compounded drug or a reasonable
30 comparable alternative statement that prominently identifies the drug as
31 a compounded drug;

32 b. the name, address, and phone number of the applicable outsourcing
33 facility; and

34 c. with respect to the drug:

35 (i) the lot or batch number;

36 (ii) the established name of the drug;

37 (iii) the dosage form and strength;

38 (iv) the statement of quantity or volume, as appropriate;

39 (v) the date that the drug was compounded;

40 (vi) the expiration date;

41 (vii) storage and handling instructions;

42 (viii) the National Drug Code number, if available;

43 (ix) the statement that the drug is not for resale, and the statement
44 "Office Use Only"; and

45 (x) a list of the active and inactive ingredients, identified by
46 established name, and the quantity or proportion of each ingredient.

47 6. Container. The container from which the individual units of the
48 drug are removed for dispensing or for administration, such as a plastic
49 bag containing individual product syringes, shall include:

50 a. a list of active and inactive ingredients, identified by estab-
51 lished name, and the quantity or proportion of each ingredient; and

52 b. any other information required by regulations promulgated by the
53 commissioner to facilitate adverse event reporting in accordance with
54 the requirements established in section 310.305 of title 21 of the code
55 of federal regulations.

1 7. Bulk drugs. A drug may only be compounded in an outsourcing facility
2 that does not compound using bulk drug substances as defined in
3 section 207.3(a)(4) of title 21 of the code of federal regulations or
4 any successor regulation unless:

5 a. the bulk drug substance appears on a list established by the secre-
6 tary of health and human services identifying bulk drug substances for
7 which there is a clinical need;

8 b. the drug is compounded from a bulk drug substance that appears on
9 the federal drug shortage list in effect at the time of compounding,
10 distributing, and dispensing;

11 c. if an applicable monograph exists under the United States Pharma-
12 copeia, the national formulary, or another compendium or pharmacopeia
13 recognized by the secretary of health and human services and the bulk
14 drug substances each comply with the monograph;

15 d. the bulk drug substances are each manufactured by an establishment
16 that is registered with the federal government.

17 8. Ingredients. If an outsourcing facility uses ingredients, other
18 than bulk drug substances, such ingredients must comply with the stand-
19 ards of the applicable United States pharmacopeia or national formulary
20 monograph, if such monograph exists, or of another compendium or pharma-
21 copeia recognized by the secretary of health and human services for
22 purposes of this subdivision, if any.

23 9. Unsafe or ineffective drugs. No outsourcing facility may compound a
24 drug that appears on a list published by the secretary of health and
25 human services that has been withdrawn or removed from the market
26 because such drugs or components of such drugs have been found to be
27 unsafe or not effective.

28 10. Prohibition on wholesaling. No compounded drug will be sold or
29 transferred by any entity other than the outsourcing facility that
30 compounded such drug. This does not prohibit the administration of a
31 drug in a health care setting or dispensing a drug pursuant to a proper-
32 ly executed prescription.

33 11. Prohibition against copying an approved drug. No outsourcing
34 facility may compound a drug that is essentially a copy of one or more
35 approved drugs.

36 12. Prohibition against compounding drugs presenting demonstrable
37 difficulties. No outsourcing facility may compound a drug:

38 a. that is identified, directly or as part of a category of drugs, on
39 a list published by the secretary of health and human services that
40 present demonstrable difficulties for compounding that are reasonably
41 likely to lead to an adverse effect on the safety or effectiveness of
42 the drug or category of drugs, taking into account the risks and bene-
43 fits to patients; or

44 b. that is compounded in accordance with all applicable conditions
45 identified on the drug list as conditions that are necessary to prevent
46 the drug or category of drugs from presenting demonstrable difficulties.

47 13. Adverse event reports. Outsourcing facilities shall submit a copy
48 of all adverse event reports submitted to the secretary of health and
49 human services in accordance with the content and format requirements
50 established in section 310.305 of title 21 of the code of federal regu-
51 lations, or any successor regulation, to the executive secretary for the
52 state board of pharmacy.

53 14. Reports. The commissioner shall prepare and submit a report to the
54 governor and the legislature, due eighteen months from the effective
55 date of this section, evaluating the effectiveness of the registration
56 and oversight of outsourcing facilities related to compounding.

1 § 6832. Limitations on assistance of an unlicensed person. 1. Subject
2 to the limitations set forth in subdivision two of this section, an
3 unlicensed person may assist a licensed pharmacist in the dispensing of
4 drugs by:

5 a. receiving written or electronically transmitted prescriptions,
6 except that in the case of electronically transmitted prescriptions the
7 licensed pharmacist or pharmacy intern shall review the prescription to
8 determine whether in his or her professional judgment it shall be
9 accepted by the pharmacy, and if accepted, the licensed pharmacist or
10 pharmacy intern shall enter his or her initials into the records of the
11 pharmacy;

12 b. typing prescription labels;

13 c. keying prescription data for entry into a computer-generated file
14 or retrieving prescription data from the file, provided that such compu-
15 ter-generated file shall provide for verification of all information
16 needed to fill the prescription by a licensed pharmacist prior to the
17 dispensing of the prescription, meaning that the licensed pharmacist
18 shall review and approve such information and enter his or her initials
19 or other personal identifier into the recordkeeping system prior to the
20 dispensing of the prescription or of the prescription refill;

21 d. getting drugs from stock and returning them to stock;

22 e. getting prescription files and other manual records from storage
23 and locating prescriptions;

24 f. counting dosage units of drugs;

25 g. placing dosage units of drugs in appropriate containers;

26 h. affixing the prescription label to the containers;

27 i. preparing manual records of dispensing for the signature or
28 initials of the licensed pharmacist;

29 j. handing or delivering completed prescriptions to the patient or the
30 person authorized to act on behalf of the patient and, in accordance
31 with the relevant commissioner's regulations, advising the patient or
32 person authorized to act on behalf of the patient of the availability of
33 counseling to be conducted by the licensed pharmacist or pharmacy
34 intern; and

35 k. performing other functions as defined by the commissioner's regu-
36 lations.

37 2. Except for a licensed pharmacist employed by a facility licensed in
38 accordance with article twenty-eight of this chapter or a pharmacy owned
39 and operated by such a facility, no licensed pharmacist shall obtain the
40 assistance of more than four unlicensed persons, in the performance of
41 the activities that do not require licensure, the total of such persons
42 shall not exceed four individuals at any one time. Pharmacy interns
43 shall be exempt from such ratios, but shall be supervised in accordance
44 with the commissioner's regulations. Individuals who are responsible for
45 the act of placing drugs which are in unit-dose packaging into medica-
46 tion carts as part of an approved unit-dose drug distribution system for
47 patients in institutional settings shall be exempt from such ratio,
48 provided that such individuals are not also engaged in performing the
49 activities set forth in paragraph b, c, d, e, f, g, h or i of subdivi-
50 sion one of this section. The licensed pharmacist shall provide the
51 degree of supervision of such persons as may be appropriate to ensure
52 compliance with the relevant provisions of regulations of the commis-
53 sioner.

54 TITLE 11

55 REGISTERED PHARMACY TECHNICIANS

1 Section 6840. Introduction.

2 6841. Definition of the practice of registered pharmacy techni-
3 cian.

4 6842. Definitions.

5 6843. Practice of registered pharmacy technician and use of the
6 title "registered pharmacy technician".

7 6844. Requirements for licensure as a registered pharmacy tech-
8 nician.

9 § 6840. Introduction. This title applies to the profession of regis-
10 tered pharmacy technician. The general provisions for all professions
11 contained in title one of this article shall apply to this title.

12 § 6841. Definition of the practice of registered pharmacy technician.

13 1. A registered pharmacy technician may, under the direct personal
14 supervision of a licensed pharmacist, assist such licensed pharmacist,
15 as directed, in compounding, preparing, labeling, or dispensing of drugs
16 used to fill valid prescriptions or medication orders or in compounding,
17 preparing, and labeling in anticipation of a valid prescription or medi-
18 cation order for a patient to be served by the facility, in accordance
19 with title ten of this article where such tasks require no professional
20 judgment. Such professional judgment shall only be exercised by a
21 licensed pharmacist. A registered pharmacy technician may only practice
22 in a facility licensed in accordance with article twenty-eight of the
23 public health law, or a pharmacy owned and operated by such a facility,
24 under the direct personal supervision of a licensed pharmacist employed
25 in such a facility or pharmacy. Such facility shall be responsible for
26 ensuring that the registered pharmacy technician has received appropri-
27 ate training to ensure competence before he or she begins assisting a
28 licensed pharmacist in compounding, preparing, labeling, or dispensing
29 of drugs, in accordance with this title and title ten of this article.
30 For the purposes of this title, direct personal supervision means super-
31 vision of procedures based on instructions given directly by a supervis-
32 ing licensed pharmacist who remains in the immediate area where the
33 procedures are being performed, authorizes the procedures and evaluates
34 the procedures performed by the registered pharmacy technicians and a
35 supervising licensed pharmacist shall approve all work performed by the
36 registered pharmacy technician prior to the actual dispensing of any
37 drug.

38 2. In addition to the registered pharmacy technician services included
39 in subdivision one of this section, registered pharmacy technicians may
40 also assist a licensed pharmacist in the dispensing of drugs by perform-
41 ing the following functions that do not require a license under this
42 title:

43 a. receiving written or electronically transmitted prescriptions,
44 except that in the case of electronically transmitted prescriptions the
45 licensed pharmacist or pharmacy intern shall review the prescription to
46 determine whether in his or her professional judgment it shall be
47 accepted by the pharmacy, and if accepted, the licensed pharmacist or
48 pharmacy intern shall enter his or her initials into the records of the
49 pharmacy;

50 b. typing prescription labels;

51 c. keying prescription data for entry into a computer-generated file
52 or retrieving prescription data from the file, provided that such compu-
53 ter-generated file shall provide for verification of all information
54 needed to fill the prescription by a licensed pharmacist prior to the
55 dispensing of the prescription, meaning that the licensed pharmacist
56 shall review and approve such information and enter his or her initials

1 or other personal identifier into the recordkeeping system prior to the
2 dispensing of the prescription or of the prescription refill;

3 d. getting drugs from stock and returning them to stock;

4 e. getting prescription files and other manual records from storage
5 and locating prescriptions;

6 f. counting dosage units of drugs;

7 g. placing dosage units of drugs in appropriate containers;

8 h. affixing the prescription label to the containers;

9 i. preparing manual records of dispensing for the signature or
10 initials of the licensed pharmacist;

11 j. handing or delivering completed prescriptions to the patient or the
12 person authorized to act on behalf of the patient and, in accordance
13 with the relevant commissioner's regulations, advising the patient or
14 person authorized to act on behalf of the patient of the availability of
15 counseling to be conducted by the licensed pharmacist or pharmacy
16 intern; or

17 k. performing other functions as defined by the commissioner's regu-
18 lations.

19 3. Under the direct personal supervision of a licensed pharmacist,
20 unlicensed persons who are not registered pharmacy technicians may
21 assist licensed pharmacists in performing tasks that do not require
22 licensure in accordance with regulations promulgated by the commissioner
23 and are also described in subdivision two of this section. Unlicensed
24 persons who are not registered pharmacy technicians shall not engage in
25 or assist in compounding.

26 4. No licensed pharmacist shall obtain the assistance of more than two
27 registered pharmacy technicians in the performance of licensed tasks
28 within their scope of practice or four unlicensed persons, in the
29 performance of the activities that do not require licensure, the total
30 of such persons shall not exceed four individuals at any one time. Phar-
31 macy interns shall be exempt from such ratios, but shall be supervised
32 in accordance with commissioner's regulations. Individuals who are
33 responsible for the act of placing drugs which are in unit-dose packag-
34 ing into medication carts as part of an approved unit-dose drug distrib-
35 ution system for patients in institutional settings shall be exempt from
36 such ratio, provided that such individuals are not also engaged in
37 performing the activities set forth in subdivision one or paragraph b,
38 c, d, e, f, g, h, or i of subdivision two of this section. The licensed
39 pharmacist shall provide the degree of supervision of such persons as
40 may be appropriate to ensure compliance with the relevant provisions of
41 regulations of the commissioner.

42 § 6842. Definitions. As used in this title:

43 1. "Licensed pharmacist" means a person licensed to practice pharmacy
44 pursuant to title ten of this article.

45 2. "Pharmacy intern" means a person practicing under a limited permit
46 pursuant to section sixty-eight hundred six of this article.

47 3. "Professional judgment" means professional decision-making by a
48 licensed pharmacist, including, but not limited to, such activities as:

49 a. interpreting a prescription or medication order for therapeutic
50 acceptability and appropriateness or engaging in the calculations behind
51 any such formulations;

52 b. interpreting and evaluating a prescription or medication order for
53 conformance with legal requirements, authenticity, accuracy and inter-
54 action of the prescribed drug with other known prescribed and over-the
55 -counter drugs;

56 c. receiving oral prescriptions from prescribers; or

1 d. counseling patients.

2 4. "Compounding" means the combining, admixing, mixing, diluting,
3 pooling, reconstituting, or otherwise altering of a drug or bulk drug
4 substance to create a drug.

5 5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have
6 the same definitions as set forth in section sixty-eight hundred two of
7 this article.

8 § 6843. Practice of registered pharmacy technician and use of the
9 title "registered pharmacy technician". Only a person licensed to prac-
10 tice as a registered pharmacy technician under this title or otherwise
11 authorized shall practice as a registered pharmacy technician or use the
12 title "registered pharmacy technician."

13 § 6844. Requirements for licensure as a registered pharmacy techni-
14 cian. To qualify for licensure as a "registered pharmacy technician", an
15 applicant shall fulfill the following requirements:

16 1. Application: file an application with the department;

17 2. Education: have received an education, including high school gradu-
18 ation or its equivalent, as determined by the department;

19 3. Certification from a nationally accredited pharmacy technician
20 certification program acceptable to the department;

21 4. Age: at the time of application be at least eighteen years of age;

22 5. Character: be of good moral character as determined by the depart-
23 ment; and

24 6. Fee: pay a fee determined by the department for initial license and
25 for each triennial registration period.

26 TITLE 12

27 NURSING

28 Section 6900. Introduction.

29 6901. Definitions.

30 6902. Definition of practice of nursing.

31 6903. Practice of nursing and use of title "registered profes-
32 sional nurse" or "licensed practical nurse".

33 6904. State board for nursing.

34 6905. Requirements for a license as a registered professional
35 nurse.

36 6906. Requirements for a license as a licensed practical nurse.

37 6907. Limited permits.

38 6908. Exempt persons.

39 6909. Special provision.

40 6910. Certificates for nurse practitioner practice.

41 6911. Certification as a clinical nurse specialist (CNS).

42 § 6900. Introduction. This title applies to the profession of nursing.
43 The general provisions for all professions contained in title one of
44 this article apply to this title.

45 § 6901. Definitions. As used in section sixty-nine hundred two of this
46 title:

47 1. "Diagnosing" in the context of nursing practice means that iden-
48 tification of and discrimination between physical and psychosocial signs
49 and symptoms essential to effective execution and management of the
50 nursing regimen. Such diagnostic privilege is distinct from a medical
51 diagnosis.

52 2. "Treating" means selection and performance of those therapeutic
53 measures essential to the effective execution and management of the
54 nursing regimen, and execution of any prescribed medical regimen.

1 3. "Human Responses" means those signs, symptoms and processes which
2 denote the individual's interaction with an actual or potential health
3 problem.

4 § 6902. Definition of practice of nursing. 1. The practice of the
5 profession of nursing as a registered professional nurse is defined as
6 diagnosing and treating human responses to actual or potential health
7 problems through such services as casefinding, health teaching, health
8 counseling, and provision of care supportive to or restorative of life
9 and well-being, and executing medical regimens prescribed by a licensed
10 physician, dentist or other licensed health care provider legally
11 authorized under this title and in accordance with the commissioner's
12 regulations. A nursing regimen shall be consistent with and shall not
13 vary any existing medical regimen.

14 2. The practice of nursing as a licensed practical nurse is defined as
15 performing tasks and responsibilities within the framework of casefind-
16 ing, health teaching, health counseling, and provision of supportive and
17 restorative care under the direction of a registered professional nurse
18 or licensed physician, dentist or other licensed health care provider
19 legally authorized under this article and in accordance with the commis-
20 sioner's regulations.

21 3. a. (i) The practice of registered professional nursing by a nurse
22 practitioner, certified under section six thousand nine hundred ten of
23 this title, may include the diagnosis of illness and physical conditions
24 and the performance of therapeutic and corrective measures within a
25 specialty area of practice, in collaboration with a licensed physician
26 qualified to collaborate in the specialty involved, provided such
27 services are performed in accordance with a written practice agreement
28 and written practice protocols except as permitted by paragraph b of
29 this subdivision. The written practice agreement shall include explicit
30 provisions for the resolution of any disagreement between the collab-
31 orating physician and the nurse practitioner regarding a matter of diag-
32 nosis or treatment that is within the scope of practice of both. To the
33 extent the practice agreement does not so provide, then the collaborat-
34 ing physician's diagnosis or treatment shall prevail.

35 (ii) Prescriptions for drugs, devices and immunizing agents may be
36 issued by a nurse practitioner, under this paragraph and section six
37 thousand nine hundred ten of this title, in accordance with the practice
38 agreement and practice protocols except as permitted by paragraph b of
39 this subdivision. The nurse practitioner shall obtain a certificate from
40 the department upon successfully completing a program including an
41 appropriate pharmacology component, or its equivalent, as established by
42 the commissioner's regulations, prior to prescribing under this para-
43 graph. The certificate issued under section six thousand nine hundred
44 ten of this title shall state whether the nurse practitioner has
45 successfully completed such a program or equivalent and is authorized to
46 prescribe under this paragraph.

47 (iii) Each practice agreement shall provide for patient records review
48 by the collaborating physician in a timely fashion but in no event less
49 often than every three months. The names of the nurse practitioner and
50 the collaborating physician shall be clearly posted in the practice
51 setting of the nurse practitioner.

52 (iv) The practice protocol shall reflect current accepted medical and
53 nursing practice. The protocols shall be filed with the department with-
54 in ninety days of the commencement of the practice and may be updated
55 periodically. The commissioner shall make regulations establishing the

1 procedure for the review of protocols and the disposition of any issues
2 arising from such review.

3 (v) No physician shall enter into practice agreements with more than
4 four nurse practitioners who are not located on the same physical prem-
5 ises as the collaborating physician.

6 b. Notwithstanding subparagraph (i) of paragraph a of this subdivi-
7 sion, a nurse practitioner, certified under section sixty-nine hundred
8 ten of this title and practicing for more than three thousand six
9 hundred hours may comply with this paragraph in lieu of complying with
10 the requirements of paragraph a of this subdivision relating to collab-
11 oration with a physician, a written practice agreement and written prac-
12 tice protocols. A nurse practitioner complying with this paragraph shall
13 have collaborative relationships with one or more licensed physicians
14 qualified to collaborate in the specialty involved or a hospital,
15 licensed under article twenty-eight of this chapter, that provides
16 services through licensed physicians qualified to collaborate in the
17 specialty involved and having privileges at such institution. As
18 evidence that the nurse practitioner maintains collaborative relation-
19 ships, the nurse practitioner shall complete and maintain a form,
20 created by the department, to which the nurse practitioner shall attest,
21 that describes such collaborative relationships. For purposes of this
22 paragraph, "collaborative relationships" shall mean that the nurse prac-
23 titioner shall communicate, whether in person, by telephone or through
24 written (including electronic) means, with a licensed physician quali-
25 fied to collaborate in the specialty involved or, in the case of a
26 hospital, communicate with a licensed physician qualified to collaborate
27 in the specialty involved and having privileges at such hospital, for
28 the purposes of exchanging information, as needed, in order to provide
29 comprehensive patient care and to make referrals as necessary. Such
30 form shall also reflect the nurse practitioner's acknowledgement that if
31 reasonable efforts to resolve any dispute that may arise with the
32 collaborating physician or, in the case of a collaboration with a hospi-
33 tal, with a licensed physician qualified to collaborate in the specialty
34 involved and having privileges at such hospital, about a patient's care
35 are not successful, the recommendation of the physician shall prevail.
36 Such form shall be updated as needed and may be subject to review by the
37 department. The nurse practitioner shall maintain documentation that
38 supports such collaborative relationships. Failure to comply with the
39 requirements found in this paragraph by a nurse practitioner who is not
40 complying with such provisions of paragraph a of this subdivision, shall
41 be subject to professional misconduct provisions as set forth in title
42 one of this article.

43 c. Nothing in this subdivision shall be deemed to limit or diminish
44 the practice of the profession of nursing as a registered professional
45 nurse under this title or any other law, rule, regulation or certif-
46 ication, nor to deny any registered professional nurse the right to do
47 any act or engage in any practice authorized by this title or any other
48 law, rule, regulation or certification.

49 d. The provisions of this subdivision shall not apply to any activity
50 authorized, pursuant to statute, rule or regulation, to be performed by
51 a registered professional nurse in a hospital as defined in article
52 twenty-eight of this chapter.

53 § 6903. Practice of nursing and use of title "registered professional
54 nurse" or "licensed practical nurse". Only a person licensed or other-
55 wise authorized under this title shall practice nursing and only a
56 person licensed under section sixty-nine hundred five of this title

1 shall use the title "registered professional nurse" and only a person
2 licensed under section sixty-nine hundred six of this title shall use
3 the title "licensed practical nurse". No person shall use the title
4 "nurse" or any other title or abbreviation that would represent to the
5 public that the person is authorized to practice nursing unless the
6 person is licensed or otherwise authorized under this title.

7 § 6904. State board for nursing. A state board for nursing shall be
8 appointed by the department on recommendation of the commissioner for
9 the purpose of assisting the department on matters of professional
10 licensing and professional conduct in accordance with section sixty-five
11 hundred eight of this article. The board shall be composed of not less
12 than fifteen members, eleven of whom shall be registered professional
13 nurses and four of whom shall be licensed practical nurses all licensed
14 and practicing in this state for at least five years. An executive
15 secretary to the board shall be appointed by the department on recommen-
16 dation of the commissioner and shall be a registered professional nurse
17 registered in this state.

18 § 6905. Requirements for a license as a registered professional nurse.
19 To qualify for a license as a registered professional nurse, an appli-
20 cant shall fulfill the following requirements:

21 1. Application: file an application with the department;
22 2. Education: have received an education, and a diploma or degree in
23 professional nursing, in accordance with the commissioner's regulations,
24 and in order to continue to maintain registration as a registered
25 professional nurse in New York state, have attained a baccalaureate
26 degree or higher in nursing within ten years of initial licensure in
27 accordance with the commissioner's regulations. The department, in its
28 discretion, may issue a conditional registration to a licensee who fails
29 to complete the baccalaureate degree but who agrees to meet the addi-
30 tional requirement within one year. The fee for such a conditional
31 registration shall be the same as, and in addition to, the fee for the
32 triennial registration. The duration of such conditional registration
33 shall be for one year and may be extended, with the payment of a fee,
34 for no more than one additional year, unless the applicant can show good
35 cause for non-compliance acceptable to the department. The department,
36 in its discretion, may issue a temporary educational exemption to a
37 licensee who is unable to complete the baccalaureate degree due to a
38 lack of access to educational programs. Licensees seeking a temporary
39 educational exemption shall provide evidence of applying on at least two
40 occasions to a baccalaureate degree program or programs and subsequently
41 being denied access to such program or programs on at least two occa-
42 sions due to there being a limited number of seats. Such denials shall
43 also be corroborated by the higher education institution or institutions
44 that the licensee applied to. Temporary educational exemptions issued
45 pursuant to this subdivision shall be for a single two-year period.
46 Licensees shall only be eligible for either a conditional registration
47 or a temporary educational exemption. The fee for such a temporary
48 educational exemption shall be the same as, and in addition to, the fee
49 for the triennial registration. Any licensee who is notified of the
50 denial of a registration for failure to complete the additional educa-
51 tional requirements and who practices as a registered professional nurse
52 without such registration may be subject to disciplinary proceedings
53 pursuant to section sixty-five hundred ten of this article;

54 3. Experience: meet no requirement as to experience;

55 4. Examination: pass an examination satisfactory to the board and in
56 accordance with the commissioner's regulations;

1 5. Age: be at least eighteen years of age;
2 6. Citizenship: meet no requirement as to United States citizenship;
3 7. Character: be of good moral character as determined by the depart-
4 ment; and

5 8. Fees: pay a fee of one hundred fifteen dollars to the department
6 for admission to a department conducted examination and for an initial
7 license, a fee of forty-five dollars for each reexamination, a fee of
8 seventy dollars for an initial license for persons not requiring admis-
9 sion to a department conducted examination, and a fee of fifty dollars
10 for each triennial registration period.

11 § 6906. Requirements for a license as a licensed practical nurse. To
12 qualify for a license as a licensed practical nurse, an applicant shall
13 fulfill these requirements:

14 1. Application: file an application with the department;

15 2. Education: have received an education including completion of high
16 school or its equivalent, and have completed a program in practical
17 nursing, in accordance with the commissioner's regulations, or
18 completion of equivalent study satisfactory to the department in a
19 program conducted by the armed forces of the United States or in an
20 approved program in professional nursing;

21 3. Experience: meet no requirement as to experience;

22 4. Examination: pass an examination satisfactory to the board and in
23 accordance with the commissioner's regulations, provided, however, that
24 the educational requirements set forth in subdivision two of this
25 section are met prior to admission for the licensing examination;

26 5. Age: be at least seventeen years of age;

27 6. Citizenship: meet no requirements as to United States citizenship;

28 7. Character: be of good moral character as determined by the depart-
29 ment; and

30 8. Fees: pay a fee of one hundred fifteen dollars to the department
31 for admission to a department conducted examination and for an initial
32 license, a fee of forty-five dollars for each reexamination, a fee of
33 seventy dollars for an initial license for persons not requiring admis-
34 sion to a department conducted examination, and a fee of fifty dollars
35 for each triennial registration period.

36 9. In conjunction with and as a condition of each triennial registra-
37 tion, the department shall ask and a licensed practical nurse shall
38 indicate whether the licensed practical nurse is or has previously been
39 authorized as an advanced home health aide pursuant to subdivision two
40 of section sixty-nine hundred eight of this title. The department shall
41 include such information in reports related to advanced home health
42 aides.

43 § 6907. Limited permits. 1. A permit to practice as a registered
44 professional nurse or a permit to practice as a licensed practical nurse
45 may be issued by the department upon the filing of an application for a
46 license as a registered professional nurse or as a licensed practical
47 nurse and submission of such other information as the department may
48 require to:

49 a. graduates of schools of nursing registered by the department;

50 b. graduates of schools of nursing approved in another state, prov-
51 ince, or country; or

52 c. applicants for a license in practical nursing whose preparation is
53 determined by the department to be the equivalent of that required in
54 this state.

55 2. Such limited permit shall expire one year from the date of issuance
56 or upon notice to the applicant by the department that the application

1 for license has been denied, or ten days after notification to the
2 applicant of failure on the professional licensing examination, whichev-
3 er shall first occur. Notwithstanding the foregoing provisions of this
4 subdivision, if the applicant is waiting the result of a licensing exam-
5 ination at the time such limited permit expires, such permit shall
6 continue to be valid until ten days after notification to the applicant
7 of the results of such examination.

8 3. A limited permit shall entitle the holder to practice nursing only
9 under the supervision of a nurse currently registered in this state and
10 with the endorsement of the employing agency.

11 4. Fees. The fee for each limited permit shall be thirty-five dollars.

12 5. Graduates of schools of nursing registered by the department may be
13 employed to practice nursing under supervision of a professional nurse
14 currently registered in this state and with the endorsement of the
15 employing agency for ninety days immediately following graduation from a
16 program in nursing and pending receipt of a limited permit for which an
17 application has been filed as provided in this section.

18 § 6908. Exempt persons. 1. This title shall not be construed:

19 a. As prohibiting (i) the domestic care of the sick, disabled or
20 injured by any family member, household member or friend, or person
21 employed primarily in a domestic capacity who does not hold himself or
22 herself out, or accept employment as a person licensed to practice nurs-
23 ing under the provision of this title; provided that if such person is
24 remunerated, the person does not hold himself or herself out as one who
25 accepts employment for performing such care; or the administration of
26 medications or treatment by child day care providers or employees or
27 caregivers of child day care programs where such providers, employees or
28 caregivers are acting under the direction and authority of a parent of a
29 child, legal guardian, legal custodian, or an adult in whose care a
30 child has been entrusted and who has been authorized by the parent to
31 consent to any health care for the child and in compliance with the
32 regulations of the office of children and family services pertaining to
33 the administration of medications and treatment; or

34 (ii) any person from the domestic administration of family remedies;
35 or

36 (iii) the providing of care by a person acting in the place of a
37 person exempt under subparagraph (i) of this paragraph, but who does
38 hold himself or herself out as one who accepts employment for performing
39 such care, where nursing services are under the instruction of a
40 licensed nurse, or under the instruction of a patient or family or
41 household member determined by a registered professional nurse to be
42 self-directing and capable of providing such instruction, and services
43 are provided under section three hundred sixty-five-f of the social
44 services law; or

45 (iv) the furnishing of nursing assistance in case of an emergency; or

46 (v) tasks provided by a direct support staff in programs certified or
47 approved by the office for people with developmental disabilities, when
48 performed under the supervision of a registered professional nurse and
49 pursuant to a memorandum of understanding between the office for people
50 with developmental disabilities and the department, in accordance with
51 and pursuant to an authorized practitioner's ordered care, provided
52 that: (1) a registered professional nurse determines, in his or her
53 professional judgment, which tasks are to be performed based upon the
54 complexity of the tasks, the skill and experience of the direct support
55 staff, and the health status of the individual being cared for; (2) only
56 a direct support staff who has completed training as required by the

1 commissioner of the office for people with developmental disabilities
2 may perform tasks pursuant to this subparagraph; (3) appropriate proto-
3 cols shall be established to ensure safe administration of medications;
4 (4) a direct support staff shall not assess the medication needs of an
5 individual; (5) adequate nursing supervision is provided, including
6 training and periodic inspection of performance of the tasks. The amount
7 and type of nursing supervision shall be determined by the registered
8 professional nurse responsible for supervising such task based upon the
9 complexity of the tasks, the skill and experience of the direct support
10 staff, and the health status of the individual being cared for; (6) a
11 direct support staff shall not be authorized to perform any tasks or
12 activities pursuant to this subparagraph that are outside the scope of
13 practice of a licensed practical nurse; (7) a direct support staff shall
14 not represent himself or herself, or accept employment, as a person
15 licensed to practice nursing under the provisions of this title; (8)
16 direct support staff providing medication administration, tube feeding,
17 or diabetic care shall be separately certified, and shall be recertified
18 on an annual basis; (9) the registered professional nurse shall ensure
19 that there is a consumer specific medication sheet for each medication
20 that is administered; and (10) appropriate staffing ratios shall be
21 determined by the office for people with developmental disabilities and
22 the department to ensure adequate nursing supervision. No direct support
23 staff shall perform tasks under this subparagraph until the office for
24 people with developmental disabilities and the department have entered
25 into a memorandum of understanding to effectuate the provisions of this
26 subparagraph. The office for people with developmental disabilities
27 shall complete a criminal background check pursuant to section 16.33 of
28 the mental hygiene law and an agency background check pursuant to
29 section 16.34 of the mental hygiene law on the direct support staff
30 prior to the commencement of any provision of service provided under
31 this subparagraph if such direct support staff is a new hire. Individ-
32 uals providing supervision or direct support tasks pursuant to this
33 subparagraph shall have protection pursuant to sections seven hundred
34 forty and seven hundred forty-one of the labor law, where applicable;

35 b. As including services given by attendants in institutions under the
36 jurisdiction of or subject to the visitation of the state department of
37 mental hygiene if adequate medical and nursing supervision is provided;

38 c. As prohibiting such performance of nursing service by students
39 enrolled in registered schools or programs as may be incidental to their
40 course of study;

41 d. As prohibiting or preventing the practice of nursing in this state
42 by any legally qualified nurse or practical nurse of another state,
43 province, or country whose engagement requires him or her to accompany
44 and care for a patient temporarily residing in this state during the
45 period of such engagement provided such person does not represent or
46 hold himself or herself out as a nurse or practical nurse registered to
47 practice in this state;

48 e. As prohibiting or preventing the practice of nursing in this state
49 during an emergency or disaster by any legally qualified nurse or prac-
50 tical nurse of another state, province, or country who may be recruited
51 by the American National Red Cross or pursuant to authority vested in
52 the state civil defense commission for such emergency or disaster
53 service, provided such person does not represent or hold himself or
54 herself out as a nurse or practical nurse registered to practice in this
55 state;

1 f. As prohibiting or preventing the practice of nursing in this state,
2 in obedience to the requirements of the laws of the United States, by
3 any commissioned nurse officer in the armed forces of the United States
4 or by any nurse employed in the United States veterans administration or
5 United States public health service while engaged in the performance of
6 the actual duties prescribed for him or her under the United States
7 statutes, provided such person does not represent or hold himself or
8 herself out as a nurse registered to practice in this state;

9 g. As prohibiting the care of the sick when done in connection with
10 the practice of the religious tenets of any church; or

11 h. As prohibiting the provision of psychotherapy as defined in subdi-
12 vision two of section eighty-four hundred one of this article to the
13 extent permissible within the scope of practice of nursing as defined in
14 this title, by any not-for-profit corporation or education corporation
15 providing services within the state and operating under a waiver pursu-
16 ant to section sixty-five hundred three-a of this article, provided that
17 such entities offering such psychotherapy services shall only provide
18 such services through an individual appropriately licensed or otherwise
19 authorized to provide such services or a professional entity authorized
20 by law to provide such services.

21 2. This title shall not be construed as prohibiting advanced tasks
22 provided by an advanced home health aide in accordance with regulations
23 developed by the commissioner, in consultation with the commissioner of
24 health. At a minimum, such regulations shall:

25 a. specify the advanced tasks that may be performed by advanced home
26 health aides pursuant to this subdivision. Such tasks shall include the
27 administration of medications which are routine and prefilled or other-
28 wise packaged in a manner that promotes relative ease of administration,
29 provided that administration of medications by injection, sterile proce-
30 dures, and central line maintenance shall be prohibited. Provided,
31 however, such prohibition shall not apply to injections of insulin or
32 other injections for diabetes care, to injections of low molecular
33 weight heparin, and to pre-filled auto-injections of naloxone and
34 epinephrine for emergency purposes, and provided, further, that entities
35 employing advanced home health aides pursuant to this subdivision shall
36 establish a systematic approach to address drug diversion;

37 b. provide that advanced tasks performed by advanced home health aides
38 may be performed only under the direct supervision of a registered
39 professional nurse licensed in New York state, as set forth in this
40 subdivision and subdivision eight of section sixty-nine hundred nine of
41 this title, where such nurse is employed by a home care services agency
42 licensed or certified pursuant to article thirty-six of this chapter, a
43 hospice program certified pursuant to article forty of this chapter, or
44 an enhanced assisted living residence licensed pursuant to article seven
45 of the social services law and certified pursuant to article forty-six-B
46 of this chapter. Such nursing supervision shall:

47 (i) include training and periodic assessment of the performance of
48 advanced tasks;

49 (ii) be determined by the registered professional nurse responsible
50 for supervising such advanced tasks based upon the complexity of such
51 advanced tasks, the skill and experience of the advanced home health
52 aide, and the health status of the individual for whom such advanced
53 tasks are being performed;

54 (iii) include a comprehensive initial and thereafter regular and ongo-
55 ing assessment of the individual's needs;

1 (iv) include as a requirement that the supervising registered profes-
2 sional nurse shall visit individuals receiving services for the purpose
3 of supervising the services provided by advanced home health aides no
4 less than once every two weeks and include as a requirement that a
5 registered professional nurse shall be available by telephone to the
6 advanced home health aide twenty-four hours a day, seven days a week,
7 provided that a registered professional nurse shall be available to
8 visit an individual receiving services as necessary to protect the
9 health and safety of such individual; and

10 (v) as shall be specified by the commissioner, be provided in a manner
11 that takes into account individual care needs, case mix complexity and
12 geographic considerations and provide that the number of individuals
13 served by a supervising registered professional nurse is reasonable and
14 prudent.

15 c. establish a process by which a registered professional nurse may
16 assign advanced tasks to an advanced home health aide. Such process
17 shall include, but not be limited to:

18 (i) allowing assignment of advanced tasks to an advanced home health
19 aide only where such advanced home health aide has demonstrated to the
20 satisfaction of the supervising registered professional nurse competency
21 in every advanced task that such advanced home health aide is authorized
22 to perform, a willingness to perform such advanced tasks, and the abili-
23 ty to effectively and efficiently communicate with the individual
24 receiving services and understand such individual's needs;

25 (ii) prohibiting assignment of advanced tasks to an advanced home
26 health aide if the individual receiving services declines to be served
27 by an advanced home health aide;

28 (iii) authorizing the supervising registered professional nurse to
29 revoke any assigned advanced task from an advanced home health aide for
30 any reason; and

31 (iv) authorizing multiple registered professional nurses to jointly
32 agree to assign advanced tasks to an advanced home health aide, provided
33 further that only one registered professional nurse shall be required to
34 determine if the advanced home health aide has demonstrated competency
35 in the advanced task to be performed;

36 d. provide that advanced tasks may be performed only in accordance
37 with and pursuant to an authorized health practitioner's ordered care;

38 e. provide that only a certified home health aide may perform advanced
39 tasks as an advanced home health aide when such aide has:

40 (i) at least one year of experience providing either home health or
41 personal care services, or a combination of the same;

42 (ii) completed the requisite training and demonstrated competencies of
43 an advanced home health aide as determined by the commissioner;

44 (iii) successfully completed competency examinations satisfactory to
45 the commissioner; and

46 (iv) meets other appropriate qualifications as determined by the
47 commissioner in consultation with the commissioner of health;

48 f. provide that only an individual who is listed in the home care
49 services registry maintained by the department pursuant to section thir-
50 ty-six hundred thirteen of this chapter as having satisfied all applica-
51 ble training requirements and having passed the applicable competency
52 examinations and who meets other requirements as set forth in regu-
53 lations issued by the commissioner pursuant to subdivision seventeen of
54 section thirty-six hundred two of this chapter may perform advanced
55 tasks pursuant to this subdivision and may hold himself or herself out
56 as an advanced home health aide;

1 g. establish minimum standards of training for the performance of
2 advanced tasks by advanced home health aides, including didactic train-
3 ing, clinical training, and a supervised clinical practicum with stand-
4 ards set forth by the commissioner;

5 h. provide that advanced home health aides shall receive case-specific
6 training on the advanced tasks to be assigned by the supervising nurse,
7 provided that additional training shall take place whenever additional
8 advanced tasks are assigned;

9 i. prohibit an advanced home health aide from holding himself or
10 herself out, or accepting employment as, a person licensed to practice
11 nursing under the provisions of this title;

12 j. provide that an advanced home health aide is not required nor
13 permitted to assess the medication or medical needs of an individual;

14 k. provide that an advanced home health aide shall not be authorized
15 to perform any advanced tasks or activities pursuant to this subdivision
16 that are outside the scope of practice of a licensed practical nurse or
17 any advanced tasks that have not been appropriately assigned by the
18 supervising registered professional nurse;

19 l. provide that an advanced home health aide shall document all
20 advanced tasks provided to an individual, including medication adminis-
21 tration to each individual through the use of a medication adminis-
22 tration record; and

23 m. provide that the supervising registered professional nurse shall
24 retain the discretion to decide whether to assign advanced tasks to
25 advanced home health aides under this program and shall not be subject
26 to coercion, retaliation, or the threat of retaliation; in developing
27 such regulations, the commissioner shall take into account the recommen-
28 dations of a workgroup of stakeholders convened by the commissioner for
29 the purpose of providing guidance on the foregoing.

30 § 6909. Special provision. 1. Notwithstanding any inconsistent
31 provision of any general, special, or local law, any licensed registered
32 professional nurse or licensed practical nurse who voluntarily and with-
33 out the expectation of monetary compensation renders first aid or emer-
34 gency treatment at the scene of an accident or other emergency, outside
35 a hospital, doctor's office or any other place having proper and neces-
36 sary medical equipment, to a person who is unconscious, ill or injured
37 shall not be liable for damages for injuries alleged to have been
38 sustained by such person or for damages for the death of such person
39 alleged to have occurred by reason of an act or omission in the render-
40 ing of such first aid or emergency treatment unless it is established
41 that such injuries were or such death was caused by gross negligence on
42 the part of such registered professional nurse or licensed practical
43 nurse. Nothing in this subdivision shall be deemed or construed to
44 relieve a licensed registered professional nurse or licensed practical
45 nurse from liability for damages for injuries or death caused by an act
46 or omission on the part of such nurse while rendering professional
47 services in the normal and ordinary course of her practice.

48 2. Nothing in this title shall be construed to confer the authority to
49 practice medicine or dentistry.

50 3. An applicant for a license as a registered professional nurse or
51 licensed practical nurse by endorsement of a license of another state,
52 province or country whose application was filed with the department
53 under the laws in effect prior to August thirty-first, nineteen hundred
54 seventy-one shall be licensed only upon successful completion of the
55 appropriate licensing examination unless satisfactory evidence of the

1 completion of all educational requirements is submitted to the depart-
2 ment prior to September one, nineteen hundred seventy-seven.

3 4. A certified nurse practitioner may prescribe and order a non-pa-
4 tient specific regimen to a registered professional nurse, pursuant to
5 regulations promulgated by the commissioner, consistent with subdivision
6 three of section six thousand nine hundred two of this title, and
7 consistent with this chapter, for:

8 a. administering immunizations;

9 b. the emergency treatment of anaphylaxis;

10 c. administering purified protein derivative (PPD) tests or other
11 tests to detect or screen for tuberculosis infections;

12 d. administering tests to determine the presence of the human immuno-
13 deficiency virus;

14 e. administering tests to determine the presence of the hepatitis C
15 virus;

16 f. the urgent or emergency treatment of opioid related overdose or
17 suspected opioid related overdose; or

18 g. screening of persons at increased risk for syphilis, gonorrhea and
19 chlamydia.

20 5. A registered professional nurse may execute a non-patient specific
21 regimen prescribed or ordered by a licensed physician or certified nurse
22 practitioner, pursuant to regulations promulgated by the commissioner.

23 6. A registered professional nurse defined under subdivision one of
24 section sixty-nine hundred two of this title may use accepted classi-
25 fications of signs, symptoms, dysfunctions and disorders, including, but
26 not limited to, classifications used in the practice setting for the
27 purpose of providing mental health services.

28 7. A certified nurse practitioner may prescribe and order a patient
29 specific order or non-patient specific regimen to a licensed pharmacist,
30 pursuant to regulations promulgated by the commissioner, and consistent
31 with this chapter, for:

32 a. administering immunizations to prevent influenza to patients two
33 years of age or older;

34 b. administering immunizations to prevent pneumococcal, acute herpes
35 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,
36 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or
37 pertussis disease and medications required for emergency treatment of
38 anaphylaxis to patients eighteen years of age or older; and

39 c. administering other immunizations recommended by the advisory
40 committee on immunization practices of the centers for disease control
41 and prevention for patients eighteen years of age or older if the
42 commissioner determines that an immunization: (i) (1) may be safely
43 administered by a licensed pharmacist within their lawful scope of prac-
44 tice; and (2) is needed to prevent the transmission of a reportable
45 communicable disease that is prevalent in New York state; or (ii) is a
46 recommended immunization for such patients who: (1) meet age require-
47 ments, (2) lack documentation of such immunization, (3) lack evidence of
48 past infection, or (4) have an additional risk factor or another indi-
49 cation as recommended by the advisory committee on immunization prac-
50 tices of the centers for disease control and prevention. Nothing in this
51 subdivision shall authorize unlicensed persons to administer immuniza-
52 tions, vaccines or other drugs.

53 8. A registered professional nurse, while working for a home care
54 services agency licensed or certified pursuant to article thirty-six of
55 this chapter, a hospice program certified pursuant to article forty of
56 this chapter, or an enhanced assisted living residence licensed pursuant

1 to article seven of the social services law and certified pursuant to
2 article forty-six-B of this chapter may, in accordance with this subdi-
3 vision, assign advanced home health aides to perform advanced tasks for
4 individuals pursuant to the provisions of subdivision two of section
5 sixty-nine hundred eight of this title and supervise advanced home
6 health aides who perform assigned advanced tasks.

7 a. Prior to assigning or modifying an assignment to perform an
8 advanced task, the registered professional nurse shall:

9 (i) complete a nursing assessment to ascertain the client's current
10 health status and care needs; and

11 (ii) provide to the advanced home health aide written, individual-spe-
12 cific instructions for performing the advanced task and criteria for
13 identifying, reporting and responding to problems or complications.

14 b. The registered professional nurse shall not assign an advanced task
15 unless:

16 (i) the advanced task to be assigned is consistent with an authorized
17 health practitioner's ordered care;

18 (ii) the registered professional nurse provides case specific training
19 to the advanced home health aide and personally verifies that the
20 advanced home health aide can safely and competently perform the
21 advanced task;

22 (iii) the registered professional nurse determines that the advanced
23 home health aide is willing to perform such advanced task; and

24 (iv) the registered professional nurse determines that the advanced
25 home health aide is able to effectively and efficiently communicate with
26 the individual receiving services and understand such individual's
27 needs.

28 c. The supervising registered professional nurse shall:

29 (i) visit individuals receiving services for the purpose of supervis-
30 ing the services provided by advanced home health aides no less than
31 once every two weeks; and

32 (ii) conduct regular and ongoing assessment of the individual's needs.

33 9. A certified nurse practitioner may prescribe and order a patient
34 specific order or non-patient specific order to a licensed pharmacist,
35 pursuant to regulations promulgated by the commissioner of health, and
36 consistent with this chapter, for dispensing up to a seven day starter
37 pack of HIV post-exposure prophylaxis for the purpose of preventing
38 human immunodeficiency virus infection following a potential human immu-
39 nodeficiency virus exposure.

40 10. A registered professional nurse may execute a standing order for
41 newborn care in a hospital established under section twenty-eight
42 hundred three-v of this chapter, as provided in that section. The
43 commissioner may make regulations relating to implementation of this
44 subdivision.

45 11. A certified nurse practitioner may prescribe and order a non-pa-
46 tient-specific regimen to a licensed pharmacist, for insulin and related
47 supplies pursuant to section sixty-eight hundred one of this article.

48 § 6910. Certificates for nurse practitioner practice. 1. For issuance
49 of a certificate to practice as a nurse practitioner under subdivision
50 three of section six thousand nine hundred two of this title, the appli-
51 cant shall fulfill the following requirements:

52 a. Application: file an application with the department;

53 b. License: be licensed as a registered professional nurse in the
54 state;

55 c. Education: (i) have satisfactorily completed educational prepara-
56 tion for provision of these services in a program registered by the

1 department or in a program determined by the department to be the equiv-
2 alent; or

3 (ii) submit evidence of current certification by a national certifying
4 body, recognized by the department; or

5 (iii) meet such alternative criteria as established by the commission-
6 er's regulations;

7 d. Fees: pay a fee to the department of fifty dollars for each initial
8 certificate authorizing nurse practitioner practice in a specialty area
9 and a triennial registration fee of thirty dollars. Registration under
10 this section shall be coterminous with the nurse practitioner's regis-
11 tration as a professional nurse.

12 2. Only a person certified under this section shall use the title
13 "nurse practitioner".

14 3. The provisions of this section shall not apply to any act or prac-
15 tice authorized by any other law, rule, regulation or certification.

16 4. The provisions of this section shall not apply to any activity
17 authorized, pursuant to statute, rule or regulation, to be performed by
18 a registered professional nurse in a hospital as defined in article
19 twenty-eight of this chapter.

20 5. The commissioner is authorized to promulgate regulations to imple-
21 ment the provisions of this section.

22 § 6911. Certification as a clinical nurse specialist (CNS). 1. For
23 issuance of a certificate to practice as a clinical nurse specialist
24 under section six thousand nine hundred two of this title, the applicant
25 shall fulfill the following requirements:

26 a. file an application with the department;

27 b. be licensed as a registered professional nurse in this state;

28 c. (i) have satisfactorily completed an educational program registered
29 by the department including a master's or doctoral degree, or a post-
30 master's certificate from a program acceptable to the department which
31 prepares graduates to practice as CNSs and which is accredited by a
32 national nursing accredited body acceptable to the department, and (ii)
33 meets all other requirements established by the department to practice
34 as a clinical nurse specialist, or (iii) have received educational prep-
35 aration determined by the department to be the substantial equivalent of
36 subparagraphs (i) and (ii) of this paragraph; and

37 d. pay a fee to the department of fifty dollars for each initial
38 certificate authorizing clinical nurse specialist practice and a trien-
39 nal registration fee of thirty dollars. Registration under this
40 section shall be coterminous with the clinical nurse specialist's regis-
41 tration as a professional nurse.

42 2. Only a person certified under this section shall use the title
43 "clinical nurse specialist" or the designation "CNS".

44 TITLE 13

45 PROFESSIONAL MIDWIFERY PRACTICE ACT

46 Section 6950. Introduction.

47 6951. Definition of practice of midwifery.

48 6952. Practice of midwifery.

49 6953. Use of title "midwife".

50 6954. State board of midwifery.

51 6955. Requirements for a professional license.

52 6956. Prior nurse-midwifery certification.

53 6957. Exempt persons.

54 6958. Limited permit.

1 § 6950. Introduction. This title applies to the profession of midwifery.
2 The general provisions for all professions contained in title one
3 of this article apply to this title.

4 § 6951. Definition of practice of midwifery. 1. The practice of the
5 profession of midwifery is defined as the management of normal pregnan-
6 cies, child birth and postpartum care as well as primary preventive
7 reproductive health care of essentially healthy women, and shall include
8 newborn evaluation, resuscitation and referral for infants. A midwife
9 shall have collaborative relationships with (i) a licensed physician who
10 is board certified as an obstetrician-gynecologist by a national certi-
11 fying body, or (ii) a licensed physician who practices obstetrics and
12 has obstetric privileges at a general hospital licensed under article
13 twenty-eight of this chapter, or (iii) a hospital, licensed under arti-
14 cle twenty-eight of this chapter, that provides obstetrics through a
15 licensed physician having obstetrical privileges at such institution,
16 that provide for consultation, collaborative management and referral to
17 address the health status and risks of his or her patients and that
18 include plans for emergency medical gynecological and/or obstetrical
19 coverage. A midwife shall maintain documentation of such collaborative
20 relationships and shall make information about such collaborative
21 relationships available to his or her patients. Failure to comply with
22 the requirements found in this subdivision shall be subject to profes-
23 sional misconduct provisions as set forth in title one of this article.

24 2. A licensed midwife shall have the authority, as necessary, and
25 limited to the practice of midwifery, to prescribe and administer drugs,
26 immunizing agents, diagnostic tests and devices, and to order laboratory
27 tests, as established by the board in accordance with the commissioner's
28 regulations. A midwife shall obtain a certificate from the department
29 upon successfully completing a program including a pharmacology compo-
30 nent, or its equivalent, as established by the commissioner's regu-
31 lations prior to prescribing under this section.

32 3. Any reference to midwifery, midwife, certified nurse-midwifery or
33 certified nurse-midwife, nurse-midwifery or nurse-midwife under the
34 provisions of this title, this chapter or any other law, shall refer to
35 and include the profession of midwifery and a licensed midwife, unless
36 the context clearly requires otherwise.

37 § 6952. Practice of midwifery. Only a person licensed or exempt under
38 this title or authorized by any other section of law shall practice
39 midwifery.

40 § 6953. Use of title "midwife". Only a person licensed or exempt under
41 this title shall use the title "midwife". Only a person licensed under
42 both this title and title twelve of this article may use the title
43 "nurse-midwife".

44 § 6954. State board of midwifery. 1. The state board of midwifery
45 shall be appointed by the department on recommendation of the commis-
46 sioner for the purpose of assisting the department on matters of profes-
47 sional licensing and professional conduct in accordance with section
48 sixty-five hundred eight of this article. The board shall be composed of
49 thirteen individuals. Initial appointments to the board shall be such
50 that the terms shall be staggered. However, no members shall serve more
51 than two terms.

52 2. a. (i) Seven members of the board shall be persons licensed or
53 exempt under this section.

54 (ii) One member of the board shall be an educator of midwifery.

1 b. Two members of the board shall be individuals who are licensed
2 physicians who are also certified as obstetrician/gynecologists by a
3 national certifying body.

4 c. One member of the board shall be an individual licensed as a physi-
5 cian who practices family medicine including obstetrics.

6 d. One member of the board shall be an individual licensed as a physi-
7 cian who practices pediatrics.

8 e. One member of the board shall be an individual not possessing
9 either licensure or training in medicine, midwifery, pharmacology or
10 nursing and shall represent the public at large.

11 3. For purposes of this title, "board" means the state board of
12 midwifery created under this section unless the context clearly indi-
13 cates otherwise.

14 § 6955. Requirements for a professional license. To qualify for a
15 license as a midwife, an applicant shall fulfill the following require-
16 ments:

17 1. Application: file an application with the department.

18 2. Education: satisfactorily;

19 a. complete educational preparation (degree or diploma granting) for
20 the practice of nursing, followed by or concurrently with educational
21 preparation for the practice of midwifery in accordance with the commis-
22 sioner's regulations, or

23 b. submit evidence of license or certification, the educational prepa-
24 ration for which is determined by the department to be equivalent to the
25 foregoing, from any state or country, satisfactory to the department and
26 in accordance with the commissioner's regulations, or

27 c. complete a program determined by the department to be equivalent to
28 the foregoing and in accordance with the commissioner's regulations.

29 3. Examination: pass an examination satisfactory to the department and
30 in accordance with the commissioner's regulations.

31 4. Age: be at least twenty-one years of age.

32 5. Character: be of good moral character as determined by the depart-
33 ment.

34 6. Citizenship or immigration status: be a United States citizen or an
35 alien lawfully admitted for permanent residence in the United States.

36 7. Fee: pay a fee of one hundred ninety dollars to the department for
37 admission to a department conducted examination for an initial license,
38 a fee of one hundred dollars for each re-examination, a fee of one
39 hundred fifteen dollars for an initial license for persons not requiring
40 admission to a department conducted examination, a fee of one hundred
41 eighty dollars for each triennial registration period and a fee of
42 seventy dollars for a limited permit.

43 § 6956. Prior nurse-midwifery certification. Any individual who is
44 certified as a nurse-midwife shall not practice pursuant to this title
45 until after receiving approval from the commissioner and submitting the
46 fee required by subdivision seven of section sixty-nine hundred fifty-
47 five of this title.

48 § 6957. Exempt persons. Nothing in this title shall be construed to
49 affect, prevent or in any manner expand or limit any duty or responsi-
50 bility of a licensed physician from practicing midwifery or affect or
51 prevent a medical student or midwifery student in clinical practice
52 under the supervision of a licensed physician or board certified
53 obstetrician/gynecologist or licensed midwife practicing in pursuance of
54 an educational program registered by the department from engaging in
55 such practice.

1 § 6958. Limited permit. 1. A limited permit to practice midwifery may
2 be granted for a period not to exceed twelve months to an individual who
3 has to the satisfaction of the department met all the requirements of
4 section sixty-nine hundred fifty-five of this title, but has not yet
5 passed the examination required by subdivision three of such section.

6 2. A limited permit shall entitle the holder to practice midwifery
7 only under the direct supervision of a licensed physician who is author-
8 ized under section sixty-nine hundred fifty-one of this title or a
9 licensed midwife.

10 TITLE 14
11 PODIATRY

12 Section 7000. Introduction.

13 7001. Definition of practice of podiatry.

14 7002. Practice of podiatry and use of title "podiatrist".

15 7003. State board for podiatry.

16 7004. Requirements for a professional license.

17 7005. Exempt persons.

18 7006. Special provision.

19 7007. Limited permits.

20 7008. Limited residency permits and limited fellowship permits.

21 7009. Podiatric ankle surgery privileges.

22 7010. Ankle surgery limited permits.

23 § 7000. Introduction. This title applies to the profession of podia-
24 try. The general provisions for all professions contained in title one
25 of this article apply to this title.

26 § 7001. Definition of practice of podiatry. 1. The practice of the
27 profession of podiatry is defined as diagnosing, treating, operating and
28 prescribing for any disease, injury, deformity or other condition of the
29 foot, and may include performing physical evaluations in conjunction
30 with the provision of podiatric treatment. For the purposes of wound
31 care however, the practice of podiatry shall include the treatment of
32 such wounds if they are contiguous with wounds relating, originating or
33 in the course of treatment of a wound on the foot within the podiatric
34 scope of practice. Wound care shall not, however, extend beyond the
35 level ending at the distal tibial tuberosity. The practice of podiatry
36 may also include diagnosing, treating, operating and prescribing for any
37 disease, injury, deformity or other condition of the ankle and soft
38 tissue of the leg below the tibial tuberosity if the podiatrist has
39 obtained an issuance of a privilege to perform podiatric standard ankle
40 surgery or advanced ankle surgery in accordance with section seven thou-
41 sand nine of this title. Podiatrists may treat traumatic open wound
42 fractures only in hospitals, as defined in article twenty-eight of this
43 chapter. For the purposes of this title, the term "ankle" shall be
44 defined as the distal metaphysis and epiphysis of the tibia and fibula,
45 the articular cartilage of the distal tibia and distal fibula, the liga-
46 ments that connect the distal metaphysis and epiphysis of the tibia and
47 fibula and talus, and the portions of skin, subcutaneous tissue, fascia,
48 muscles, tendons, ligaments and nerves at or below the level of the
49 myotendinous junction of the triceps surae.

50 2. The practice of podiatry shall not include treating any part of the
51 human body other than the foot, nor treating fractures of the malleoli
52 or cutting operations upon the malleoli unless the podiatrist obtains an
53 issuance of a privilege to perform podiatric standard ankle surgery or
54 podiatric advanced ankle surgery. Podiatrists who have obtained an issu-

1 ance of a privilege to perform podiatric standard ankle surgery may
2 perform surgery on the ankle which may include soft tissue and osseous
3 procedures except those procedures specifically authorized for podia-
4 trists who have obtained an issuance of a privilege for advanced ankle
5 surgery. Podiatrists who have obtained an issuance of a privilege to
6 perform podiatric advanced ankle surgery may perform surgery on the
7 ankle which may include ankle fracture fixation, ankle fusion, ankle
8 arthroscopy, insertion or removal of external fixation pins into or from
9 the tibial diaphysis at or below the level of the myotendinous junction
10 of the triceps surae, and insertion and removal of retrograde tibiotalo-
11 calcaneal intramedullary rods and locking screws up to the level of the
12 myotendinous junction of the triceps surae, but does not include the
13 surgical treatment of complications within the tibial diaphysis related
14 to the use of such external fixation pins. Podiatrists licensed to prac-
15 tice, but not authorized to prescribe or administer narcotics prior to
16 the effective date of this subdivision, may do so only after certif-
17 ication by the department in accordance with the qualifications estab-
18 lished by the commissioner. The practice of podiatry shall include
19 administering only local anesthetics for therapeutic purposes as well as
20 for anesthesia and treatment under general anesthesia administered by
21 authorized persons. The practice of podiatry by any licensee shall not
22 include partial or total ankle replacements nor the treatment of pilon
23 fractures.

24 3. a. The department shall conduct a study to determine whether to
25 make available to the public profiles on podiatrists who have obtained
26 an issuance of a privilege to perform podiatric standard or advanced
27 ankle surgery pursuant to subdivisions one and two of section seven
28 thousand nine of this title. Such study shall include consideration of
29 whether it would be appropriate and feasible for the department to make
30 publicly available profiles for such podiatrists in a manner similar to
31 physician profiles made available on the department's website in accord-
32 ance with section twenty-nine hundred ninety-five-a of this chapter. The
33 department shall consult with other departments as necessary on matters
34 related to the operation of the department's physician profiles estab-
35 lished pursuant to section twenty-nine hundred ninety-five-a of this
36 chapter in conducting its study.

37 b. If the department determines that making podiatrist profiles avail-
38 able is appropriate and feasible, the department shall outline in such
39 study an appropriate and cost-effective method of presenting relevant
40 and appropriate podiatric profiling information to the general public.
41 The department shall submit such study to the governor, the temporary
42 president of the senate, the speaker of the assembly, the minority lead-
43 er of the senate and the minority leader of the assembly on or before
44 November first, two thousand sixteen.

45 c. If the department makes podiatrist profiles available as set forth
46 in paragraph b of this subdivision, the department shall include on its
47 website containing the physician profiles established pursuant to
48 section twenty-nine hundred ninety-five-a of this chapter a link to the
49 website on which such podiatrist profiles may be accessed and a state-
50 ment describing the purpose of such link.

51 § 7002. Practice of podiatry and use of title "podiatrist". Only a
52 person licensed or exempt under this title shall practice podiatry or
53 use the title "podiatrist" or "chiropractist".

54 § 7003. State board for podiatry. A state board for podiatry shall be
55 appointed by the commissioner for the purpose of assisting the depart-
56 ment on matters of professional licensing and professional conduct in

1 accordance with section sixty-five hundred eight of this article. The
2 board shall be composed of not less than seven podiatrists licensed in
3 this state. An executive secretary to the board shall be appointed by
4 the commissioner.

5 § 7004. Requirements for a professional license. To qualify for a
6 license as a podiatrist, an applicant shall fulfill the following
7 requirements:

8 1. Application: file an application with the department;

9 2. Education: have received an education, including a doctoral degree
10 in podiatry, in accordance with the commissioner's regulations;

11 3. Experience: have experience satisfactory to the board and in
12 accordance with the commissioner's regulations;

13 4. Examination: pass an examination satisfactory to the board and in
14 accordance with the commissioner's regulations;

15 5. Age: be at least twenty-one years of age;

16 6. Citizenship: meet no requirements as to United States citizenship;

17 7. Character: be of good moral character as determined by the depart-
18 ment; and

19 8. Fees: pay a fee of two hundred twenty dollars to the department for
20 admission to a department conducted examination and for an initial
21 license, a fee of one hundred fifteen dollars for each reexamination, a
22 fee of one hundred thirty-five dollars for an initial license for
23 persons not requiring admission to a department conducted examination,
24 and a fee of two hundred ten dollars for each triennial registration
25 period.

26 9. Continuing education: In accordance with the requirements of
27 section sixty-five hundred two of this article, at the time of re-regis-
28 tration with the department, each applicant shall present satisfactory
29 evidence to the state board for podiatry that in the years prior to the
30 filing for re-registration he or she attended the education programs
31 conducted by the podiatry society of the state of New York or the equiv-
32 alent of such educational programs as approved by the state board for
33 podiatry in accordance with the commissioner's regulations.

34 § 7005. Exempt persons. Nothing in this title shall be construed to
35 affect or prevent a student from engaging in clinical practice under
36 supervision of a licensed podiatrist as part of the program of an
37 approved school of podiatry.

38 § 7006. Special provision. 1. No corporation, except a hospital corpo-
39 ration authorized under article forty-three of the insurance law or a
40 corporation organized and existing under the laws of the state of New
41 York which, on or before the first day of March, nineteen hundred
42 forty-two, was legally incorporated to practice podiatry, shall practice
43 podiatry, and then only through licensed podiatrists and shall conform
44 to department rules. No corporation organized to practice podiatry shall
45 change its name or sell its franchise or transfer its corporate rights
46 directly or indirectly, by transfer of capital stock control or other-
47 wise, to any person or to another corporation without permission from
48 the department and any corporation so changing its name or so trans-
49 ferring its franchise or corporate rights without such permission or
50 found guilty of violating a department rule shall be deemed to have
51 forfeited its right to exist and shall be dissolved by a proceeding
52 brought by the attorney general.

53 2. Any manufacturer or merchant may sell, advertise, fit, or adjust
54 proprietary foot remedies, arch supports, corrective foot appliances or
55 shoes.

1 3. Notwithstanding any inconsistent provision of any general, special
2 or local law, any licensed podiatrist who voluntarily and without the
3 expectation of monetary compensation renders first aid or emergency
4 treatment at the scene of an accident or other emergency, outside of a
5 hospital or any other place having proper and necessary medical equip-
6 ment, to a person who is unconscious, ill or injured shall not be liable
7 for damages for injuries alleged to have been sustained by such person
8 or for damages for the death of such person alleged to have occurred by
9 reason of an act or omission in the rendering of such first aid or emer-
10 gency treatment unless it is established that such injuries were or such
11 death was caused by gross negligence on the part of such podiatrist.
12 Nothing in this subdivision shall be deemed or construed to relieve a
13 licensed podiatrist from liability for damages for injuries or death
14 caused by an act or omission on the part of a podiatrist while rendering
15 professional services in the normal and ordinary course of practice.

16 4. An unlicensed person may provide supportive services to a podia-
17 trist incidental to and concurrent with such podiatrist personally
18 performing a service or procedure. Nothing in this subdivision shall be
19 construed to allow an unlicensed person to provide any service which
20 constitutes the practice of podiatry as defined in this title. An unli-
21 censed person providing supportive services to a podiatrist may operate
22 radiographic equipment under direct supervision for the sole purpose of
23 foot radiography provided that such person completes a course of study
24 acceptable to the department.

25 § 7007. Limited permits. 1. Limited permits to practice podiatry may
26 be issued by the department to graduates of a program of professional
27 education in podiatry registered by the department or accredited by an
28 accrediting agency acceptable to the department. Such permits shall
29 authorize the practice of podiatry only under the supervision of a
30 licensed podiatrist and only in:

31 a. a hospital or health facility licensed pursuant to article twenty-
32 eight of this chapter; or

33 b. a clerkship for a period of two years or less conducted by a
34 licensed podiatrist designated as a member of the faculty of an approved
35 school of podiatry for purposes of a preceptorship program.

36 2. Limited permits shall be issued for a period of one year, and may
37 be renewed at the discretion of the department for one additional year.

38 3. The fee for a limited permit shall be one hundred five dollars and
39 the fee for a renewal shall be fifty dollars.

40 § 7008. Limited residency permits and limited fellowship permits. 1.
41 Limited residency permits and limited fellowship permits may be issued
42 by the department to graduates of a program of professional education in
43 podiatry registered by the department or accredited by an accrediting
44 agency acceptable to the department.

45 2. Such permits shall allow a resident or fellow in podiatric medicine
46 participating in an approved post-graduate residency or fellowship
47 program to perform such duties, tasks and functions that are required
48 for successful completion of such program under the administrative
49 supervision of a licensed podiatrist serving as the residency or fellow-
50 ship director, as applicable, in a hospital or health care facility
51 licensed pursuant to article twenty-eight of this chapter. At any time
52 during the residency or fellowship, a licensed physician or a licensed
53 podiatrist may provide direct personal supervision of activities which
54 he or she is authorized and competent to provide in the approved facili-
55 ty; provided, however, when the resident's or fellow's training involves
56 practice beyond that authorized in section seven thousand one of this

title, a licensed physician shall provide direct personal supervision. For the purposes of this section, "direct personal supervision" means supervision of procedures based on instructions given directly by a licensed physician or licensed podiatrist, as applicable, who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the podiatric resident or fellow.

3. Such permit shall be issued for three years and may be renewed at the discretion of the department for additional one-year periods when necessary to permit the completion of an approved post-graduate residency or fellowship in podiatric medicine.

4. The fee for a limited residency permit or a limited fellowship permit shall be one hundred five dollars and the fee for a renewal shall be fifty dollars.

§ 7009. Podiatric ankle surgery privileges. 1. For issuance of a privilege to perform podiatric standard ankle surgery, as that term is used in subdivision two of section seven thousand one of this title, the applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. License: be licensed as a podiatrist in the state;

c. Training and certification: either:

(i) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, and be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; or

(ii) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be board qualified but not yet certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in standard or advanced midfoot, rearfoot and ankle procedures that has been approved by the department; or

(iii) have graduated before June first, two thousand six from a two-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in standard or advanced midfoot, rearfoot and ankle procedures that has been approved by the department;

d. Fees: pay a fee to the department of two hundred twenty dollars for the issuance of a privilege to perform podiatric standard ankle surgery.

2. For issuance of a privilege to perform podiatric advanced ankle surgery, as that term is used in subdivision two of section seven thousand one of this title, the applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. License: be licensed as a podiatrist in the state;

c. Experience and certification: either:

(i) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be

1 certified in reconstructive rearfoot and ankle surgery by a national
2 certifying board having certification standards acceptable to the
3 department, and provide documentation that he or she has acceptable
4 training and experience in advanced midfoot, rearfoot and ankle proce-
5 dures that has been approved by the department; or

6 (ii) have graduated before June first, two thousand six from a two-
7 year residency program in podiatric medicine and surgery that was
8 accredited by an accrediting agency acceptable to the department, be
9 certified in reconstructive rearfoot and ankle surgery, by a national
10 certifying board having certification standards acceptable to the
11 department, and provide documentation that he or she has acceptable
12 training and experience in advanced midfoot, rearfoot and ankle proce-
13 dures that has been approved by the department.

14 d. Fees: pay a fee to the department of two hundred twenty dollars for
15 the issuance of a privilege to perform podiatric advanced ankle surgery.

16 3. Duration and registration of privileges. A privilege issued under
17 this section shall be valid for the life of the holder, unless revoked,
18 annulled, or suspended by the department. Such a privilege shall be
19 subject to the same oversight and disciplinary provisions as licenses
20 issued under this title. The holder of a privilege issued under this
21 section shall register with the department as a privilege holder in the
22 same manner and subject to the same provisions as required of a licensee
23 pursuant to section six thousand five hundred two of this article,
24 provided that, at the time of each registration, the privilege holder
25 shall certify that he or she continues to meet the requirements for the
26 privilege set forth in this section. The fee for such registration shall
27 be two hundred ten dollars. The registration period for a privilege
28 holder shall be coterminous with his or her registration as a podia-
29 trist.

30 § 7010. Ankle surgery limited permits. A limited permit to perform
31 podiatric standard ankle surgery, as described in subdivision two of
32 section seven thousand one of this title, may be issued by the depart-
33 ment to a podiatrist who is licensed pursuant to this title and who has
34 met the residency and board qualification/certification requirements set
35 forth in subdivision one of section seven thousand nine of this title in
36 order to authorize such podiatrist to obtain the training and experience
37 required for the issuance of a podiatric standard ankle surgery privi-
38 lege pursuant to subdivision one of section seven thousand nine of this
39 title. Such permits shall authorize the performance of podiatric stand-
40 ard ankle surgery only under the direct personal supervision of a
41 licensed podiatrist holding a podiatric standard ankle surgery privilege
42 or a podiatric advanced ankle surgery privilege issued pursuant to
43 section seven thousand nine of this title or of a physician licensed
44 pursuant to title two of this article and certified in orthopedic
45 surgery by a national certifying board having certification standards
46 acceptable to the department.

47 2. A limited permit to perform podiatric advanced ankle surgery, as
48 described in subdivision two of section seven thousand one of this
49 title, may be issued by the department to a podiatrist who is licensed
50 pursuant to this title and who has met the residency and board certif-
51 ication requirements set forth in subdivision two of section seven thou-
52 sand nine of this title in order to authorize such podiatrist to obtain
53 the training and experience required for the issuance of a podiatric
54 advanced ankle surgery privilege pursuant to subdivision two of section
55 seven thousand nine of this title. Such permits shall authorize the
56 performance of podiatric advanced ankle surgery only under the direct

personal supervision of a licensed podiatrist holding a podiatric advanced ankle surgery privilege issued pursuant to subdivision two of section seven thousand nine of this title or of a physician licensed pursuant to title two of this article and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

3. For the purposes of this section, direct personal supervision means supervision of procedures based on instructions given directly by the supervising podiatrist or physician who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the holder of the limited permit.

4. The holder of a limited permit issued pursuant to this section shall perform podiatric ankle surgery only in a hospital or health facility licensed pursuant to article twenty-eight of this chapter and appropriately authorized to provide such surgery.

5. Limited permits shall be issued for a period of one year, and may be renewed for additional one year periods when necessary to permit the completion of the training and experience required to obtain a podiatric standard ankle surgery privilege or podiatric advanced ankle surgery privilege, as applicable, provided that no permit may be renewed more than four times for each such privilege.

6. The fee for a limited permit shall be one hundred five dollars and the fee for a renewal shall be fifty dollars.

TITLE 15 OPTOMETRY

Section 7100. Introduction.

7101. Definition of the practice of optometry.

7101-a. Certification to use therapeutic drugs.

7102. Practice of optometry and use of title "optometrist".

7103. State board for optometry.

7104. Requirements for a professional license.

7105. Exempt persons.

7106. Special provisions.

7107. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses.

§ 7100. Introduction. This title applies to the profession of optometry. The general provisions for all professions contained in title one of this article apply to this title.

§ 7101. Definition of the practice of optometry. The practice of the profession of optometry is defined as diagnosing and treating optical deficiency, optical deformity, visual anomaly, muscular anomaly or disease of the human eye and adjacent tissue by prescribing, providing, adapting or fitting lenses or by prescribing, providing, adapting or fitting non-corrective contact lenses, or by prescribing or providing orthoptics or vision training, or by prescribing and using drugs. The practice of optometry shall not include any injection or invasive modality. For purposes of this section invasive modality means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modality includes surgery, lasers, ionizing radiation, therapeutic ultrasound and the removal of foreign bodies from within the tissue of the eye. Nothing in this section or section seventy-one hundred one-a of this title shall be construed to limit the scope of optometric practice as authorized prior to January first, nineteen hundred ninety-five. The use of drugs by optometrists is

1 authorized only in accordance with the provisions of this title and
2 regulations promulgated by the commissioner.

3 § 7101-a. Certification to use therapeutic drugs. 1. Definitions. As
4 used in this section, the following terms shall have the following mean-
5 ings:

6 a. Clinical training. Clinical training shall mean the diagnosis,
7 treatment and management of patients with ocular disease and shall be
8 comparable to that acquired by a current graduate of the State Universi-
9 ty College of Optometry.

10 b. Consultation. Consultation shall mean a confirmation of the diagno-
11 sis, a plan of co-management of the patient, and a periodic review of
12 the patient's progress.

13 c. Education review committee. Education review committee shall mean
14 the committee established pursuant to subdivision nine of this section.

15 d. Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean
16 those drugs which shall be limited to topical applications to the
17 surface of the eye for the purpose of diagnostic examination of the eye
18 and shall be limited to:

19 (i) Anesthetic agents;

20 (ii) Mydriatics;

21 (iii) Cycloplegics;

22 (iv) Miotics;

23 (v) Disclosing agents and other substances used in conjunction with
24 these drugs as part of a diagnostic procedure.

25 e. Topical therapeutic pharmaceutical agents. Topical therapeutic
26 pharmaceutical agents shall mean those drugs which shall be limited to
27 topical application to the surface of the eye for therapeutic purposes
28 and shall be limited to:

29 (i) antibiotic/antimicrobials;

30 (ii) decongestants/anti-allergenics;

31 (iii) non-steroidal anti-inflammatory agents;

32 (iv) steroidal anti-inflammatory agents;

33 (v) antiviral agents;

34 (vi) hyperosmotic/hypertonic agents;

35 (vii) cycloplegics;

36 (viii) artificial tears and lubricants; and

37 (ix) immunosuppressive agents.

38 f. Therapeutic pharmaceutical agents for treatment of glaucoma and
39 ocular hypertension. Therapeutic pharmaceutical agents for treatment of
40 glaucoma and ocular hypertension shall mean those drugs which shall be
41 limited to topical application to the surface of the eye and shall be
42 limited to:

43 (i) beta blockers;

44 (ii) alpha agonists;

45 (iii) direct acting cholinergic agents;

46 (iv) prostaglandin analogs; and

47 (v) carbonic anhydrase inhibitors.

48 g. Oral therapeutic pharmaceutical agents. Oral therapeutic pharmaceu-
49 tical agents shall mean those orally administered drugs used for thera-
50 peutic purposes solely for the treatment of diseases of the eye and
51 adnexa and shall be limited to:

52 (i) the following antibiotics:

53 (1) amoxicillin/clavulanate potassium;

54 (2) cephalixin;

55 (3) azithromycin;

56 (4) sulfamethoxazole/trimethoprim;

(5) doxycycline; and

(6) tetracycline;

(ii) the following antiglaucoma agents used for the management of acute increases in intraocular pressure; provided, however, an optometrist may use or prescribe a maximum of one twenty-four hour prescription and shall immediately refer the patient to a licensed physician specializing in diseases of the eye:

(1) acetazolamide; and

(2) methazolamide; and

(iii) the following antiviral agents used for herpes zoster ophthalmicus; provided an optometrist shall use or prescribe in maximum, one seven-day prescription; provided, however, if a patient is diagnosed with herpes zoster ophthalmicus and has not already been examined by a primary care physician or other appropriate physician for such viral condition, an optometrist shall refer the patient to a licensed primary care physician, licensed physician specializing in diseases of the eye, or other appropriate physician within three days of such diagnosis:

(1) valacyclovir; and

(2) acyclovir.

2. Standard of care. An optometrist authorized to use pharmaceutical agents for use in the diagnosis, treatment or prevention of ocular disease shall be held to the same standard of care in diagnosis, use of such agents, and treatment as that degree of skill and proficiency commonly exercised by a physician in the same community.

3. Certificate. The commissioner shall issue appropriate certificates to use therapeutic pharmaceutical agents in accordance with the provisions of this section to those optometrists who have satisfactorily completed a curriculum in general and ocular pharmacology at a college of optometry with didactic and supervised clinical programs approved by the department are eligible to apply for the certificate issued pursuant to this section.

4. Topical therapeutic pharmaceutical agents. a. Before using or prescribing topical therapeutic pharmaceutical agents, each optometrist shall have completed at least three hundred hours of clinical training in the diagnosis, treatment and management of patients with ocular disease other than glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to June thirtieth, nineteen hundred ninety-three and additionally shall either have taken and successfully passed the treatment and management of ocular diseases portion of the National Board of Examiners in Optometry test or have taken and successfully passed an examination acceptable to the board.

b. Before using or prescribing therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, an optometrist must be certified for diagnostic and topical therapeutic agents and have completed an additional one hundred hours of clinical training in the diagnosis, treatment and management of patients with glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to July first, nineteen hundred ninety-four, and shall have taken and successfully passed an oral or written examination acceptable by the board.

c. Before using or prescribing oral therapeutic pharmaceutical agents, an optometrist must be certified to prescribe diagnostic pharmaceutical agents and topical therapeutic and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, have completed an oral therapeutic pharmaceutical agent certification course and have passed an

1 examination within five years of the department's approval of the
2 initial certification course or the initial examination, whichever is
3 later provided, however, an optometrist who has commenced the oral ther-
4 apeutic pharmaceutical agent certification course within the five year
5 time period but has not yet passed an examination shall be allowed to
6 take such examination and become certified after the five year time
7 period provided for in this paragraph has ended.

8 (i) The curriculum for the oral therapeutic pharmaceutical agent
9 certification course shall include, but not be limited to, instruction
10 in pharmacology and drug interaction in treating ocular disease and be
11 taught through clinical case scenarios and emphasize clinical decision
12 making and shall be no less than forty hours, of which no less than
13 twenty-four hours shall be live instruction.

14 (ii) Such course shall qualify towards meeting the continuing educa-
15 tion per triennial registration requirement pursuant to subdivision
16 seven of this section.

17 (iii) The examination shall assess the knowledge of materials in the
18 curriculum and reflect the oral therapeutic pharmaceutical agents
19 described in paragraph g of subdivision one of this section, and shall
20 be acceptable to the department.

21 (iv) The initial, and any subsequent, curriculum and examination shall
22 be subject to review and approval by the department.

23 (v) The requirement for the oral therapeutic pharmaceutical agent
24 certification course and examination shall not apply to those optome-
25 trists who graduated from an accredited college of optometry subsequent
26 to January first, two thousand twenty-two and have taken and successful-
27 ly passed the National Board of Examiners in Optometry examination or an
28 examination acceptable to the department.

29 d. The clinical training required by this section may have been
30 acquired prior to the enactment of this section not inconsistent with
31 paragraphs a and b of this subdivision. Approval of the pre-acquired
32 clinical training shall be in accordance with subdivision nine-a of this
33 section.

34 e. The provisions of paragraphs a and b of this subdivision shall not
35 apply to (i) graduates of an appropriate program approved by the depart-
36 ment who have successfully passed the examination on the use of diagnos-
37 tic and therapeutic drugs and who graduated subsequent to January first,
38 nineteen hundred ninety-three; or (ii) optometrists who have been certi-
39 fied for at least five years to use phase one and phase two drugs in
40 another jurisdiction, have demonstrated such use in independently
41 managed patients, and have been licensed in accordance with section
42 seventy-one hundred four of this title. Provided, however, no optome-
43 trist exempt under this paragraph shall be permitted to use phase one
44 therapeutic pharmaceutical agents or phase two therapeutic pharmaceu-
45 tical agents prior to the general authorization provided to optometrists
46 licensed in this state.

47 5. Suspension of certification. The department shall suspend the
48 certification for the use and prescribing of topical therapeutic agents
49 of any optometrist who fails to receive certification for therapeutic
50 pharmaceutical agents for treatment of glaucoma and ocular hypertension
51 within three years of having been certified for topical therapeutic
52 pharmaceutical agents.

53 6. Consultation with use of certain topical therapeutic pharmaceutical
54 agents for treatment of glaucoma and ocular hypertension. a. After the
55 initial diagnosis of glaucoma or ocular hypertension and before initiat-
56 ing treatment of any patient, an optometrist shall engage in a written

1 consultation with a licensed physician specializing in diseases of the
2 eye.

3 b. A consultation shall be required for a period of three years or
4 until the optometrist has examined and diagnosed seventy-five patients
5 having glaucoma or ocular hypertension which examinations require a
6 written consultation in accordance with paragraph a of this subdivision,
7 whichever occurs later.

8 c. The consultation provisions shall not apply to a graduate of an
9 appropriate program approved by the department who successfully passed
10 an examination in the use of diagnostic and therapeutic pharmaceutical
11 agents approved by the department and graduated such school subsequent
12 to January first, nineteen hundred ninety-nine and who has had at least
13 seventy-five documented examinations and diagnosis of patients with
14 glaucoma or ocular hypertension which examinations were part of their
15 training and were under physician supervision.

16 7. Continuing education. a. Each optometrist certified to use topical
17 therapeutic pharmaceutical agents and therapeutic pharmaceutical agents
18 for treatment of glaucoma and ocular hypertension, shall complete a
19 minimum of thirty-six hours of continuing education in the area of
20 ocular disease and pharmacology per triennial registration period. Each
21 optometrist certified to use oral therapeutic pharmaceutical agents
22 shall, in addition to the minimum thirty-six hours of continuing educa-
23 tion provided for in this subdivision, complete an additional minimum of
24 eighteen hours of continuing education related to systemic disease and
25 therapeutic treatment per triennial registration period. Such educa-
26 tional programs may include both didactic and clinical components and
27 shall be approved in advance by the department. Beginning on January
28 first, two thousand twenty-four, all sponsors of continuing education
29 courses seeking advanced approval from the department shall file an
30 application and pay a fee determined by the department in accordance
31 with the regulations of the commissioner. An optometrist subject to the
32 provisions of this subdivision whose first registration date following
33 the effective date of this section occurs less than three years from
34 such effective date, but on or after January first, two thousand twen-
35 ty-four, shall complete continuing education hours on a prorated basis
36 at the rate of one hour per month for the period beginning January
37 first, two thousand twenty-four up to the first registration date there-
38 after. An optometrist who has not satisfied the mandatory continuing
39 education requirement pursuant to this subdivision shall not be issued a
40 triennial registration certificate by the department and shall not prac-
41 tice unless and until a conditional registration is issued as provided
42 for in paragraph b of this subdivision. Continuing education hours taken
43 during one triennium may not be transferred to the subsequent triennium.

44 b. The department, in its discretion, may issue a conditional regis-
45 tration to an optometrist who fails to meet the continuing education
46 requirements established in paragraph a of this subdivision, but who
47 agrees to make up any deficiencies and complete any additional education
48 which the department may require. The fee for such a conditional regis-
49 tration shall be the same as, and in addition to, the fee for the trien-
50 niel registration. The duration of such conditional registration shall
51 be determined by the department, but shall not exceed one year. Any
52 optometrist who is notified of the denial of registration for failure to
53 submit evidence, satisfactory to the department, of required continuing
54 education and who practices without such registration may be subject to
55 disciplinary proceedings pursuant to section sixty-five hundred ten of
56 this article.

1 c. In accordance with the intent of this section, adjustment to the
2 mandatory continuing education requirement may be granted by the depart-
3 ment for reasons of health that are certified by an appropriate health
4 care professional, for extended active duty with the armed forces of the
5 United States, or for other good cause acceptable to the department
6 which may prevent compliance.

7 d. An optometrist not engaged in practice, as determined by the
8 department, shall be exempt from the mandatory continuing education
9 requirement upon the filing of a statement with the department declaring
10 such status. Any licensee who returns to the practice of optometry
11 during the triennial registration period shall notify the department
12 prior to reentering the profession and shall meet such continuing educa-
13 tion requirements as shall be prescribed by regulations of the commis-
14 sioner.

15 e. Optometrists subject to the provisions of this subdivision shall
16 maintain adequate documentation of completion of acceptable continuing
17 education credits and shall provide such documentation at the request of
18 the department. Failure to provide such documentation upon the request
19 of the department shall be an act of misconduct subject to disciplinary
20 proceedings pursuant to section sixty-five hundred ten of this article.

21 f. The mandatory continuing education fee shall be determined by the
22 department. Such fee shall be payable on or before the first day of each
23 triennial registration period, and shall be paid in addition to the
24 triennial registration fee required by subdivision eight of section
25 seventy-one hundred four of this title.

26 8. Notice to patient with the use or prescription of topical therapeutic
27 pharmaceutical agents and therapeutic pharmaceutical agents for
28 treatment of glaucoma and ocular hypertension. a. (i) An optometrist
29 prescribing topical steroids or antiviral medication shall inform each
30 patient that in the event the condition does not improve within five
31 days, a physician of the patient's choice will be notified.

32 (ii) An optometrist engaged in a written consultation with an ophthal-
33 mologist shall inform a patient diagnosed with glaucoma that the optome-
34 trist will have the diagnosis confirmed and co-managed with an ophthal-
35 mologist of the patient's choice, or one selected by the optometrist.

36 b. In addition, each optometrist certified to prescribe and use thera-
37 peutic drugs shall have posted conspicuously in the office reception
38 area the following notice:

39 "Dr. (Name), O.D. is certified by New York State to use drugs to diag-
40 nose and treat diseases of the eye. In the event your condition requires
41 the use of steroids or antiviral medication and your condition does not
42 improve within five days, a physician of your choice will be notified.

43 In the event you are diagnosed with glaucoma, the optometrist will
44 have your diagnosis confirmed and treatment co-managed with an ophthal-
45 mologist (MD) of your choice, or if you wish, one selected by Dr.
46 (Name)."

47 The second paragraph of such notice shall only be required to be
48 included during the period when the optometrist is engaged in a written
49 consultation pursuant to subdivision six of this section.

50 9. Education review committee. An education review committee is hereby
51 created to advise and assist the commissioner in evaluating pre-acquired
52 clinical training. The members of the committee shall be appointed by
53 the commissioner in consultation with the chancellor of the state
54 university of New York. The committee shall consist of five members, two
55 of whom shall be optometrists on the faculty of the SUNY college of
56 optometry, two of whom shall be ophthalmologists who, in addition to

1 being members of the faculty of any approved medical school in this
2 state and not also faculty members of SUNY college of optometry, have
3 surgical privileges at a New York state hospital. The fifth member who
4 shall be designated as chair shall be an expert in the field of public
5 health and shall be neither an ophthalmologist nor an optometrist.

6 The commissioner shall submit each application to the committee for
7 its review and recommendation. In making such recommendation, the
8 committee shall advise as to the number of hours of pre-acquired clin-
9 ical training, if any, to be approved, based upon the information
10 submitted with the application. In evaluating such training, the commit-
11 tee shall be authorized to require the submission of such reasonable
12 documentation needed to facilitate the committee's review of the adequa-
13 cy and relevance of such training.

14 9-a. Pre-acquired clinical training. a. Each optometrist requesting
15 approval of pre-acquired clinical training shall submit a written appli-
16 cation to the department. The commissioner, in consultation with the
17 education review committee may provide credit for the following:

18 (i) clinical training acquired at an institution accredited by a
19 regional or professional accreditation organization which is recognized
20 or approved by the United States Department of Education and the depart-
21 ment;

22 (ii) clinical training acquired at a facility licensed by the state of
23 New York in accordance with article twenty-eight of this chapter or at a
24 comparable facility located in another state or country provided the
25 licensing requirements or accreditation requirements of such institution
26 are comparable to those of New York state;

27 (iii) hospital affiliations, including rounds and patient management
28 for applicants having staff privileges at such facility;

29 (iv) consultation and co-management with ophthalmologists of patients
30 with ocular disease and post-surgery recovery;

31 (v) postdoctoral accredited residency or fellowship programs;

32 (vi) experience at an accredited educational institution as a faculty
33 instructor in clinical practice, ocular disease management and pharma-
34 cology;

35 (vii) experience in other states in which the applicant has been
36 certified to use therapeutic pharmaceutical agents.

37 b. Any optometrist disagreeing with the recommendation of the educa-
38 tion review committee shall have a right to appeal in writing to the
39 commissioner. The decision of the commissioner shall be final and bind-
40 ing on all parties.

41 10. Pharmaceutical agents. Optometrists who have been approved and
42 certified by the department shall be permitted to use the following
43 drugs:

44 a. Diagnostic pharmaceuticals.

45 b. Those optometrists having been certified for topical therapeutic
46 pharmaceutical agents shall be authorized to use and prescribe all
47 topical therapeutic pharmaceutical agents specified in paragraph e of
48 subdivision one of this section, which are FDA approved and commercially
49 available for topical use.

50 In the event an optometrist treats a patient with topical antiviral or
51 steroidal drugs and the patient's condition either fails to improve or
52 worsens within five days, the optometrist shall notify a physician
53 designated by the patient or, if none, by the treating optometrist.

54 c. Those optometrists having been certified for therapeutic pharmaceu-
55 tical agents for treatment of glaucoma and ocular hypertension shall be
56 authorized to use and prescribe therapeutic pharmaceutical agents for

1 treatment of glaucoma and ocular hypertension specified in paragraph f
2 of subdivision one of this section, which are FDA approved and commer-
3 cially available.

4 d. Those optometrists having been certified for oral therapeutic phar-
5 maceutical agents shall be authorized to use and prescribe oral thera-
6 peutic pharmaceutical agents specified in paragraph g of subdivision one
7 of this section, which are FDA approved and commercially available and
8 shall comply with all safety information and side-effect and warning
9 advisories contained in the most current physicians' desk reference.

10 e. Those optometrists having been certified for topical therapeutic
11 pharmaceutical agents, therapeutic pharmaceutical agents for treatment
12 of glaucoma and ocular hypertension or oral therapeutic pharmaceutical
13 agents shall be authorized to use and recommend all nonprescription
14 medications, whether intended for topical or oral use, appropriate for
15 the treatment of the eye and adnexa.

16 11. Responsibilities of the commissioner. The commissioner shall adopt
17 regulations a. providing for the certification of graduates of an appro-
18 priate program approved by the department who have successfully passed
19 the examination on the use of diagnostic and therapeutic pharmaceutical
20 agents and who have graduated subsequent to January first, nineteen
21 hundred ninety-three; and b. providing for the certification of optome-
22 trists who have graduated from other accredited colleges of optometry or
23 who are licensed to practice in other jurisdictions, have demonstrated
24 such use in independently managed patients and are seeking licensure and
25 certification in New York.

26 12. Responsibilities of the commissioner. The commissioner may recom-
27 mend additions or deletions to the department's regulations relating to
28 optometric use of drugs except that such recommendations shall be limit-
29 ed only to additions which have been determined to be equivalent to
30 those drugs already authorized or deletions based upon a finding that
31 the drugs are no longer appropriate for their current use or for other
32 similar reasons.

33 § 7102. Practice of optometry and use of title "optometrist". Only a
34 person licensed or exempt under this title shall practice optometry or
35 use the title "optometrist".

36 § 7103. State board for optometry. A state board for optometry shall
37 be appointed by the commissioner for the purpose of assisting the
38 department on matters of professional licensing and professional conduct
39 in accordance with section sixty-five hundred eight of this article. The
40 board shall be composed of not less than seven optometrists who shall
41 have been residents of this state engaged in the practice of optometry
42 for at least five years in this state. An executive secretary to the
43 board shall be appointed by the commissioner.

44 § 7104. Requirements for a professional license. To qualify for a
45 license as an optometrist, an applicant shall fulfill the following
46 requirements:

- 47 (1) Application: file an application with the department;
48 (2) Education: have received an education, including a degree of
49 doctor of optometry or equivalent degree, in accordance with the commis-
50 sioner's regulations;
51 (3) Experience: have experience satisfactory to the board and in
52 accordance with the commissioner's regulations;
53 (4) Examination: pass an examination satisfactory to the board and in
54 accordance with the commissioner's regulations;
55 (5) Age: be at least twenty-one years of age;
56 (6) Citizenship: meet no requirement as to United States citizenship;

1 (7) Character: be of good moral character as determined by the depart-
2 ment; and

3 (8) Fees: pay a fee of two hundred twenty dollars to the department
4 for admission to a department conducted examination and for an initial
5 license, a fee of one hundred fifteen dollars for each reexamination, a
6 fee of one hundred thirty-five dollars for an initial license for
7 persons not requiring admission to a department conducted examination, a
8 fee of two hundred ten dollars for each triennial registration period,
9 for additional authorization for the purpose of utilizing diagnostic
10 pharmaceutical agents, a fee of sixty dollars, and for certification to
11 use or prescribe oral therapeutic pharmaceutical agents, a fee of two
12 hundred fifty dollars.

13 § 7105. Exempt persons. Nothing in this title shall be construed to
14 affect or prevent:

15 1. A student from engaging in clinical practice under supervision of a
16 licensed optometrist or physician in a school of optometry in this state
17 registered by the department; or

18 2. A person licensed to practice optometry from using a degree
19 conferred in course after resident study by an educational institution
20 lawfully authorized by the state in which it is located to confer such a
21 degree.

22 3. An optometrist licensed in another state or country who is employed
23 on a full-time basis by a registered school of optometry as a faculty
24 member with the rank of assistant professor or higher from conducting
25 research and clinical demonstrations as part of such employment, under
26 the supervision of a licensed optometrist and on the premises of the
27 school. No fee may be charged for the practice of optometry authorized
28 by this subdivision.

29 4. a. A person in training or appropriately trained and deemed quali-
30 fied by the supervising licensed optometrist, to assist a licensed opto-
31 metrist in the care of a patient for the purpose of instilling mydriatic
32 or cycloplegic eye drops and anesthetic eye drops in conjunction with
33 such dilating drops to the surface of the eye of a patient, provided
34 that the person instilling such eye drops is:

35 (i) under the on-site supervision of a supervising licensed optome-
36 trist;

37 (ii) at least eighteen years of age; and

38 (iii) complies with standards issued by the department.

39 b. The supervising licensed optometrist shall submit a form prescribed
40 by the department, detailing the identity of each person instilling
41 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-
42 tion with such dilating drops to the surface of the eye of a patient,
43 under his or her supervision, attesting to compliance with the above
44 requirements.

45 c. The supervising licensed optometrist's use of any such person
46 pursuant to the terms of this subdivision shall be undertaken with
47 professional judgment in order to ensure the safety and well-being of
48 the patient. Such use shall subject the licensed optometrist to the
49 full disciplinary and regulatory authority of the department pursuant to
50 this title. The licensed optometrist must notify the patient or the
51 patient's designated health care surrogate that the licensed optometrist
52 may utilize the services of an individual to administer certain eye
53 drops and must provide the patient or the patient's designated health
54 care surrogate the opportunity to refuse the licensed optometrist's plan
55 to utilize such person.

1 § 7106. Special provisions. 1. The testimony and reports of a licensed
2 optometrist shall be received by any official, board, commission or
3 other agency of the state or of any of its subdivisions or municipi-
4 palities as qualified evidence with respect to any matter defined in
5 section seventy-one hundred one of this title; and no official, board,
6 commission, or other agency of the state or any of its subdivisions or
7 municipalities shall discriminate among the practitioners of optometry
8 and any other ocular practitioners.

9 2. Eyeglasses or lenses for the correction of vision or non-corrective
10 contact lenses may be sold by any person, firm or corporation at retail,
11 only on prescription of a licensed physician or licensed optometrist and
12 only if a licensed physician, optometrist or ophthalmic dispenser is in
13 charge of and in personal attendance at the place of sale. This title
14 shall not apply to binoculars, telescopes, or other lenses used for
15 simple magnification; except, that a seller of non-prescription ready-
16 to-wear magnifying spectacles or glasses shall have the following
17 language attached to each pair of glasses or spectacles displayed or
18 offered for sale and in at least ten point bold type permanently affixed
19 in plain view to the top of any point of sale display or, if there is no
20 display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION
21 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR
22 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE
23 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used
24 in this subdivision "non-prescription, ready to wear magnifying specta-
25 cles or glasses" means spherical convex lenses, uniform in each meridi-
26 an, which are encased in eyeglass frames and intended to ameliorate the
27 symptoms of presbyopia. The lenses in such glasses shall be of uniform
28 focus power in each eye and shall not exceed 2.75 diopters.

29 3. It shall be a class A misdemeanor to practice any fraud, deceit or
30 misrepresentation in any advertising related to optometric services.

31 § 7107. Advertising of non-prescription ready-to-wear magnifying spec-
32 tacles or glasses. 1. Any printed advertising for non-prescription read-
33 y-to-wear magnifying spectacles or glasses to be sold through the mail
34 also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRES-
35 SCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENS-
36 ES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE
37 CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION
38 NEEDS." As used in this section, "non-prescription, ready to wear magni-
39 fying spectacles or glasses" means spherical convex lenses, uniform in
40 each meridian, which are encased in eyeglass frames and intended to
41 ameliorate the symptoms of presbyopia. The lenses in such glasses shall
42 be of uniform focus power in each eye and shall not exceed 2.75 diop-
43 ters.

44 2. Any person, his or her agent or employee who shall violate any
45 provision of this section shall be subject to a civil penalty of not
46 less than twenty-five dollars nor more than two hundred fifty dollars
47 for each violation. For purposes of this section, the sale or offer for
48 sale of each pair of non-prescription ready-to-wear magnifying specta-
49 cles or glasses which fail to meet the standards of this section shall
50 constitute a violation.

51 TITLE 16
52 OPHTHALMIC DISPENSING

53 Section 7120. Introduction.

54 7121. Definition of practice of ophthalmic dispensing.

1 7122. Practice of ophthalmic dispensing and use of title
2 "ophthalmic dispenser" or "optician".

3 7123. State board for ophthalmic dispensing.

4 7124. Requirements for a professional license.

5 7125. Exemptions.

6 7126. Special provisions.

7 7127. Advertising of non-prescription ready-to-wear magnifying
8 spectacles or glasses.

9 7128. Mandatory continuing education.

10 § 7120. Introduction. This title shall apply to the profession of
11 ophthalmic dispensing. The general provisions for all professions
12 contained in title one of this article shall apply to this title.

13 § 7121. Definition of practice of ophthalmic dispensing. The practice
14 of the profession of "ophthalmic dispensing", for the purposes of this
15 chapter, is defined as adapting and fitting lenses, for the correction
16 of deficiencies, deformities, or anomalies, of the human eyes, or adapt-
17 ing and fitting non-corrective contact lenses, on written prescriptions
18 from a licensed physician or optometrist. Replacements or duplicates of
19 such lenses may be adapted and dispensed without prescription. Contact
20 lenses may be fitted by an ophthalmic dispenser only under the personal
21 supervision of a licensed physician or optometrist.

22 § 7122. Practice of ophthalmic dispensing and use of title "ophthalmic
23 dispenser" or "optician". Only a person licensed or exempt under this
24 title or a corporation, partnership, or persons doing business under an
25 assumed name and either composed of licensed ophthalmic dispensers or
26 employing licensed ophthalmic dispensers shall practice ophthalmic
27 dispensing or use the title "ophthalmic dispenser", "optician", "optical
28 technician", "dispensing optician", or "optical dispenser".

29 § 7123. State board for ophthalmic dispensing. A state board for
30 ophthalmic dispensing shall be appointed by the commissioner for the
31 purpose of assisting the department on matters of professional licensing
32 and professional conduct in accordance with section sixty-five hundred
33 eight of this article. Such board shall be composed of not less than
34 seven licensed ophthalmic dispensers who shall have been residents of
35 this state engaged in the practice of ophthalmic dispensing for at least
36 five years in this state. An executive secretary to such board shall be
37 appointed by the commissioner. As used in this title, the term "the
38 board" shall mean the state board for ophthalmic dispensing appointed
39 pursuant to this section.

40 § 7124. Requirements for a professional license. 1. To qualify for a
41 license as an ophthalmic dispenser, an applicant shall fulfill the
42 following requirements:

43 a. Application: file an application with the department;

44 b. Education: have received an education, including high school gradu-
45 ation and completion, in accordance with the commissioner's regulations,
46 of either (i) a two-year program in ophthalmic dispensing; or (ii) two
47 years of training and experience in ophthalmic dispensing under the
48 supervision of a licensed ophthalmic dispenser, optometrist, or physi-
49 cian;

50 c. Experience: have experience satisfactory to the board and in
51 accordance with the commissioner's regulations;

52 d. Examination: pass an examination satisfactory to the board and in
53 accordance with the commissioner's regulations;

54 e. Age: be at least eighteen years of age;

55 f. Citizenship: meet no requirement as to United States citizenship;

1 g. Character: be of good moral character as determined by the depart-
2 ment; and

3 h. Fees: pay a fee of one hundred fifteen dollars to the department
4 for admission to a department-conducted examination and for an initial
5 license, a fee of forty-five dollars for each reexamination, a fee of
6 fifty dollars for an initial license for persons not requiring admission
7 to a department conducted examination, and a fee of fifty dollars for
8 each triennial registration period.

9 2. A person licensed after July first, nineteen hundred seventy-three
10 shall be permitted to fit contact lenses only if the licensee, in addi-
11 tion to the requirements of subdivision a of this section, shall (1)
12 pass a separate examination satisfactory to the board and in accordance
13 with the commissioner's regulations; and (2) have the requisite experi-
14 ence in the fitting of contact lenses satisfactory to the board and in
15 accordance with the commissioner's regulations.

16 § 7125. Exemptions. Nothing in this title shall be construed to affect
17 or prevent:

18 1. An unlicensed person from performing merely mechanical work upon
19 inert matter in an optical office, laboratory, or shop;

20 2. A student from engaging in clinical practice, under the supervision
21 of a licensed ophthalmic dispenser or licensed optometrist, or licensed
22 physician, in an ophthalmic dispensing school or college registered by
23 the department; or

24 3. The department from issuing a limited permit to an applicant who
25 meets all requirements for admission to the licensing examination
26 required under section seventy-one hundred twenty-four of this title,
27 provided, however, that:

28 a. Practice under a limited permit shall be under the supervision of a
29 licensed physician, optometrist or ophthalmic dispenser.

30 b. A limited permit shall expire after two years, or upon notice to
31 the applicant that the application for licensure has been denied, or ten
32 days after notification to the applicant of failure on the professional
33 licensing examination, whichever shall first occur. Notwithstanding the
34 foregoing provisions of this subdivision, if the applicant is waiting
35 for the result of a licensing examination at the time such limited
36 permit expires, such permit shall continue to be valid until ten days
37 after notification to the applicant of the results of such examination.
38 A limited permit which has not expired as a result of notice of denial
39 of licensure or of failure on the licensing examination may be renewed
40 for a period of not more than one additional year, upon a showing satis-
41 factory to the department that the applicant could not obtain a license
42 within two years.

43 c. Supervision of a permittee by a licensed physician, optometrist, or
44 ophthalmic dispenser shall be on-site supervision but not necessarily
45 direct personal supervision.

46 d. The fee for each limited permit and for each renewal shall be thir-
47 ty-five dollars. The fee for issuance of a training permit shall be
48 thirty dollars.

49 § 7126. Special provisions. 1. Eyeglasses or lenses for the correction
50 of vision or non-corrective contact lenses may be sold by any person,
51 firm or corporation at retail, only on prescription of a licensed physi-
52 cian or licensed optometrist and only if a licensed physician, optome-
53 trist, or ophthalmic dispenser is in charge of and in personal attend-
54 ance at the place of such sale. This title shall not apply to
55 binoculars, telescopes, or other lenses used for simple magnification,
56 except that a seller of non-prescription ready-to-wear magnifying spec-

1 tacles or glasses shall have the following language attached to each
2 pair of glasses or spectacles displayed or offered for sale and in at
3 least ten-point bold type permanently affixed in plain view to the top
4 of any point of sale display, or, if there is no display, in the area of
5 sale: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT
6 INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN
7 EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETER-
8 MINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivi-
9 sion, "non-prescription, ready-to-wear magnifying spectacles or glasses"
10 means spherical convex lenses, uniform in each meridian, which are
11 encased in eyeglass frames and intended to ameliorate the symptoms of
12 presbyopia. The lenses in such glasses shall be of uniform focus power
13 in each eye and shall not exceed 2.75 diopters.

14 2. It shall be a class A misdemeanor to practice any fraud, deceit or
15 misrepresentation in any advertising related to ophthalmic dispensing.

16 § 7127. Advertising of non-prescription ready-to-wear magnifying spec-
17 tacles or glasses. 1. Any printed advertising for non-prescription read-
18 y-to-wear magnifying spectacles or glasses to be sold through the mail
19 shall include the statement: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION
20 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR
21 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE
22 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used
23 in this section, "non-prescription, ready-to-wear magnifying spectacles
24 or glasses" means spherical convex lenses, uniform in each meridian,
25 which are encased in eyeglass frames and intended to ameliorate the
26 symptoms of presbyopia. The lenses in such glasses shall be of uniform
27 focus power in each eye and shall not exceed 2.75 diopters.

28 2. Any person or his or her agent or employee who violates any
29 provision of this section shall be subject to a civil penalty of not
30 less than twenty-five dollars nor more than two hundred fifty dollars
31 for each such violation. For purposes of this section, the sale or offer
32 for sale of each pair of non-prescription ready-to-wear magnifying spec-
33 tacles or glasses that fail to meet the standards of this section shall
34 constitute a violation of this section.

35 § 7128. Mandatory continuing education. 1. a. Each licensed ophthalmic
36 dispenser required under this title to register triennially with the
37 department to practice in the state shall comply with the provisions of
38 the mandatory continuing education requirements prescribed in subdivi-
39 sion two of this section, except as otherwise set forth in paragraphs a
40 and c of this subdivision. Ophthalmic dispensers who do not satisfy such
41 mandatory continuing education requirements shall not practice until
42 they have met such requirements, and they have been issued a registra-
43 tion certificate, except that an ophthalmic dispenser may practice with-
44 out having met such requirements if he or she is issued a conditional
45 registration certificate pursuant to subdivision three of this section.

46 b. Ophthalmic dispensers shall be exempt from the mandatory continuing
47 education requirement for the triennial registration period during which
48 they are first licensed. In accord with the intent of this section,
49 adjustment to the mandatory continuing education requirement may be
50 granted by the department for reasons of health certified by an appro-
51 priate health care professional, for extended active duty with the armed
52 forces of the United States, or for other good cause acceptable to the
53 department which may prevent compliance.

54 c. A licensed ophthalmic dispenser not engaged in practice, as deter-
55 mined by the department, shall be exempt from the mandatory continuing
56 education requirement upon the filing of a statement with the department

1 declaring such status. Any licensee who returns to the practice of
2 ophthalmic dispensing during the triennial registration period shall
3 notify the department prior to reentering the profession and shall meet
4 such mandatory education requirements as shall be prescribed by regu-
5 lations of the commissioner.

6 2. During each triennial registration period an applicant for regis-
7 tration as an ophthalmic dispenser shall complete a minimum of eighteen
8 hours of acceptable formal continuing education, as specified in subdivi-
9 sion four of this section; provided that three hours may be in recog-
10 nized areas of study pertinent to the dispensing and fitting of contact
11 lenses. During each triennial registration period an applicant for
12 registration as an ophthalmic dispenser and certified to fit contact
13 lenses shall complete twenty hours of acceptable formal continuing
14 education, as specified in subdivision four of this section; provided
15 that ten hours shall be in recognized areas of study pertinent to the
16 dispensing and fitting of contact lenses. Any ophthalmic dispenser whose
17 first registration date following the effective date of this section
18 occurs less than three years from such effective date, but on or after
19 January first, nineteen hundred ninety-nine, shall complete continuing
20 education hours on a prorated basis at the rate of one-half hour per
21 month for the period beginning January first, nineteen hundred ninety-
22 eight up to the first registration date thereafter. A licensee who has
23 not satisfied the mandatory continuing education requirements shall not
24 be issued a triennial registration certificate by the department and
25 shall not practice unless and until a conditional registration certif-
26 icate is issued as provided for in subdivision three of this section.
27 Continuing education hours taken during one triennium may not be trans-
28 ferred to a subsequent triennium.

29 3. The department, in its discretion, may issue a conditional regis-
30 tration to a licensee who fails to meet the continuing education
31 requirements established in subdivision two of this section but who
32 agrees to make up any deficiencies and complete any additional education
33 which the department may require the fee for such a conditional regis-
34 tration shall be the same as, and in addition to, the fee for the trien-
35 nal registration. The duration of such conditional registration shall
36 be determined by the department but shall not exceed one year. Any
37 licensee who is notified of the denial of registration for failure to
38 submit evidence, satisfactory to the department, of required continuing
39 education and who practices without such registration, may be subject to
40 disciplinary proceedings pursuant to section sixty-five hundred ten of
41 this article.

42 4. As used in subdivision two of this section, "acceptable formal
43 education" shall mean formal courses of learning which contribute to
44 professional practice in ophthalmic dispensing and which meet the stand-
45 ards prescribed by regulations of the commissioner. Such formal courses
46 of learning shall include, but not be limited to, collegiate level cred-
47 it and non-credit courses. Professional development programs and techni-
48 cal sessions offered by national, state, and local professional associ-
49 ations and other organizations acceptable to the department, and any
50 other organized educational and technical programs acceptable to the
51 department. The department, in its discretion and as needed to contrib-
52 ute to the health and welfare of the public, may require the completion
53 of continuing education courses in specific subjects to fulfill such
54 mandatory continuing education requirement. Courses must be taken from
55 a sponsor approved by the department, pursuant to the regulations of the
56 commissioner.

5. Ophthalmic dispensers shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-one hundred twenty-four of this title.

TITLE 17

PSYCHOLOGY

Section 7600. Introduction.

7601. Practice of psychology and use of the title "psychologist".

7601-a. Definition of the practice of psychology.

7602. State board for psychology.

7603. Requirements for a professional license.

7604. Limited permits.

7605. Exempt persons.

7606. Prohibitions.

7607. Mandatory continuing education.

§ 7600. Introduction. This title applies to the profession and practice of psychology and to the use of the title "psychologist". The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7601. Practice of psychology and use of the title "psychologist". Only a person licensed or otherwise authorized under this title shall be authorized to practice psychology or to use the title "psychologist" or to describe his or her services by use of the words "psychologist", "psychology", or "psychological" in connection with his or her practice.

§ 7601-a. Definition of the practice of psychology. 1. As used in this chapter, the practice of "psychology" shall mean the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior; enhancing interpersonal relationships, personal, group, or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive, or behavioral disorders, disabilities, ailments, or illnesses, alcoholism, substance use, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.

2. As used in this title, the term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychotherapy, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.

§ 7602. State board for psychology. A state board for psychology shall be appointed by the commissioner for the purpose of assisting the

1 department on matters of professional licensing and professional conduct
2 in accordance with section sixty-five hundred eight of this article. The
3 board shall be composed of not less than eleven psychologists licensed
4 in this state. An executive secretary to the board shall be appointed by
5 the commissioner and shall be a psychologist, licensed in this state. As
6 used in this title, the term "the board" shall mean the state board for
7 psychology appointed pursuant to this section.

8 § 7603. Requirements for a professional license. To qualify for a
9 license as a psychologist, an applicant shall fulfill the following
10 requirements:

- 11 1. Application: file an application with the department;
- 12 2. Education: have received an education, including a doctoral degree
13 in psychology, granted on the basis of completion of a program of
14 psychology registered with the department or the substantial equivalent
15 thereof, in accordance with the commissioner's regulations;
- 16 3. Experience: have two years of supervised employment or engagement
17 in appropriate psychology activities satisfactory to the board and in
18 accordance with the commissioner's regulations. Satisfactory experience
19 obtained in an entity operating pursuant to a waiver issued by the
20 department pursuant to section sixty-five hundred three-a of this arti-
21 cle may be accepted by the department, notwithstanding that such experi-
22 ence may have been obtained prior to the effective date of such section
23 sixty-five hundred three-a and/or prior to the entity having obtained a
24 waiver. The department may, for good cause shown, accept satisfactory
25 experience that was obtained in a setting that would have been eligible
26 for a waiver but which has not obtained a waiver with the department or
27 experience that was obtained in good faith by the applicant under the
28 belief that appropriate authorization had been obtained for the experi-
29 ence, provided that such experience meets all other requirements for
30 acceptable experience;
- 31 4. Examination: pass an examination satisfactory to the board and in
32 accordance with the commissioner's regulations;
- 33 5. Age: be at least twenty-one years of age;
- 34 6. Citizenship: meet no requirement as to United States citizenship;
- 35 7. Character: be of good moral character as determined by the depart-
36 ment; and
- 37 8. Fees: pay a fee of one hundred seventy dollars to the department
38 for admission to a department-conducted examination and for an initial
39 license, a fee of eighty-five dollars for each reexamination, a fee of
40 one hundred fifteen dollars for an initial license for persons not
41 requiring admission to a department-conducted examination, and a fee of
42 one hundred fifty-five dollars for each triennial registration period.

43 § 7604. Limited permits. 1. On recommendation of the board, the
44 department may issue a limited permit to practice as psychologist to an
45 applicant holding a certificate or license to practice psychology issued
46 by another state or country, and whose qualifications have been approved
47 for admission to the examination for a license as psychologist and who
48 has resided in this state for a period of not more than six months prior
49 to the filing of such application. Such limited permit shall be valid
50 for a period of not more than twelve months, or until ten days after
51 notification to the applicant of failure of the professional licensing
52 examination, or until the results of a licensing examination for which
53 the applicant is eligible are officially released, whichever comes
54 first.

55 2. On the recommendation of the board, the department may issue a
56 limited permit valid for an aggregate of three years to a person who has

1 completed the doctoral dissertation and other doctoral degree require-
2 ments and is gaining supervised experience to meet the experience
3 requirements for licensure. Such permit may be re-issued for a maximum
4 period of one year for good cause, as determined by the department.

5 3. Fees. The fee for each limited permit shall be seventy dollars.

6 § 7605. Exempt persons. Nothing in this title shall be construed to
7 affect or prevent:

8 1. The activities, services, and use of the title of psychologist, or
9 any derivation thereof, on the part of a person in the employ of a
10 federal, state, county or municipal agency, or other political subdivi-
11 sion, or a chartered elementary or secondary school or degree-granting
12 educational institution insofar as such activities and services are a
13 part of the duties of his or her salaried position; or on the part of a
14 person in the employ as a certified school psychologist on a full-time
15 or part-time salary basis, which may include on an hourly, weekly, or
16 monthly basis, or on a fee for evaluation services basis provided that
17 such person employed as a certified school psychologist is employed by
18 and under the dominion and control of a preschool special education
19 program approved pursuant to paragraph b of subdivision nine or subdivi-
20 sion nine-a of section forty-four hundred ten of the education law to
21 provide activities, services and to use the title "certified school
22 psychologist", so long as this shall not be construed to permit the use
23 of the title "licensed psychologist", to students enrolled in such
24 approved program or to conduct a multidisciplinary evaluation of a
25 preschool child having or suspected of having a disability; or on the
26 part of a person in the employ as a certified school psychologist on a
27 full-time or part-time salary basis, which may include on an hourly,
28 weekly or monthly basis, or on a fee for evaluation services basis
29 provided that such person employed as a certified school psychologist is
30 employed by and under the dominion and control of an agency approved in
31 accordance with title two-A of article twenty-five of this chapter to
32 deliver early intervention program multidisciplinary evaluations,
33 service coordination services and early intervention program services,
34 each in the course of their employment. Nothing in this subdivision
35 shall be construed to authorize a certified school psychologist or group
36 of such school psychologists to engage in independent practice or prac-
37 tice outside of an employment relationship.

38 2. The activities and services required of a student, intern, or resi-
39 dent in psychology, pursuing a course of study leading to a doctoral
40 degree in psychology in an institution approved by the department,
41 provided that such activities and services constitute a part of his or
42 her supervised course of study in psychology. Such persons shall be
43 designated by the titles "psychological intern", "psychological train-
44 ee", or other such title which clearly indicates his or her training
45 status.

46 3. The practice, conduct, activities or services by any person
47 licensed or otherwise authorized to practice medicine within the state
48 pursuant to title two of this article or by any person registered to
49 perform services as a physician assistant within the state pursuant to
50 title three of this article.

51 4. The practice, conduct, activities, or services by any person
52 licensed or otherwise authorized to practice nursing as a registered
53 professional nurse or nurse practitioner within the state pursuant to
54 title twelve of this article or by any person licensed or otherwise
55 authorized to practice social work within the state pursuant to title
56 eighteen of this article, or by any person licensed or otherwise author-

1 ized to practice mental health counseling, marriage and family therapy,
2 creative arts therapy, or psychoanalysis within the state pursuant to
3 title twenty-five of this article, or any person licensed or otherwise
4 authorized to practice applied behavior analysis within the state pursu-
5 ant to title twenty-nine of this article or any individual who is
6 credentialed under any law, including attorneys, rape crisis counselors,
7 certified alcoholism counselors, and certified substance abuse counse-
8 lors from providing mental health services within their respective
9 established authorities.

10 5. The conduct, activities, or services of any member of the clergy or
11 Christian Science practitioner, in the provision of pastoral counseling
12 services within the context of his or her ministerial charge or obli-
13 gation.

14 6. The conduct, activities, or services of individuals, churches,
15 schools, teachers, organizations, or not-for-profit businesses in
16 providing instruction, advice, support, encouragement, or information to
17 individuals, families, and relational groups.

18 7. The practice, conduct, activities, or services of an occupational
19 therapist from performing work consistent with title twenty of this
20 article.

21 8. The representation as a psychologist and the rendering of services
22 as such in this state for a temporary period of a person who resides
23 outside the state of New York and who engages in practice as a psychol-
24 ogist and conducts the major part of his or her practice as such outside
25 this state, provided such person has filed with the department evidence
26 that he or she has been licensed or certified in another state or has
27 been admitted to the examination in this state pursuant to section
28 seventy-six hundred three of this title. Such temporary period shall
29 not exceed ten consecutive business days in any period of ninety consec-
30 utive days or in the aggregate exceed more than fifteen business days in
31 any such ninety-day period.

32 9. The provision of psychotherapy as defined in subdivision two of
33 section eighty-four hundred one of this article to the extent permissi-
34 ble within the scope of practice of psychology, by any not-for-profit
35 corporation or education corporation providing services within the state
36 of New York and operating under a waiver pursuant to section sixty-five
37 hundred three-a of this article, provided that such entities offering
38 psychology services shall only provide such services through an individ-
39 ual appropriately licensed or otherwise authorized to provide such
40 services or a professional entity authorized by law to provide such
41 services.

42 10. a. A person without a license from: performing assessments includ-
43 ing but not limited to basic information collection, gathering of demo-
44 graphic data, and informal observations, screening and referral used for
45 general eligibility for a program or service and determining the func-
46 tional status of an individual for the purpose of determining need for
47 services; advising individuals regarding the appropriateness of benefits
48 they are eligible for; providing general advice and guidance and assist-
49 ing individuals or groups with difficult day-to-day problems such as
50 finding employment, locating sources of assistance, and organizing
51 community groups to work on a specific problem; providing peer services;
52 selecting for suitability and providing substance abuse treatment
53 services or group re-entry services to incarcerated individuals in state
54 correctional facilities; or providing substance abuse treatment services
55 or re-entry services to incarcerated individuals in local correctional
56 facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (12) using de-escalation techniques consistent with appropriate train-
25 ing;

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

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

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

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

38 11. a. The conduct, activities, or services of a technician to admin-
39 ister and score standardized objective (non-projective) psychological or
40 neuropsychological tests that have specific predetermined and manualized
41 administrative procedures which entail observing and describing test
42 behavior and test responses, and which do not require evaluation, inter-
43 pretation or other judgments; provided, however, that such technician
44 shall:

45 (i) hold no less than a bachelor's degree in psychology or a related
46 field;

47 (ii) undergo a process of regular training by a licensed psychologist,
48 which shall include, but not be limited to a minimum of eighty total
49 hours of (1) professional ethics, (2) studying and mastering information
50 from test manuals, and (3) direct observation of a licensed psychologist
51 or trained technician administering and scoring tests, in addition to a
52 minimum of forty total hours of administering and scoring tests in the
53 presence of a licensed psychologist or trained technician, provided such
54 interaction with the licensed psychologist equals or exceeds fifty
55 percent of the total training time;

1 (iii) be under the direct and ongoing supervision of a licensed
2 psychologist in no greater than a three-to-one ratio or the part time
3 equivalent thereto;

4 (iv) not be employed within a school setting; and

5 (v) not select tests, analyze patient data, or communicate results to
6 patients.

7 b. The supervising licensed psychologist must submit, pursuant to a
8 form to be prescribed and developed within ninety days of the effective
9 date of this subdivision by the department, a sworn statement detailing
10 compliance with the above requirements. The licensed psychologist's use
11 of such individual pursuant to the terms of this subdivision shall be
12 undertaken only with special care and professional judgment in order to
13 ensure the safety and well-being of the patient considering the severity
14 of the symptoms, the age of the patient and the length of the examina-
15 tion process, and shall include appropriate ongoing contact with the
16 licensed psychologist at appropriate intervals. Such use shall be
17 subject to the full disciplinary and regulatory authority of the depart-
18 ment pursuant to this title. The licensed psychologist shall notify the
19 patient or designated health care surrogate that the licensed psychol-
20 ogist may utilize the services of a technician to administer certain
21 exams, and shall provide the patient or designated health care surrogate
22 the opportunity to object to the licensed psychologist's plan to utilize
23 a technician.

24 12. Notwithstanding any other provision of law to the contrary, noth-
25 ing in this title shall be construed to prohibit or limit the activities
26 or services provided under this title by any person who is employed or
27 who commences employment in a program or service operated, regulated,
28 funded, or approved by the department of mental hygiene, the office of
29 children and family services, or a local governmental unit as that term
30 is defined in section 41.03 of the mental hygiene law or a social
31 services district as defined in section sixty-one of the social services
32 law on or before two years from the date that the regulations issued in
33 accordance with section six of part Y of chapter fifty-seven of the laws
34 of two thousand eighteen appear in the state register or are adopted,
35 whichever is later. Such prohibitions or limitations shall not apply to
36 such employees for as long as they remain employed by such programs or
37 services and whether they remain employed by the same or other employers
38 providing such programs or services. Provided, however, that any person
39 who commences employment in such program or service after such date and
40 performs services that are restricted under this title shall be appro-
41 priately licensed or authorized under this title. Each state oversight
42 agency shall create and maintain a process to verify employment history
43 of individuals exempt under this subdivision.

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

52 § 7606. Prohibitions. Any individual whose license or authority to
53 practice derives from the provisions of this title shall be prohibited
54 from:

1 1. prescribing or administering drugs as defined in this chapter as a
2 treatment, therapy, or professional service in the practice of his or
3 her profession; or

4 2. using invasive procedures as a treatment, therapy, or professional
5 service in the practice of his or her profession. For purposes of this
6 subdivision, "invasive procedure" means any procedure in which human
7 tissue is cut, altered, or otherwise infiltrated by mechanical or other
8 means. Invasive procedure includes surgery, lasers, ionizing radiation,
9 therapeutic ultrasound, or electroconvulsive therapy.

10 § 7607. Mandatory continuing education. 1. a. Each psychologist
11 required under this title to register triennially with the department to
12 practice in this state, shall comply with the provisions for mandatory
13 continuing education prescribed in subdivision two of this section,
14 except as set forth in paragraphs b and c of this subdivision. Psychol-
15 ogists who do not satisfy the mandatory continuing education require-
16 ments shall not practice until they have met such requirements and they
17 have been issued a registration certificate, except that a psychologist
18 may practice without having met such requirements if he or she is issued
19 a conditional registration certificate pursuant to subdivision three of
20 this section.

21 b. Each psychologist shall be exempt from the mandatory continuing
22 education requirements for the triennial registration period during
23 which they are first licensed. In accordance with the intent of this
24 section, adjustment to the mandatory continuing education requirement
25 may be granted by the department for reasons of health that are certi-
26 fied by an appropriate health care professional, for extended active
27 duty with the armed forces of the United States, or for other good cause
28 acceptable to the department which may prevent compliance.

29 c. A psychologist not engaged in practice, as determined by the
30 department, shall be exempt from the mandatory continuing education
31 requirement upon the filing of a statement with the department declaring
32 such status. Any licensee who returns to the practice of psychology
33 during the triennial registration period shall notify the department
34 prior to reentering the profession and shall meet such continuing educa-
35 tion requirements as shall be prescribed by regulations of the commis-
36 sioner.

37 2. During each triennial registration period, an applicant for regis-
38 tration as a psychologist shall complete a minimum of thirty-six hours
39 of acceptable learning activities, a minimum of three hours of which
40 shall be course work in the area of professional ethics, including the
41 laws, rules and regulations for practice in New York. Any psychologist
42 whose first registration date following the effective date of this
43 section occurs less than three years from such effective date, but on or
44 after January first, two thousand twenty-one, shall complete continuing
45 education hours on a prorated basis at the rate of one hour per month
46 for the period beginning January first, two thousand twenty-one up to
47 the first registration date thereafter. A psychologist who has not
48 satisfied the mandatory continuing education requirement shall not be
49 issued a triennial registration certificate by the department and shall
50 not practice unless and until a conditional registration is issued as
51 provided for in subdivision three of this section. Continuing education
52 hours taken during one triennium shall not be transferred to the subse-
53 quent triennium.

54 3. a. The department, in its discretion, may issue a conditional
55 registration to a psychologist who fails to meet the continuing educa-
56 tion requirements established in subdivision two of this section, but

1 who agrees to make up any deficiencies and complete any additional
2 education which the department may require. The fee for such a condi-
3 tional registration shall be the same as, and in addition to, the fee
4 for the triennial registration. The duration of such conditional regis-
5 tration shall be determined by the department, but shall not exceed one
6 year. Any psychologist who is notified of the denial of registration for
7 failure to submit evidence, satisfactory to the department, of required
8 continuing education and who practices without such registration may be
9 subject to disciplinary proceedings pursuant to section sixty-five
10 hundred ten of this article.

11 b. For purposes of this section:

12 (i) "acceptable learning activities" shall include, but not be limited
13 to, formal courses of learning which contribute to professional practice
14 in psychology and/or self-study activities; independent study; formal
15 mentoring activities; publication in professional journals; or lectures,
16 which meet the standards prescribed by regulations of the commissioner;
17 and

18 (ii) "formal courses of learning" shall include, but not be limited
19 to, collegiate level credit and non-credit courses, professional devel-
20 opment programs and technical sessions offered by national, state, and
21 local professional associations and other organizations acceptable to
22 the department, and any other organized educational and technical
23 programs acceptable to the department. Formal courses shall be taken
24 from a sponsor approved by the department, based upon an application and
25 fee, pursuant to the regulations of the commissioner.

26 c. The department may, in its discretion and as needed to contribute
27 to the health and welfare of the public, require the completion of
28 continuing education credits in specific subjects to fulfill this manda-
29 tory continuing education requirement.

30 d. Psychologists shall maintain adequate documentation of completion
31 of acceptable continuing education credits and shall provide such
32 documentation at the request of the department. Failure to provide such
33 documentation upon the request of the department shall be an act of
34 misconduct subject to disciplinary proceedings pursuant to section
35 sixty-five hundred ten of this article.

36 e. The mandatory continuing education fee shall be determined by the
37 department. Such fee shall be payable on or before the first day of
38 each triennial registration period, and shall be paid in addition to the
39 triennial registration fee required by subdivision eight of section
40 seventy-six hundred three of this title.

41 TITLE 18
42 SOCIAL WORK

43 Section 7700. Introduction.

44 7701. Definitions.

45 7702. Authorized practice and the use of the titles "licensed
46 master social worker" and "licensed clinical social
47 worker".

48 7703. State board for social work.

49 7704. Requirements for a license.

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1 § 7700. Introduction. This title applies to the profession and prac-
2 tice of social work, the practice of licensed master social work, and
3 the practice of clinical social work, and to the use of the titles
4 "licensed master social worker", and "licensed clinical social worker".
5 The general provisions for all professions contained in title one of
6 this article shall apply to this title.

7 § 7701. Definitions. 1. Practice of licensed master social work.

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

16 b. Licensed master social workers engage in the administration of
17 tests and measures of psychosocial functioning, social work advocacy,
18 case management, counseling, consultation, research, administration and
19 management, and teaching.

20 c. Licensed master social workers provide all forms of supervision
21 other than supervision of the practice of licensed clinical social work
22 as defined in subdivision two of this section.

23 d. Licensed master social workers practice licensed clinical social
24 work in facility settings or other supervised settings approved by the
25 department under supervision in accordance with the commissioner's regu-
26 lations.

27 2. Practice of clinical social work. a. The practice of clinical
28 social work encompasses the scope of practice of licensed master social
29 work and, in addition, includes the diagnosis of mental, emotional,
30 behavioral, addictive and developmental disorders and disabilities and
31 of the psychosocial aspects of illness, injury, disability and impair-
32 ment undertaken within a psychosocial framework; administration and
33 interpretation of tests and measures of psychosocial functioning; devel-
34 opment and implementation of appropriate assessment-based treatment
35 plans; and the provision of crisis oriented psychotherapy and brief,
36 short-term and long-term psychotherapy and psychotherapeutic treatment
37 to individuals, couples, families and groups, habilitation, psychoanal-
38 ysis and behavior therapy; all undertaken for the purpose of preventing,
39 assessing, treating, ameliorating and resolving psychosocial dysfunction
40 with the goal of maintaining and enhancing the mental, emotional, behav-
41 ioral, and social functioning and well-being of individuals, couples,
42 families, small groups, organizations, communities and society.

43 b. Diagnosis in the context of licensed clinical social work practice
44 is the process of distinguishing, beyond general social work assessment,
45 between similar mental, emotional, behavioral, developmental and addic-
46 tive disorders, impairments and disabilities within a psychosocial
47 framework on the basis of their similar and unique characteristics
48 consistent with accepted classification systems.

49 c. Psychotherapy in the context of licensed clinical social work prac-
50 tice is the use of verbal methods in interpersonal relationships with
51 the intent of assisting a person or persons to modify attitudes and
52 behavior which are intellectually, socially, or emotionally maladaptive.

53 d. Development of assessment-based treatment plans in the context of
54 licensed clinical social work practice refers to the development of an
55 integrated plan of prioritized interventions, that is based on the diag-
56 nosis and psychosocial assessment of the client, to address mental,

1 emotional, behavioral, developmental and addictive disorders, impair-
2 ments and disabilities, reactions to illnesses, injuries, disabilities
3 and impairments, and social problems.

4 § 7702. Authorized practice and the use of the titles "licensed master
5 social worker" and "licensed clinical social worker". 1. In addition to
6 the licensed social work services included in subdivisions one and two
7 of section seventy-seven hundred one of this title, licensed master
8 social workers and licensed clinical social workers may perform the
9 following social work functions that do not require a license under this
10 title, including but not limited to:

11 a. Serve as a community organizer, planner, or administrator for
12 social service programs in any setting.

13 b. Provide supervision and/or consultation to individuals, groups,
14 institutions and agencies.

15 c. Serve as a faculty member or instructor in an educational setting.

16 d. Plan and/or conduct research projects and program evaluation
17 studies.

18 e. Maintain familiarity with both professional and self-help systems
19 in the community in order to assist the client in such services when
20 necessary.

21 f. Provide advice and guidance and assist individuals or groups with
22 difficult day-to-day problems such as finding employment, locating
23 sources of assistance, and organizing community groups to work on a
24 specific problem.

25 g. Consult with other agencies on problems and cases served in common
26 and coordinating services among agencies or providing case management.

27 h. Conduct data gathering on social problems.

28 i. Serve as an advocate for clients or groups of clients whose needs
29 are not being met by available programs or by a specific agency.

30 j. Assess, evaluate, and formulate a plan of action based on client
31 need.

32 k. Provide training to community groups, agencies, and other profes-
33 sionals.

34 l. Provide administrative supervision.

35 m. Provide peer services.

36 n. Collect basic information, gathering of demographic data, and
37 informal observations, screening and referral used for general eligibil-
38 ity for a program or service and determining the functional status of an
39 individual for the purpose of determining the need for services.

40 2. a. Only a person licensed or exempt under this title shall practice
41 "licensed master social work" as defined in subdivision one of section
42 seventy-seven hundred one of this title.

43 b. Only a person licensed pursuant to subdivision one of section
44 seventy-seven hundred four of this title shall use the title "licensed
45 master social worker" or the designation "LMSW".

46 3. a. Only a person licensed or exempt under this title shall practice
47 "licensed clinical social work" as defined in subdivision two of section
48 seventy-seven hundred one of this title.

49 b. Only a person licensed pursuant to subdivision two of section
50 seventy-seven hundred four of this title shall use the title "licensed
51 clinical social worker" or the designation "LCSW".

52 § 7703. State board for social work. A state board for social work
53 shall be appointed by the commissioner for the purpose of assisting the
54 department on matters of professional licensing, practice, and conduct
55 in accordance with section sixty-five hundred eight of this article. The
56 board shall be composed of not less than twelve members, of which five

1 shall be licensed clinical social workers, five shall be licensed master
2 social workers and two members of the public. Members of the first board
3 need not be licensed prior to their appointment to the board. The terms
4 of the first appointed members shall be staggered so that four are
5 appointed for three years, four are appointed for four years, and four
6 are appointed for five years. An executive secretary to the board shall
7 be appointed by the commissioner and shall be licensed pursuant to this
8 title. As used in this title, "the board" shall mean the state board for
9 social work as appointed pursuant to this section.

10 § 7704. Requirements for a license. 1. To qualify for a license as a
11 "licensed master social worker" an applicant shall fulfill the following
12 requirements:

- 13 a. Application: file an application with the department;
- 14 b. Education: have received an education, including a master's of
15 social work degree from a program registered by the department, or
16 determined by the department to be the substantial equivalent, in
17 accordance with the commissioner's regulations;
- 18 c. Experience: meet no requirement as to experience;
- 19 d. Examination: pass an examination satisfactory to the board and in
20 accordance with the commissioner's regulations;
- 21 e. Age: be at least twenty-one years of age;
- 22 f. Character: be of good moral character as determined by the depart-
23 ment; and
- 24 g. Fees: pay a fee of one hundred fifteen dollars to the department
25 for an initial license, and a fee of one hundred fifty-five dollars for
26 each triennial registration period. An additional surcharge in the
27 amount of five dollars shall be paid with each triennial registration
28 fee and shall be used for the marketing and evaluation of the regents
29 licensed social worker loan forgiveness program established by section
30 six hundred five of the education law.

31 2. To qualify for a license as a "licensed clinical social worker", an
32 applicant shall fulfill the following requirements:

- 33 a. Application: file an application with the department;
- 34 b. Education: have received an education, including a master's of
35 social work degree from a program registered by the department, or
36 determined by the department to be the substantial equivalent, that
37 includes completion of a core curriculum which includes at least twelve
38 credit hours of clinical courses, in accordance with the commissioner's
39 regulations; a person who has received a master's, or equivalent degree
40 in social work, during which they did not complete a core curriculum
41 which includes clinical courses, may satisfy this requirement by
42 completing equivalent post-graduate clinical coursework, in accordance
43 with the commissioner's regulations;
- 44 c. Experience: have at least three years full-time supervised post-
45 graduate clinical social work experience in diagnosis, psychotherapy,
46 and assessment-based treatment plans, or its part-time equivalent,
47 obtained over a continuous period not to exceed six years, under the
48 supervision, satisfactory to the department, of a psychiatrist, a
49 licensed psychologist, or a licensed clinical social worker in a facili-
50 ty setting or other supervised settings approved by the department.
51 Satisfactory experience obtained in an entity operating under a waiver
52 issued by the department pursuant to section sixty-five hundred three-a
53 of this article may be accepted by the department, notwithstanding that
54 such experience may have been obtained prior to the effective date of
55 such section sixty-five hundred three-a and/or prior to the entity
56 having obtained a waiver. The department may, for good cause shown,

1 accept satisfactory experience that was obtained in a setting that would
2 have been eligible for a waiver but which has not obtained a waiver from
3 the department or experience that was obtained in good faith by the
4 applicant under the belief that appropriate authorization had been
5 obtained for the experience, provided that such experience meets all
6 other requirements for acceptable experience;

7 d. Examination: pass an examination satisfactory to the board and in
8 accordance with the commissioner's regulations;

9 e. Age: be at least twenty-one years of age;

10 f. Character: be of good moral character as determined by the depart-
11 ment; and

12 g. Fees: pay a fee of one hundred fifteen dollars to the department
13 for an initial license and a fee of one hundred fifty-five dollars for
14 each triennial registration period.

15 § 7705. Limited permits. 1. On recommendation of the board, the
16 department may issue a limited permit to practice licensed clinical
17 social work and use the title licensed clinical social worker, or to
18 practice licensed master social work and use the title licensed master
19 social worker to an applicant who has met all requirements for licensure
20 as a licensed master social worker or a licensed clinical social worker
21 except those relating to the examination and provided that the individ-
22 ual is under the general supervision of a licensed master social worker
23 or a licensed clinical social worker, as determined by the department.
24 This limited permit shall be valid for a period of not more than twelve
25 months.

26 2. The fee for each limited permit shall be seventy dollars.

27 § 7706. Exempt persons. Nothing contained in this title shall be
28 construed to:

29 1. Apply to the practice, conduct, activities, services or use of any
30 title by any person licensed or otherwise authorized to practice medi-
31 cine within the state pursuant to title two of this article or by any
32 person registered to perform services as a physician assistant within
33 the state pursuant to title four of this article or by any person
34 licensed or otherwise authorized to practice psychology within this
35 state pursuant to title seventeen of this article or by any person
36 licensed or otherwise authorized to practice nursing as a registered
37 professional nurse or nurse practitioner within this state pursuant to
38 title twelve of this article or by any person licensed or otherwise
39 authorized to practice occupational therapy within this state pursuant
40 to title twenty of this article or by any person licensed or otherwise
41 authorized to practice mental health counseling, marriage and family
42 therapy, creative arts therapy, or psychoanalysis within the state
43 pursuant to title twenty-five of this article or by any person licensed
44 or otherwise authorized to practice applied behavior analysis within the
45 state pursuant to title twenty-nine of this article; provided, however,
46 that no physician, physician assistant, registered professional nurse,
47 nurse practitioner, psychologist, occupational therapist, licensed
48 mental health counselor, licensed marriage and family therapist,
49 licensed creative arts therapist, licensed psychoanalyst, licensed
50 behavior analyst or certified behavior analyst assistant may use the
51 titles "licensed clinical social worker" or "licensed master social
52 worker", unless licensed under this title.

53 2. Prevent or prohibit an individual possessing a baccalaureate of
54 social work degree or its equivalent from the performance of activities
55 and services within the scope of practice of licensed master social work
56 as defined in paragraphs a and b of subdivision one of section seventy-

1 seven hundred one of this title under supervision by a licensed master
2 social worker, a licensed clinical social worker or in accordance with
3 the commissioner's regulations.

4 3. Prevent or prohibit a licensed master social worker from the
5 performance of activities and services within the scope of practice of
6 licensed clinical social work as defined in subdivision two of section
7 seventy-seven hundred one of this title in a facility setting and under
8 supervision in accordance with the commissioner's regulations.

9 4. Prevent or prohibit the performance of activities and services
10 within the scope of practice of licensed master social work as defined
11 in subdivision one of section seventy-seven hundred one of this title by
12 individuals, churches, schools, teachers, organizations, or not-for-pro-
13 fit businesses which are providing instruction, advice, support, encour-
14 agement or information to individuals, families, and relational groups.

15 5. Prevent or prohibit the performance of activities and services
16 within the scope of practice of licensed master social work or licensed
17 clinical social work as defined in section seventy-seven hundred one of
18 this title by the following:

19 a. any individual who is credentialed under any law, including attor-
20 neys, rape crisis counselors, credentialed alcoholism and substance
21 abuse counselors whose scope of practice includes the practices defined
22 in section seventy-seven hundred one of this title from performing or
23 claiming to perform work authorized by applicable provisions of this
24 chapter and the mental hygiene law;

25 b. provision of pastoral counseling services by any member of the
26 clergy or Christian science practitioner, from providing pastoral coun-
27 seling services within the context of his or her ministerial charge or
28 obligation;

29 c. students who are enrolled in a baccalaureate of social work or
30 professional graduate level social work program of study, and which are
31 required to perform as part of the field work component of such program,
32 services provided under the supervision of a field work supervisor
33 approved by the program;

34 d. on the part of a student or trainee who is enrolled in an institu-
35 tion or program registered by the department or accredited by an accred-
36 iting organization acceptable to the department to provide training in a
37 discipline or profession, other than social work or clinical social
38 work, that is licensed pursuant to this title, where such activities and
39 services are authorized within the definition of the scope of practice
40 of the profession, or discipline in which he or she is being trained as
41 set forth in the education law or the commissioner's regulations,
42 provided that such services are performed under the regular and ongoing
43 supervision of a licensee in the profession or discipline in which he or
44 she is being trained who assumes professional responsibility for the
45 services performed under his or her supervision and that such activities
46 and the provision of such services are a formal part of the professional
47 training program in which he or she is enrolled;

48 e. any federal, state, county or municipal employee performing clin-
49 ical social work services upon the effective date of this section for
50 the period during which they maintain such employment with such govern-
51 mental unit within the context of such employment and shall be limited
52 to the services provided upon such effective date; and

53 f. any employee performing clinical social work services on the effec-
54 tive date of this section for the period during which they maintain such
55 employment with such entity within the context of such employment, and
56 shall be limited to the services provided prior to such effective date.

1 6. Prohibit the practice of licensed master social work or licensed
2 clinical social work, to the extent permissible within the scope of
3 practice of such professions, by any not-for-profit corporation or
4 education corporation providing services within the state of New York
5 and operating under a waiver pursuant to section sixty-five hundred
6 three-a of this article, provided that such entities offering licensed
7 master social work or licensed clinical social work services shall only
8 provide such services through an individual appropriately licensed or
9 otherwise authorized to provide such services or a professional entity
10 authorized by law to provide such services.

11 7. a. Prevent a person without a license from: performing assessments
12 including but not limited to basic information collection, gathering of
13 demographic data, and informal observations, screening and referral used
14 for general eligibility for a program or service and determining the
15 functional status of an individual for the purpose of determining need
16 for services; advising individuals regarding the appropriateness of
17 benefits they are eligible for; providing general advice and guidance
18 and assisting individuals or groups with difficult day to day problems
19 such as finding employment, locating sources of assistance, and organiz-
20 ing community groups to work on a specific problem; providing peer
21 services; selecting for suitability and providing substance abuse treat-
22 ment services or group re-entry services to incarcerated individuals in
23 state correctional facilities; or providing substance abuse treatment
24 services or re-entry services to incarcerated individuals in local
25 correctional facilities.

26 b. Prevent a person without a license from creating, developing or
27 implementing a service plan or recovery plan that is not a behavioral
28 health diagnosis or treatment plan. Such service or recovery plans
29 shall include, but are not limited to, coordinating, evaluating or
30 determining the need for, or the provision of the following services:
31 job training and employability; housing; homeless services and shelters
32 for homeless individuals and families; refugee services; residential,
33 day or community habilitation services; general public assistance;
34 in-home services and supports or home-delivered meals; recovery
35 supports; adult or child protective services including investigations;
36 detention as defined in section five hundred two of the executive law;
37 prevention and residential services for victims of domestic violence;
38 services for runaway and homeless youth; foster care, adoption, preven-
39 tive services or services in accordance with an approved plan pursuant
40 to section four hundred four of the social services law, including,
41 adoption and foster home studies and assessments, family service plans,
42 transition plans, permanency planning activities, and case planning or
43 case management as such terms are defined in the regulations of the
44 office of children and family services; residential rehabilitation; home
45 and community based services; and de-escalation techniques, peer
46 services or skill development.

47 c. (i) Prevent a person without a license from participating as a
48 member of a multi-disciplinary team to assist in the development of or
49 implementation of a behavioral health services or treatment plan;
50 provided that such team shall include one or more professionals licensed
51 under this title or titles two, twelve, seventeen or twenty-five of this
52 article; and provided, further, that the activities performed by members
53 of the team shall be consistent with the scope of practice for each team
54 member licensed or authorized under title eight of this article, and
55 those who are not so authorized may not engage in the following
56 restricted practices: the diagnosis of mental, emotional, behavioral,

1 addictive and developmental disorders and disabilities; patient assess-
2 ment and evaluating; the provision of psychotherapeutic treatment; the
3 provision of treatment other than psychotherapeutic treatment; or inde-
4 pendently developing and implementing assessment-based treatment plans
5 as defined in section seventy-seven hundred one of this title.

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

14 (1) helping an individual with the completion of forms or question-
15 naires;

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

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

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

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

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

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

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

39 (9) identifying gaps in services and coordinating access to or arrang-
40 ing services for individuals such as home care, community-based
41 services, housing, employment, transportation, child care, vocational
42 training, or health care;

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

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

49 (12) using de-escalation techniques consistent with appropriate train-
50 ing;

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

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

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

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

7 8. Notwithstanding any other provision of law to the contrary, nothing
8 in this title shall be construed to prohibit or limit the activities or
9 services provided under this title by any person who is employed or who
10 commences employment in a program or service operated, regulated, fund-
11 ed, or approved by the department of mental hygiene, the office of chil-
12 dren and family services, the department of corrections and community
13 supervision, the office of temporary and disability assistance, the
14 state office for the aging and the department of health or a local
15 governmental unit as that term is defined in section 41.03 of the mental
16 hygiene law or a social services district as defined in section sixty-
17 one of the social services law on or before two years from the date that
18 the regulations issued in accordance with section six of part Y of chap-
19 ter fifty-seven of the laws of two thousand eighteen appear in the state
20 register or are adopted, whichever is later. Such prohibitions or limi-
21 tations shall not apply to such employees for as long as they remain
22 employed by such programs or services and whether they remain employed
23 by the same or other employers providing such programs or services.
24 Provided however, that any person who commences employment in such
25 program or service after such date and performs services that are
26 restricted under this title shall be appropriately licensed or author-
27 ized under this title. Each state oversight agency shall create and
28 maintain a process to verify employment history of individuals exempt
29 under this subdivision.

30 § 7707. Special provisions. 1. Any person who is licensed as a certi-
31 fied social worker on the effective date of this title shall be licensed
32 as a licensed master social worker without meeting any additional
33 requirements.

34 2. Any person who possesses a master's of social work degree on the
35 effective date of this section, who has five years of post-graduate
36 social work employment and meets the requirements for a license pursuant
37 to this title, except for examination, and who files with the department
38 within one year of the effective date of this section shall be licensed
39 as a licensed master social worker.

40 3. Any person who is licensed as a certified social worker on the
41 effective date of this section and who has been authorized pursuant to
42 section three thousand two hundred twenty-one or section four thousand
43 three hundred three of the insurance law shall be licensed as a licensed
44 clinical social worker without meeting any additional requirements.

45 4. Any person who is licensed as a certified social worker on the
46 effective date of this section, but who has not received authorization
47 pursuant to section three thousand two hundred twenty-one or four thou-
48 sand three hundred three of the insurance law, who files with the
49 department within one year of the effective date of this section an
50 application pursuant to subdivision two of section seventy-seven hundred
51 four of this title, who demonstrates to the satisfaction of the depart-
52 ment that they meet the experience requirements for authorization pursu-
53 ant to section three thousand two hundred twenty-one or four thousand
54 three hundred three of the insurance law, shall be licensed as a
55 licensed clinical social worker without meeting any further require-
56 ments.

1 5. Licensed master social workers and licensed clinical social workers
2 may use accepted classifications of signs, symptoms, dysfunctions and
3 disorders, including, but not limited to, classifications used in the
4 practice setting for the purpose of providing mental health services.

5 § 7708. Boundaries of professional practice. Any individual whose
6 license or authority to practice derives from the provisions of this
7 title shall be prohibited from:

8 1. Prescribing or administering drugs as defined in this chapter or as
9 a treatment, therapy, or professional service in the practice of his or
10 her profession; or

11 2. Using invasive procedures as a treatment, therapy, or professional
12 service in the practice of his or her profession. For purposes of this
13 subdivision, "invasive procedure" means any procedure in which human
14 tissue is cut, altered, or otherwise infiltrated by mechanical or other
15 means. Invasive procedure includes surgery, lasers, ionizing radiation,
16 therapeutic ultrasound, or electroconvulsive therapy.

17 § 7709. Hospital privileges. Nothing in this title shall be deemed to
18 authorize, grant, or extend hospital privileges to individuals licensed
19 under this title.

20 § 7710. Mandatory continuing education. 1. a. Each licensed master
21 social worker or licensed clinical social worker required under this
22 title to register triennially with the department to practice in this
23 state, shall comply with the provisions of mandatory continuing educa-
24 tion requirements prescribed in subdivision two of this section, except
25 as set forth in paragraphs b and c of this subdivision. Licensed master
26 social workers or licensed clinical social workers who do not satisfy
27 the mandatory continuing education requirements shall not practice until
28 they have met such requirements and they have been issued a registration
29 certificate, except that a licensed master social worker or licensed
30 clinical social worker may practice without having met such requirements
31 if he or she is issued a conditional registration certificate pursuant
32 to subdivision three of this section.

33 b. Each licensed master social worker or licensed clinical social
34 worker shall be exempt from the mandatory continuing education require-
35 ments for the triennial registration period during which they are first
36 licensed. In accordance with the intent of this section, adjustment to
37 the mandatory continuing education requirement may be granted by the
38 department for reasons of health that are certified by an appropriate
39 health care professional, for extended active duty with the armed forces
40 of the United States, or for other good cause acceptable to the depart-
41 ment which may prevent compliance.

42 c. A licensed master social worker or a licensed clinical social work-
43 er not engaged in practice, as determined by the department, shall be
44 exempt from the mandatory continuing education requirement upon the
45 filing of a statement with the department declaring such status. Any
46 licensee who returns to the practice of social work during the triennial
47 registration period shall notify the department prior to reentering the
48 profession and shall meet such mandatory education requirements as shall
49 be prescribed by regulations of the commissioner.

50 d. A licensed clinical social worker who is also licensed and regis-
51 tered to practice as a licensed master social worker in the same trien-
52 niel registration period, shall not be required to complete more than
53 thirty-six hours of continuing education in the triennial registration
54 period, or one hour per month for a registration period other than thir-
55 ty-six months.

1 2. During each triennial registration period an applicant for regis-
2 tration as a licensed master social worker or licensed clinical social
3 worker shall complete a minimum of thirty-six hours of acceptable formal
4 continuing education. Any licensed master social worker or licensed
5 clinical social worker whose first registration date following the
6 effective date of this section occurs less than three years from such
7 effective date, but on or after January first, two thousand fifteen,
8 shall complete continuing education hours on a prorated basis at the
9 rate of one hour per month for the period beginning January first, two
10 thousand fifteen up to the first registration date thereafter. A licen-
11 see who has not satisfied the mandatory continuing education requirement
12 shall not be issued a triennial registration certificate by the depart-
13 ment and shall not practice unless and until a conditional registration
14 is issued as provided for in subdivision three of this section. Contin-
15 uing education hours taken during one triennium shall not be transferred
16 to the subsequent triennium.

17 3. a. The department, in its discretion, may issue a conditional
18 registration to a licensee who fails to meet the continuing education
19 requirements established in subdivision two of this section but who
20 agrees to make up any deficiencies and complete any additional education
21 which the department may require. The fee for such a conditional regis-
22 tration shall be the same as, and in addition to, the fee for the trien-
23 niel registration. The duration of such conditional registration shall
24 be determined by the department but shall not exceed one year. Any
25 licensee who is notified of the denial of registration for failure to
26 submit evidence, satisfactory to the department, of required continuing
27 education and who practices without such registration may be subject to
28 disciplinary proceedings pursuant to section sixty-five hundred ten of
29 this article.

30 b. For purposes of this section "acceptable formal education" shall
31 mean formal courses of learning which contribute to professional prac-
32 tice in social work and which meet the standards prescribed by regu-
33 lations of the commissioner. Such formal courses of learning shall
34 include, but not be limited to, collegiate level credit and non-credit
35 courses, professional development programs and technical sessions
36 offered by national, state and local professional associations and other
37 organizations acceptable to the department, and any other organized
38 educational and technical programs acceptable to the department.
39 Continuing education courses shall be taken from a provider who has been
40 approved by the department, based upon an application and fee, pursuant
41 to the regulations of the commissioner. The department may, in its
42 discretion and as needed to contribute to the health and welfare of the
43 public, require the completion of continuing education courses in
44 specific subjects to fulfill this mandatory continuing education
45 requirement. Licensed master social workers or licensed clinical social
46 workers shall maintain adequate documentation of completion of accepta-
47 ble formal continuing education and shall provide such documentation at
48 the request of the department. Failure to provide such documentation
49 upon the request of the department shall be an act of misconduct subject
50 to disciplinary proceedings pursuant to section sixty-five hundred ten
51 of this article.

52 c. The mandatory continuing education fee shall be determined by the
53 department. Such fee shall be payable on or before the first day of
54 each triennial registration period and shall be paid in addition to the
55 triennial registration fee required by paragraph g of subdivision one

1 and paragraph g of subdivision two of section seventy-seven hundred four
2 of this title.

3 TITLE 19
4 MASSAGE THERAPY

5 Section 7800. Introduction.

6 7801. Definition of practice of massage therapy.

7 7802. Practice of massage therapy and use of title "masseur",
8 "masseuse" or "massage therapist" or the term "massage"
9 or "massage therapy".

10 7803. State board for massage therapy.

11 7804. Requirements for a professional license.

12 7805. Exempt persons.

13 7806. Limited permits.

14 7807. Mandatory continuing education.

15 § 7800. Introduction. This title applies to the profession of massage
16 therapy. The general provisions for all professions contained in title
17 one of this article shall apply to this title.

18 § 7801. Definition of practice of massage therapy. As used in this
19 chapter, the practice of the profession of massage therapy is defined as
20 engaging in applying a scientific system of activity to the muscular
21 structure of the human body by means of stroking, kneading, tapping and
22 vibrating with the hands or vibrators for the purpose of improving
23 muscle tone and circulation.

24 § 7802. Practice of massage therapy and use of title "masseur",
25 "masseuse" or "massage therapist" or the term "massage" or "massage
26 therapy". Only a person licensed or authorized pursuant to this title
27 shall practice massage therapy and only a person licensed under this
28 title shall use the title "masseur", "masseuse" or "massage therapist".
29 No person, firm, partnership or corporation claiming to be engaged in
30 the practice of massage or massage therapy shall in any manner describe,
31 advertise, or place any advertisement for services as defined in section
32 seventy-eight hundred one of this title unless such services are
33 performed by a person licensed or authorized pursuant to this chapter.

34 § 7803. State board for massage therapy. A state board for massage
35 therapy shall be appointed by the commissioner for the purpose of
36 assisting the department on matters of professional licensing and
37 professional conduct in accordance with section sixty-five hundred eight
38 of this title. The board shall be composed of not less than seven
39 persons, four of whom shall have been engaged in the teaching, research,
40 or practice of massage therapy for at least three years. The remaining
41 three members of the board shall be physicians licensed in this state.
42 An executive secretary to the board shall be appointed by the commis-
43 sioner. As used in this title, "the board" shall mean the state board
44 for massage therapy as appointed pursuant to this section.

45 § 7804. Requirements for a professional license. To qualify for a
46 license as a massage therapist, masseur or masseuse, an applicant shall
47 fulfill the following requirements:

48 1. Application: file an application with the department;

49 2. Education: have received an education, including high school gradu-
50 ation and graduation from a school or institute of massage therapy with
51 a program registered by the department, or its substantial equivalent in
52 both subject matter and extent of training, provided that the program in
53 such school or institute shall consist of classroom instruction of a
54 total of not less than five hundred hours in subjects satisfactory to
55 the department;

1 3. Examination: pass an examination satisfactory to the board and in
2 accordance with the commissioner's regulations;

3 4. Age: be at least eighteen years of age;

4 5. Citizenship or immigration status: be a United States citizen or an
5 alien lawfully admitted for permanent residence in the United States;

6 6. Character: be of good moral character as determined by the depart-
7 ment; and

8 7. Fees: pay a fee of one hundred fifteen dollars to the department
9 for admission to a department-conducted examination and for an initial
10 license, a fee of forty-five dollars for each reexamination, a fee of
11 fifty dollars for an initial license for persons not requiring admission
12 to a department-conducted examination, and a fee of fifty dollars for
13 each triennial registration period.

14 § 7805. Exempt persons. Nothing contained in this title shall be
15 construed to prohibit:

16 1. The practice of massage therapy by any person who is authorized to
17 practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or
18 podiatry in accordance with the provisions of this article.

19 2. The practice of a massage which is customarily given in barber
20 shops or beauty parlors for the purpose of beautification by any
21 licensed barber or beauty culturist.

22 3. The practice of massage therapy by any person employed in a medical
23 institution licensed or chartered by the state of New York, provided
24 that such person is under the on-site supervision of a person licensed
25 to practice massage therapy or authorized to practice massage therapy by
26 subdivision one of this section, or by any person enrolled in a program
27 of a school or institute of massage therapy registered by the depart-
28 ment, or enrolled in a program which satisfies the requirements of
29 section seventy-eight hundred four of this title, provided that such
30 person is under the on-site supervision of a person licensed to practice
31 massage therapy or authorized to practice massage therapy by subdivision
32 one of this section.

33 4. The practice of massage therapy by any person duly employed as a
34 trainer by a professional athletic association, club or team, or as a
35 member of the physical education department of an accredited university,
36 college or high school.

37 5. The practice of massage therapy by any person employed by a corpo-
38 ration or association organized exclusively for the moral or mental
39 improvement of men, women, or children.

40 6. A massage therapist licensed and in good standing in another state
41 or country from conducting a teaching demonstration of modalities and
42 techniques that are within the practice of massage therapy in connection
43 with a program of continuing education that is conducted by approved
44 sponsors of continuing education by the department. Any massage thera-
45 pist conducting a teaching demonstration of modalities and techniques in
46 New York state pursuant to this subdivision shall be subject to the
47 personal and subject matter jurisdiction and disciplinary and regulatory
48 authority of the department as if he or she is a licensee and as if the
49 exemption pursuant to this subdivision is a license. Such massage thera-
50 pist shall comply with the provisions of this title, the rules of the
51 department, and the regulations of the commissioner, relating to profes-
52 sional misconduct, disciplinary proceedings and penalties for profes-
53 sional misconduct.

54 § 7806. Limited permits. 1. The department may issue a limited permit
55 to practice massage therapy as a licensed massage therapist, masseur or
56 masseuse to a person who has not previously held such a permit and who

1 fulfills all except the examination and citizenship requirements for a
2 license, provided however that a permit shall not be issued to a person
3 who has failed the state licensing examination.

4 2. The limited permit shall be valid for a period of not more than
5 twelve months or until the results of the next licensing examination for
6 which the person is eligible are officially available, whichever comes
7 first.

8 3. A limited permit shall entitle the holder to practice massage ther-
9 apy only under the personal supervision of a person currently licensed
10 and registered to practice massage therapy in this state.

11 4. The fee for a limited permit shall be thirty-five dollars.

12 § 7807. Mandatory continuing education. 1. a. Each massage therapist
13 licensed pursuant to this title required to register triennially with
14 the department to practice in the state shall comply with the provisions
15 of the mandatory continuing education requirements prescribed in subdi-
16 vision two of this section except as set forth in paragraphs b and c of
17 this subdivision. Massage therapists who do not satisfy the mandatory
18 continuing education requirements shall not practice until they have met
19 such requirements, and they have been issued a registration certificate,
20 except that a massage therapist may practice without having met such
21 requirements if he or she is issued a conditional registration certif-
22 icate pursuant to subdivision three of this section.

23 b. Massage therapists shall be exempt from the mandatory continuing
24 education requirement for the triennial registration period during which
25 they are first licensed. In accordance with the intent of this section,
26 adjustments to the mandatory continuing education requirement may be
27 granted by the department for reasons of health certified by an appro-
28 priate health care professional, for extended active duty with the armed
29 forces of the United States, or for other good cause acceptable to the
30 department which may prevent compliance.

31 c. A licensed massage therapist not engaged in professional practice,
32 as determined by the department, shall be exempt from the mandatory
33 continuing education requirement upon the filing of a statement with the
34 department declaring such status. Any licensee who returns to the prac-
35 tice of massage therapy during the triennial registration period shall
36 notify the department prior to reentering the profession and shall meet
37 such mandatory education requirements as shall be prescribed by regu-
38 lations of the commissioner.

39 2. During each triennial registration period an applicant for regis-
40 tration as a massage therapist shall complete a minimum of thirty-six
41 hours of acceptable formal continuing education, a maximum of twelve
42 hours of which may be self-instructional course work acceptable to the
43 department. Any massage therapist whose first registration date follow-
44 ing the effective date of this section occurs less than three years from
45 such effective date, shall complete continuing education hours on a
46 prorated basis at the rate of one hour per month for the period begin-
47 ning January first, two thousand twelve up to the first registration
48 date thereafter. A licensee who has not satisfied the mandatory continu-
49 ing education requirements shall not be issued a triennial registration
50 certificate by the department and shall not practice unless and until a
51 conditional registration certificate is issued as provided for in subdi-
52 vision three of this section, or until he or she has otherwise met the
53 requirements of this section.

54 3. The department, in its discretion, may issue a conditional regis-
55 tration to a licensee who fails to meet the continuing education
56 requirements established in subdivision two of this section but who

1 agrees to make up any deficiencies and complete any additional education
2 which the department may require. The fee for such a conditional regis-
3 tration shall be the same as, and in addition to, the fee for the trien-
4 nial registration. The duration of such conditional registration shall
5 be determined by the department but shall not exceed one year. Any
6 licensee who is notified of the denial of registration for failure to
7 submit evidence, satisfactory to the department, of required continuing
8 education and who practices without such registration, may be subject to
9 disciplinary proceedings pursuant to section sixty-five hundred ten of
10 this article.

11 4. As used in subdivision two of this section, "acceptable formal
12 continuing education" shall mean formal programs of learning which
13 contribute to professional practice in massage therapy which are offered
14 by sponsors of massage therapy continuing education approved by the
15 department in consultation with the state board for massage therapy, to
16 fulfill the mandatory continuing education requirement. Sponsors of
17 massage therapy continuing education may include, but are not limited
18 to, state or national professional associations established to further
19 the massage therapy profession, and may include any affiliates of inter-
20 national massage therapy conferences at which professional continuing
21 education is a major component of such conferences, as well as programs
22 registered as licensure-qualifying for the profession of massage therapy
23 by the department. Sponsors of massage therapy shall file an applica-
24 tion with the department and pay a fee of nine hundred dollars. While
25 presenters of didactic instruction may be provided by persons who are
26 not licensed by the state of New York as massage therapists, the practi-
27 cal application of such modalities and techniques shall be done by
28 licensed massage therapists, or those otherwise authorized, when such
29 continuing education occurs in the state of New York.

30 5. Massage therapists shall maintain adequate documentation of
31 completion of acceptable formal continuing education and shall provide
32 such documentation at the request of the department. Failure to provide
33 such documentation upon the request of the department shall be an act of
34 misconduct subject to disciplinary proceedings pursuant to section
35 sixty-five hundred ten of this article.

36 6. The mandatory continuing education fee shall be forty-five dollars,
37 shall be payable on or before the first day of each triennial registra-
38 tion period, and shall be paid in addition to the triennial registration
39 fee required by section seventy-one hundred twenty-four of this article.

40 TITLE 20

41 OCCUPATIONAL THERAPY

42 Section 7900. Introduction.

43 7901. Definition.

44 7902. Practice of occupational therapy and use of title "occu- 45 pational therapist".

46 7902-a. Practice of occupational therapy assistant and use of 47 the title "occupational therapy assistant".

48 7903. State board for occupational therapy.

49 7904. Requirements for a professional license.

50 7904-a. Requirements for license as an occupational therapy 51 assistant.

52 7905. Limited permits.

53 7906. Exempt persons.

54 7907. Special conditions.

55 7908. Mandatory continuing competency.

1 § 7900. Introduction. This title applies to the profession of occupa-
2 tional therapy. The general provisions for all professions contained in
3 title one of this article shall apply to this title.

4 § 7901. Definition. The practice of the profession of occupational
5 therapy is defined as the functional evaluation of the client, the plan-
6 ning and utilization of a program of purposeful activities, the develop-
7 ment and utilization of a treatment program, and/or consultation with
8 the client, family, caregiver or organization in order to restore,
9 develop or maintain adaptive skills, and/or performance abilities
10 designed to achieve maximal physical, cognitive and mental functioning
11 of the client associated with his or her activities of daily living and
12 daily life tasks. A treatment program designed to restore function,
13 shall be rendered on the prescription or referral of a physician, nurse
14 practitioner, or other health care provider acting within his or her
15 scope of practice pursuant to this title. However, nothing contained in
16 this title shall be construed to permit any licensee under this title to
17 practice medicine or psychology, including psychotherapy, or to other-
18 wise expand such licensee's scope of practice beyond what is authorized
19 by this article.

20 § 7902. Practice of occupational therapy and use of title "occupa-
21 tional therapist". Only a person licensed or otherwise authorized to
22 practice under this title shall practice occupational therapy or use the
23 title "occupational therapist".

24 § 7902-a. Practice of occupational therapy assistant and use of the
25 title "occupational therapy assistant". Only a person licensed or other-
26 wise authorized under this title shall participate in the practice of
27 occupational therapy as an occupational therapy assistant or use the
28 title "occupational therapy assistant". Practice as an occupational
29 therapy assistant shall include the providing of occupational therapy
30 and client-related services under the direction and supervision of an
31 occupational therapist or licensed physician in accordance with the
32 commissioner's regulations.

33 § 7903. State board for occupational therapy. A state board for occu-
34 pational therapy shall be appointed by the board of regents on the
35 recommendation of the commissioner for the purpose of assisting the
36 board of regents and the department on matters of professional licensing
37 and professional conduct in accordance with section sixty-five hundred
38 eight of this article. The board shall be composed of not less than six
39 licensed occupational therapists, one licensed occupational therapy
40 assistant, one physician, and two members of the public who are not
41 licensed under this title. An executive secretary to the board shall be
42 appointed by the board of regents on recommendation of the commissioner.
43 As used in this title, "the board" shall mean the state board for occu-
44 pational therapy appointed pursuant to this section.

45 § 7904. Requirements for a professional license. To qualify for a
46 license as an occupational therapist, an applicant shall fulfill the
47 following requirements:

48 1. File an application with the department.
49 2. Have satisfactorily completed an approved occupational therapy
50 curriculum in at least a baccalaureate or masters program, or its equiv-
51 alent, as determined by the department in accordance with the commis-
52 sioner's regulations.

53 3. Have a minimum of six months of supervised occupational therapy
54 experience which supervision and experience shall be satisfactory to the
55 board and in accordance with the commissioner's regulations.

1 4. Pass an examination satisfactory to the board and in accordance
2 with the commissioner's regulations.

3 5. Be at least twenty-one years of age.

4 6. Meet no requirements as to United States citizenship.

5 7. Be of good moral character as determined by the department.

6 8. Pay a fee of one hundred forty dollars to the department for admis-
7 sion to a department-conducted examination and for an initial license, a
8 fee of seventy dollars for each re-examination, a fee of one hundred
9 fifteen dollars for an initial license for persons not requiring admis-
10 sion to a department-conducted examination, and a fee of one hundred
11 fifty-five dollars for each triennial registration period.

12 § 7904-a. Requirements for license as an occupational therapy assist-
13 ant. To qualify for a license as an occupational therapy assistant an
14 applicant shall fulfill the following requirements:

15 1. file an application with the department;

16 2. have received an education as follows: completion of at least a
17 two-year associate degree program for occupational therapy assistants
18 registered by the department or accredited by a national accreditation
19 agency which is satisfactory to the department, or its equivalent, as
20 determined by the department in accordance with the commissioner's regu-
21 lations;

22 3. have a minimum of sixteen weeks of clinical experience satisfactory
23 to the board and in accordance with standards established by a national
24 accreditation agency which is satisfactory to the department;

25 4. be at least eighteen years of age;

26 5. be of good moral character as determined by the department;

27 6. pay a fee for an initial license and a fee for each triennial
28 registration period that shall be one-half of the fee for initial
29 license and for each triennial registration period established for occu-
30 ptional therapists; and

31 7. except as otherwise provided by subdivision two of section seven-
32 ty-nine hundred seven of this title, pass an examination acceptable to
33 the department.

34 § 7905. Limited permits. Permits limited as to eligibility, practice,
35 and duration, shall be issued by the department to eligible applicants,
36 as follows:

37 1. The following persons shall be eligible for a limited permit:

38 a. An occupational therapist who has graduated from an occupational
39 therapy curriculum with a baccalaureate degree or certificate in occupa-
40 tional therapy which is substantially equivalent to a baccalaureate
41 degree satisfactory to the board and in accordance with the commission-
42 er's regulations; or

43 b. A foreign occupational therapist who is in this country on a non-
44 immigration visa for the continuation of occupational therapy study,
45 pursuant to the exchange student program of the United States department
46 of state.

47 c. An occupational therapy assistant who has graduated from an accred-
48 ited occupational therapy assistant curriculum with an associate's
49 degree satisfactory to the board of occupational therapy and in accord-
50 ance with the commissioner's regulations.

51 2. A limited permittee shall be authorized to practice occupational
52 therapy, or in the case of a limited permit issued pursuant to paragraph
53 c of subdivision one of this section, only under the direct supervision
54 of a licensed occupational therapist or a licensed physician and shall
55 practice only in a public, voluntary, or proprietary hospital, health
56 care agency or in a preschool or an elementary or secondary school for

1 the purpose of providing occupational therapy as a related service for a
2 handicapped child. For purposes of this subdivision, supervision of an
3 individual with a limited permit to practice occupational therapy issued
4 by the department shall be direct supervision as defined by the commis-
5 sioner's regulations.

6 3. A limited permit shall be valid for one year. A limited permit may
7 be renewed once for a period not to exceed one additional year, at the
8 discretion of the department, upon the submission of an explanation
9 satisfactory to the department for an applicant's failure to become
10 licensed within the original one-year period.

11 4. The fee for a limited permit shall be seventy dollars.

12 § 7906. Exempt persons. This title shall not be construed to affect or
13 prevent the following, provided that no title, sign, card or device
14 shall be used in such manner as to tend to convey the impression that
15 the person rendering such service is a licensed occupational therapist:

16 1. A licensed physician from practicing his or her profession under
17 title one and title two of this article.

18 2. Qualified members of other licensed or legally recognized
19 professions from performing work incidental to the practice of their
20 profession, except that such persons may not hold themselves out under
21 the title occupational therapist or as performing occupational therapy.

22 3. A student from engaging in clinical practice as part of an accred-
23 ited program in occupational therapy, pursuant to subdivision three of
24 section seventy-nine hundred four of this title.

25 4. An occupational therapy assistant student from engaging in clinical
26 practice under the direction and supervision of an occupational thera-
27 pist or an occupational therapy assistant who is under the supervision
28 of an occupational therapist, as part of an accredited occupational
29 therapy assistant program, as defined by the commissioner and in accord-
30 ance with the commissioner's regulations.

31 5. The care of the sick by any person, provided such person is
32 employed primarily in a domestic capacity. This shall not authorize the
33 treatment of patients in a home care service of any hospital, clinic,
34 institution or agency.

35 6. An employee of a federal agency from using the title or practicing
36 as an occupational therapist insofar as such activities are required by
37 his or her salaried position and the use of such title shall be limited
38 to such employment.

39 7. The following people from working under the direct supervision of a
40 licensed occupational therapist: An individual employed by the state or
41 municipal government upon the effective date of this section who
42 performs supportive services in occupational therapy solely for the time
43 such person continues in such employment.

44 8. Any occupational therapist who is licensed in another state, United
45 States possession or country or who has received at least a baccalau-
46 reate degree or its equivalent in occupational therapy and who is either
47 in this state for the purposes of:

48 a. consultation, provided such practice is limited to such consulta-
49 tion;

50 b. an occupational therapist authorized to practice in another state
51 or country from conducting a teaching clinical demonstration in
52 connection with a program of basic clinical education, graduate educa-
53 tion or post graduate education in an approved school of occupational
54 therapy or its affiliated clinical facility or health care agency or
55 before a group of licensed occupational therapists; or

1 c. because he or she resides near a border of this state, provided
2 such practice is limited in this state to the vicinity of such border
3 and said occupational therapist does not maintain an office or place to
4 meet patients or receive calls in this state.

5 § 7907. Special conditions. 1. A person who upon the effective date of
6 this title:

7 a. submits evidence of a minimum of three years of experience with
8 training satisfactory to the board in occupational therapy and in
9 accordance with the regulations of the commissioner; or

10 b. a baccalaureate degree or its equivalent in occupational therapy,
11 shall be licensed upon the filing of an application with the department
12 within six months of the effective date of this title.

13 2. A person who on the effective date of this subdivision has a
14 current registration with the department as an occupational therapy
15 assistant, if such person meets the requirements for a license estab-
16 lished within this title, except for examination, the department shall
17 issue a license without examination.

18 § 7908. Mandatory continuing competency. 1. a. Each licensed occupa-
19 tional therapist and occupational therapy assistant required under this
20 title to register triennially with the department to practice in the
21 state shall comply with the provisions of the mandatory continuing
22 competency requirements prescribed in subdivision two of this section,
23 except as provided in paragraphs b and c of this subdivision. Occupa-
24 tional therapists and occupational therapy assistants who do not satisfy
25 the mandatory continuing competency requirements shall not be authorized
26 to practice until they have met such requirements, and they have been
27 issued a registration certificate, except that an occupational therapist
28 or occupational therapy assistant may practice without having met such
29 requirements if he or she is issued a conditional registration pursuant
30 to subdivision three of this section.

31 b. Occupational therapists and occupational therapy assistants shall
32 be exempt from the mandatory continuing competency requirement for the
33 triennial registration period during which they are first licensed.
34 Adjustment to the mandatory continuing competency requirements may be
35 granted by the department for reasons of health of the licensee where
36 certified by an appropriate health care professional, for extended
37 active duty with the armed forces of the United States, or for other
38 good cause acceptable to the department which may prevent compliance.

39 c. A licensed occupational therapist or occupational therapy assistant
40 not engaged in practice, as determined by the department, shall be
41 exempt from the mandatory continuing competency requirement upon the
42 filing of a statement with the department declaring such status. Any
43 licensee who returns to the practice of occupational therapy during the
44 triennial registration period shall notify the department prior to reen-
45 tering the profession and shall meet such mandatory continuing competen-
46 cy requirements as shall be prescribed by regulations of the commission-
47 er.

48 2. a. During each triennial registration period an applicant for
49 registration as an occupational therapist shall complete a minimum of
50 thirty-six hours of learning activities which contribute to continuing
51 competence, as specified in subdivision four of this section, provided
52 further that at least twenty-four hours shall be in areas of study
53 pertinent to the scope of practice of occupational therapy. With the
54 exception of continuing education hours taken during the registration
55 period immediately preceding the effective date of this section, contin-

1 uing education hours taken during one triennium shall not be transferred
2 to a subsequent triennium.

3 b. During each triennial registration period an applicant for regis-
4 tration as an occupational therapy assistant shall complete a minimum of
5 thirty-six hours of learning activities which contribute to continuing
6 competence as specified in subdivision four of this section, provided
7 further that at least twenty-four hours shall be in recognized areas of
8 study pertinent to the licensee's professional scope of practice of
9 occupational therapy. With the exception of continuing education hours
10 taken during the registration period immediately preceding the effective
11 date of this section, continuing education hours taken during one trien-
12 niun shall not be transferred to a subsequent triennium.

13 c. Any occupational therapist or occupational therapy assistant whose
14 first registration date following the effective date of this section
15 occurs less than three years from such effective date but on or after
16 January first, two thousand thirteen, shall complete continuing compe-
17 tency hours on a prorated basis at the rate of one-half hour per month
18 for the period beginning January first, two thousand thirteen up to the
19 first registration date.

20 d. Thereafter, a licensee who has not satisfied the mandatory continu-
21 ing competency requirements shall not be issued a triennial registration
22 certificate by the department and shall not practice unless and until a
23 conditional registration certificate is issued as provided for in subdi-
24 vision three of this section.

25 3. The department, in its discretion, may issue a conditional regis-
26 tration to a licensee who fails to meet the continuing competency
27 requirements established in subdivision two of this section, but who
28 agrees to make up any deficiencies and complete any additional learning
29 activities which the department may require. The fee for such a condi-
30 tional registration shall be the same as, and in addition to, the fee
31 for the triennial registration. The duration of such conditional regis-
32 tration shall be determined by the department but shall not exceed one
33 year. Any licensee who is notified of the denial of registration for
34 failure to submit evidence, satisfactory to the department, of required
35 continuing competency learning activities and who practices without such
36 registration, may be subject to disciplinary proceedings pursuant to
37 section sixty-five hundred ten of this article.

38 4. As used in subdivision two of this section, "acceptable learning
39 activities" shall mean activities which contribute to professional prac-
40 tice in occupational therapy, and which meet the standards prescribed in
41 the regulations of the commissioner. Such learning activities shall
42 include, but not be limited to, collegiate level credit and non-credit
43 courses, self-study activities, independent study, formal mentoring
44 activities, publications in professional journals, professional develop-
45 ment programs and technical sessions; such learning activities may be
46 offered and sponsored by national, state and local professional associ-
47 ations and other organizations or parties acceptable to the department,
48 and any other organized educational and technical learning activities
49 acceptable to the department. The department may, in its discretion and
50 as needed to contribute to the health and welfare of the public, require
51 the completion of continuing competency learning activities in specific
52 subjects to fulfill this mandatory continuing competency requirement.
53 Learning activities shall be taken from a sponsor approved by the
54 department, pursuant to the regulations of the commissioner.

55 5. Occupational therapists and occupational therapy assistants shall
56 maintain adequate documentation of completion of a. a learning plan that

1 shall record current and anticipated roles and responsibilities but
2 shall not require the records of peer review or self-assessment of
3 competencies, and b. acceptable continuing competency learning activ-
4 ities and shall provide such documentation at the request of the depart-
5 ment. Failure to provide such documentation upon request of the depart-
6 ment shall be an act of misconduct subject to the disciplinary
7 proceedings pursuant to section sixty-five hundred ten of this title.

8 6. The mandatory continuing competency fee shall be forty-five dollars
9 for occupational therapists and twenty-five dollars for occupational
10 therapy assistants, shall be payable on or before the first day of each
11 triennial registration period, and shall be paid in addition to the
12 triennial registration fee required by section seventy-nine hundred four
13 of this title.

14 TITLE 21

15 DIETETICS AND NUTRITION

16 Section 8000. Introduction.

17 8001. Definitions.

18 8002. Use of titles.

19 8003. State board for dietetics and nutrition.

20 8004. Requirements for certification.

21 8005. Special provisions.

22 8006. Special conditions.

23 § 8000. Introduction. This title applies to the use of the titles
24 "certified dietitian" and "certified nutritionist". The general
25 provision for all professions contained in title one of this article
26 shall apply to this title.

27 § 8001. Definitions. 1. Dietetics and nutrition are each defined in
28 this section as the integration and application of principles derived
29 from the sciences of nutrition, biochemistry, physiology, food manage-
30 ment and behavioral and social sciences to achieve and maintain people's
31 health.

32 2. Where the title "certified dietitian" or "certified nutritionist"
33 is used in this article it shall mean "certified dietitian", "certified
34 dietician", or "certified nutritionist".

35 3. A certified dietitian or certified nutritionist is one who engages
36 in the integration and application of principles derived from the
37 sciences of nutrition, biochemistry, physiology, food management and
38 behavioral and social sciences to achieve and maintain people's health,
39 and who is certified as such by the department pursuant to section eight
40 thousand four of this title. The primary function of a certified dieti-
41 tian or certified nutritionist is the provision of nutrition care
42 services that shall include:

43 a. Assessing nutrition needs and food patterns;

44 b. Planning for and directing the provision of food appropriate for
45 physical and nutrition needs; and

46 c. Providing nutrition counseling.

47 § 8002. Use of titles. Only a person certified under this title shall
48 be authorized to use the title "certified dietitian", "certified dieti-
49 cian", or "certified nutritionist".

50 § 8003. State board for dietetics and nutrition. 1. A state board for
51 dietetics and nutrition shall be appointed by the commissioner, for the
52 purpose of assisting the department on matters of certification and
53 professional conduct in accordance with section sixty-five hundred eight
54 of this article.

2. The board shall consist of not less than thirteen members, ten of whom shall be certified dietitians or certified nutritionists, except that the members of the first board need not be certified but shall be persons who are eligible for certification under the provisions of this title prior to their appointment to the board. The first board, with respect to members representing the profession, shall consist of five members registered by a national dietetic association having registration standards acceptable to the department and five members who are members of or registered by a national nutritional association having membership and/or registration standards acceptable to the department. Thereafter, members of the profession appointed to such board shall be certified pursuant to this title. To the extent reasonable, the department should insure the state board is broadly representative of various professional interests within the dietetic and nutritional community. Three members shall be representatives of the general public. An executive secretary to the board shall be appointed by the commissioner.

§ 8004. Requirements for certification. To qualify for certification, an applicant shall fulfill the following requirements:

1. File an application with the department;

2. a. (i) Have received an education including a bachelor's degree, or its equivalent as determined by the department, in dietetics/nutrition or an equivalent major course of study which shall include appropriate core curriculum courses in dietetics/nutrition from an accredited college or university as approved by the department, in accordance with the commissioner's regulations; and

(ii) Have completed a planned, continuous, experience component, in accordance with the commissioner's regulations, in dietetic or nutrition practice under the supervision of a certified dietitian or certified nutritionist or a dietitian or nutritionist who is registered by or is a member of a national dietetic association or national nutrition association having registration or membership standards acceptable to the department; such experience shall be satisfactory to the board and in accordance with the commissioner's regulations; or

b. (i) Have received an education including an associates degree in dietetics or nutrition acceptable to the department;

(ii) In the last fifteen years have completed ten years of experience and education in the field of dietetics or nutrition satisfactory to the board in accordance with the commissioner's regulations. These ten years must be the full time equivalent of any combination of post secondary dietetic or nutrition education and dietetic or nutrition work experience satisfactory to the board in accordance with the commissioner's regulations; and

(iii) Have obtained the endorsement of three dietitians or nutritionists acceptable to the department;

3. Pass an examination satisfactory to the board and in accordance with the commissioner's regulations; provided that such examination shall test a level of knowledge and experience equivalent to that obtained by an individual satisfactorily meeting the requirements of paragraph a of subdivision two of this section;

4. Pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for initial certification, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial certification for persons not requiring admission to a department conducted examination, a fee of one hundred fifty-five dollars for each triennial registration period; and

5. Be at least eighteen years of age.

1 § 8005. Special provisions. Nothing contained in this title shall be
2 deemed to alter, modify or impair any conditions of employment relating
3 to service in the federal government, the state of New York, its poli-
4 tical subdivisions, including school districts, or special districts and
5 authorities or any facilities or institutions under the jurisdiction of
6 or subject to the certification of any agency of the state of New York
7 or its political subdivisions.

8 § 8006. Special conditions. A person shall be certified without exam-
9 ination provided that, within three years of the effective date of this
10 title, the individual:

11 1. files an application and pays the appropriate fees to the depart-
12 ment; and

13 2. a. is registered as a dietitian or nutritionist by a national diet-
14 etic or national nutrition association having registration standards
15 acceptable to the department;

16 b. meets the requirements of subparagraph one of paragraph a of subdi-
17 vision two and subdivision five of section eight thousand four of this
18 title and has been actively engaged in the provision of nutrition care
19 services for a minimum of three years during the five years immediately
20 preceding the effective date of this title; or

21 c. meets all the requirements of paragraph b of subdivision two and
22 subdivision five of section eight thousand four of this title.

23 TITLE 22

24 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

25 Section 8100. Introduction.

26 8101. Definition of practice of speech-language pathology.

27 8102. Practice of speech-language pathology.

28 8103. Definition of practice of audiology.

29 8104. Practice of audiology.

30 8105. State board for speech-language pathology and audiology.

31 8106. Requirements for a professional license.

32 8106-a. Limited license.

33 8107. Exempt persons.

34 8108. Special provisions.

35 8109. Mandatory continuing competency.

36 § 8100. Introduction. This title applies to the professions of speech-
37 language pathology and audiology. The general provisions for all
38 professions contained in title one of this article apply to this title.

39 § 8101. Definition of practice of speech-language pathology. The prac-
40 tice of the profession of speech-language pathology shall mean the
41 application of principles, methods and procedures of measurement,
42 prediction, non-medical diagnosis, testing, counselling, consultation,
43 rehabilitation and instruction related to the development and disorders
44 of speech, voice, swallowing, and/or language for the purpose of
45 preventing, ameliorating or modifying such disorder conditions in indi-
46 viduals and/or groups of individuals.

47 § 8102. Practice of speech-language pathology. Only a person licensed
48 or otherwise authorized under this title shall practice speech-language
49 pathology or use the title of speech-language pathologist.

50 § 8103. Definition of practice of audiology. The practice of the
51 profession of audiology shall mean the application of principles, meth-
52 ods and procedures of measurement, testing, evaluation, consultation,
53 counselling, instruction and habilitation or rehabilitation related to
54 hearing and its disorders, related communication impairments and vesti-
55 bular disorders for the purpose of non-medical diagnosis, prevention,

1 identification, amelioration or modification of such disorders and
2 conditions in individuals and/or groups of individuals.

3 § 8104. Practice of audiology. Only a person licensed or otherwise
4 authorized under this title shall practice audiology or use the title
5 audiologist.

6 § 8105. State board for speech-language pathology and audiology. A
7 state board for speech-language pathology and audiology shall be
8 appointed by the commissioner for the purpose of assisting the depart-
9 ment on matters of professional licensing and professional conduct in
10 accordance with section sixty-five hundred eight of this title. The
11 board shall consist of not less than seven members, three of whom shall
12 be audiologists and four of whom shall be speech-language pathologists.
13 Each speech-language pathologist and audiologist on the board shall be
14 licensed and have practiced in this state for at least five years, as
15 provided under this title except that the members of the first board
16 need not be licensed prior to their appointment to the board. An execu-
17 tive secretary to the board shall be appointed by the commissioner.

18 § 8106. Requirements for a professional license. To qualify for a
19 license as a speech-language pathologist or audiologist, an applicant
20 shall fulfill the following requirements:

- 21 1. Application: file an application with the department;
- 22 2. Education: have obtained at least a masters degree in speech-lan-
23 guage pathology and/or audiology or its equivalent, as determined by the
24 department, in accordance with the commissioner's regulations;
- 25 3. Experience: have experience satisfactory to the board and in
26 accordance with the commissioner's regulations;
- 27 4. Examination: pass an examination satisfactory to the board and in
28 accordance with the commissioner's regulations;
- 29 5. Age: be at least twenty-one years of age;
- 30 6. Character: be of good moral character as determined by the depart-
31 ment; and
- 32 7. Fees: pay a fee of one hundred forty dollars to the department for
33 admission to a department conducted examination and for an initial
34 license, a fee of seventy dollars for each reexamination, a fee of one
35 hundred fifteen dollars for an initial license for persons not requiring
36 admission to a department conducted examination, and a fee of one
37 hundred fifty-five dollars for each triennial registration period.

38 § 8106-a. Limited license. 1. The department shall issue a limited
39 license to an applicant for a license as a speech-language pathologist
40 who meets all requirements set forth in this section.

41 2. Any person engaging in clinical or academic practice under the
42 supervision of a licensed speech-language pathologist for such period of
43 time as may be necessary to complete an experience requirement for a
44 professional license as a speech-language pathologist shall be eligible
45 for a limited license.

46 3. A limited licensee shall be authorized to practice speech-language
47 pathology only under the supervision of a licensed speech-language
48 pathologist.

49 4. A limited license shall be valid for one year. It may be renewed
50 for additional one year periods until such time as may be necessary to
51 complete an experience requirement for a professional license as a
52 speech-language pathologist.

53 5. The fee for a limited license shall be seventy dollars.

54 § 8107. Exempt persons. This title shall not be construed as prohibit-
55 ing:

1 1. The practice of any other professions licensed or registered under
2 this title.

3 2. Any person employed by the federal, state or a local government or
4 by a public or non-public elementary or secondary school or an institu-
5 tion of higher learning from performing the duties of a speech-language
6 pathologist, an audiologist, a teacher of the speech and hearing hand-
7 icapped, or a teacher of the deaf in the course of such employment.

8 3. Any person from engaging in clinical or academic practice under the
9 supervision of a licensed speech-language pathologist or audiologist for
10 such period of time as may be necessary to complete an experience
11 requirement for a professional license, as provided in this title and in
12 rules or regulations approved by the commissioner with the advice of the
13 state board for speech-language pathology and audiology.

14 4. A person from another state from performing speech-language pathol-
15 ogy or audiology services in this state provided such services are
16 performed for no more than thirty days in any calendar year and provided
17 that such services are performed in conjunction with and/or under the
18 supervision of a speech-language pathologist or audiologist licensed
19 under this title.

20 5. Any hearing aid dealer from performing hearing measurements by
21 means of an audiometer or other testing equipment when used solely for
22 the purpose of selecting, fitting, selling or dispensing an instrument
23 designed to aid or improve human hearing, including the taking of
24 impressions for the making and fitting of ear molds and the demon-
25 stration of use and instructions of persons in the use of such hearing
26 aids and accessories thereto.

27 6. A student from engaging in clinical practice, under the supervision
28 of a licensed audiologist or a licensed speech-language pathologist as
29 part of a nationally accredited program or a state licensure qualifying
30 program in speech-language pathology or audiology, pursuant to subdivi-
31 sion three of section eighty-one hundred six of this title.

32 § 8108. Special provisions. 1. Every person regularly employed in
33 teaching or working as a speech-language pathologist or audiologist for
34 not less than two years prior to the effective date of this title shall
35 be issued a license by the department, if he or she is a person of good
36 moral character; twenty-one years or older, has been engaged in such
37 practice in the state for at least two years in accordance with regu-
38 lations of the commissioner, and possesses:

39 a. the American Speech-Language-Hearing Association certificate of
40 clinical competence in speech-language pathology and/or audiology, or
41 the equivalent thereof as determined by the board in accordance with the
42 commissioner's regulations; or

43 b. a masters degree in speech-language pathology, audiology or commu-
44 nication disorders appropriate to the license being sought and a total
45 of five years experience; or

46 c. a bachelors degree in speech-language pathology, audiology or
47 communication disorders appropriate to the license being sought and
48 thirty postgraduate semester hours in subjects satisfactory to the board
49 and a total of five years experience; or

50 d. a bachelors degree and sufficient postgraduate study to be the
51 equivalent of a masters degree in speech-language pathology, audiology
52 or communication disorders as determined by the board in accordance with
53 the commissioner's regulations and a total of five years experience.
54 Applications for a license under this section shall be submitted by
55 January first, nineteen hundred eighty and applicants shall have until
56 that date to fulfill the requirements set forth by this chapter.

1 2. This title shall not prohibit the practice of speech-language
2 pathology or audiology by a corporation provided that such practice is
3 carried on by a licensed speech-language pathologist or audiologist or
4 persons exempt under this title and a violation of this provision shall
5 be a class A misdemeanor.

6 3. Any person or firm offering the services of a speech-language
7 pathologist or audiologist shall employ only persons licensed or exempt
8 under this title and a violation of this provision shall be a class A
9 misdemeanor.

10 4. a. The commissioner, pursuant to the recommendation of the board
11 shall promulgate regulations defining appropriate standards of conduct
12 for the dispensing of hearing aids by licensed audiologists. Such regu-
13 lations shall also define continuing education requirements which such
14 dispensing audiologist shall meet as a condition of maintaining regis-
15 tration pursuant to this title.

16 b. Audiologists engaged in the practice of dispensing hearing aids
17 shall comply with the applicable provisions of article thirty-seven-A of
18 the general business law.

19 § 8109. Mandatory continuing competency. 1. a. Each licensed speech-
20 language pathologist and audiologist required under this title to regis-
21 ter triennially with the department to practice in the state shall
22 comply with the provisions of the mandatory continuing competency
23 requirements prescribed in subdivision two of this section, except as
24 provided in paragraphs b and c of this subdivision. Speech-language
25 pathologists and audiologists who do not satisfy the mandatory continu-
26 ing competency requirements shall not be authorized to practice until
27 they have met such requirements, and they have been issued a registra-
28 tion certificate, except that a speech-language pathologist or audiolo-
29 gist may practice without having met such requirements if he or she is
30 issued a conditional registration pursuant to subdivision three of this
31 section.

32 b. Speech-language pathologists and audiologists shall be exempt from
33 the mandatory continuing competency requirement for the triennial regis-
34 tration period during which they are first licensed. Adjustment to the
35 mandatory continuing competency requirements may be granted by the
36 department for reasons of health of the licensee where certified by an
37 appropriate health care professional, for extended active duty with the
38 armed forces of the United States, or for other good cause acceptable to
39 the department which may prevent compliance.

40 c. A licensed speech-language pathologist or audiologist not engaged
41 in practice, as determined by the department, shall be exempt from the
42 mandatory continuing competency requirement upon the filing of a state-
43 ment with the department declaring such status. Any licensee who returns
44 to the practice of speech-language pathology or audiology during the
45 triennial registration period shall notify the department prior to reen-
46 tering the profession and shall meet such mandatory continuing competen-
47 cy requirements as shall be prescribed by regulations of the commission-
48 er.

49 2. During each triennial registration period an applicant for regis-
50 tration as either a speech-language pathologist or audiologist shall
51 complete a minimum of thirty hours of learning activities which contrib-
52 ute to continuing competence, as specified in subdivision four of this
53 section, provided further that at least twenty hours shall be in recog-
54 nized areas of study pertinent to the licensee's professional scope of
55 practice of speech-language pathology and/or audiology. Any speech-lan-
56 guage pathologist or audiologist whose first registration date following

1 the effective date of this section occurs less than three years from
2 such effective date, but on or after January first, two thousand one,
3 shall complete continuing competency hours on a prorated basis at the
4 rate of one-half hour per month for the period beginning January first,
5 two thousand one up to the first registration date. Thereafter, a licen-
6 see who has not satisfied the mandatory continuing competency require-
7 ments shall not be issued a triennial registration certificate by the
8 department and shall not practice unless and until a conditional regis-
9 tration certificate is issued as provided for in subdivision three of
10 this section. Continuing competency hours taken during one triennium may
11 not be transferred to a subsequent triennium.

12 3. The department, in its discretion, may issue a conditional regis-
13 tration to a licensee who fails to meet the continuing competency
14 requirements established in subdivision two of this section, but who
15 agrees to make up any deficiencies and complete any additional learning
16 activities which the department may require. The fee for such a condi-
17 tional registration shall be the same as, and in addition to, the fee
18 for the triennial registration. The duration of such conditional regis-
19 tration shall be determined by the department but shall not exceed one
20 year. Any licensee who is notified of the denial of registration for
21 failure to submit evidence, satisfactory to the department, of required
22 continuing competency learning activities and who practices without such
23 registration, may be subject to disciplinary proceedings pursuant to
24 section sixty-five hundred ten of this article.

25 4. As used in subdivision two of this section, "acceptable learning
26 activities" shall mean activities which contribute to professional prac-
27 tice in speech-language pathology and/or audiology, and which meet the
28 standards prescribed in the regulations of the commissioner. Such learn-
29 ing activities shall include, but not be limited to, collegiate level
30 credit and non-credit courses, self-study activities, independent study,
31 formal mentoring activities, publications in professional journals,
32 professional development programs and technical sessions; such learning
33 activities may be offered and sponsored by national, state and local
34 professional associations and other organizations or parties acceptable
35 to the department, and any other organized educational and technical
36 learning activities acceptable to the department. The department may, in
37 its discretion and as needed to contribute to the health and welfare of
38 the public, require the completion of continuing competency learning
39 activities in specific subjects to fulfill this mandatory continuing
40 competency requirement. For speech-language pathologists who are
41 employed in school settings as teachers of the speech and hearing hand-
42 icapped or as teachers of students with speech and language disabili-
43 ties, acceptable learning activities shall also include professional
44 development programs and technical sessions specific to teaching
45 students with speech and language disabilities including those designed
46 to improve methods for teaching such students, aligned with professional
47 development plans in accordance with regulations of the commissioner and
48 promoting the attainment of standards for such students. Learning activ-
49 ities must be taken from a sponsor approved by the department, pursuant
50 to the regulations of the commissioner.

51 5. Speech-language pathologists and audiologists shall maintain
52 adequate documentation of completion of acceptable continuing competency
53 learning activities and shall provide such documentation at the request
54 of the department. Failure to provide such documentation upon the
55 request of the department shall be an act of misconduct subject to

disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

6. The mandatory continuing competency fee shall be fifty dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section eighty-one hundred six of this title.

TITLE 23
ACUPUNCTURE

Section 8200. Introduction.

8201. Definitions.

8202. Practice of acupuncture and use of title "licensed acupuncturist" or "certified acupuncturist".

8203. State board for acupuncture.

8204. Requirements for a professional license.

8205. Limited permits.

8206. Exemptions; waiver.

§ 8200. Introduction. This title applies to the profession of acupuncture. The general provisions for all professions contained in title one of this article apply to this article.

§ 8201. Definitions. As used in this title the following terms shall have the following meanings:

1. a. "Profession of acupuncture" is the treating, by means of mechanical, thermal or electrical stimulation effected by the insertion of needles or by the application of heat, pressure or electrical stimulation at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points for diseases, disorders and dysfunctions of the body for the purpose of achieving a therapeutic or prophylactic effect. The profession of acupuncture includes recommendation of dietary supplements and natural products including, but not limited to, the recommendation of diet, herbs and other natural products, and their preparation in accordance with traditional and modern practices of East Asian (Chinese, Korean or Japanese) medical theory.

b. Each acupuncturist licensed pursuant to this title, shall advise each patient as to the importance of consulting with a licensed physician regarding the patient's condition and shall keep on file with the patient's records, a form attesting to the patient's notice of such advice. Such form shall be in duplicate, one copy to be retained by the patient, signed and dated by both the acupuncturist and the patient and shall be prescribed in the following manner:

WE, THE UNDERSIGNED, DO AFFIRM THAT (THE PATIENT) HAS BEEN ADVISED BY , (A LICENSED ACUPUNCTURIST), TO CONSULT A PHYSICIAN REGARDING THE CONDITION OR CONDITIONS FOR WHICH SUCH PATIENT SEEKS ACUPUNCTURE TREATMENT.

(Signature)

Date

(Signature)

Date

c. Nothing in this title shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed acupunctu-

1 rist from engaging in the recommendation of traditional remedies and
2 supplements as defined in this title, nor shall this section be
3 construed to authorize an individual to practice pharmacy under title
4 ten of this article.

5 2. "Board" is the state board for acupuncture as created by section
6 eighty-two hundred three of this title.

7 § 8202. Practice of acupuncture and use of title "licensed acupunctu-
8 rist" or "certified acupuncturist". Only a person licensed or authorized
9 pursuant to section eighty-two hundred four of this title or certified
10 pursuant to section eighty-two hundred six of this title shall practice
11 acupuncture. Only a person licensed pursuant to section eighty-two
12 hundred four of this title shall use the title "licensed acupuncturist"
13 and only a person certified pursuant to section eighty-two hundred six
14 of this title shall use the title "certified acupuncturist".

15 § 8203. State board for acupuncture. 1. There is hereby established
16 within the department a state board for acupuncture. The board shall
17 consist of not less than eleven members to be appointed by the depart-
18 ment on the recommendation of the commissioner for the purpose of
19 assisting the department on matters of professional licensing and
20 professional conduct in accordance with section sixty-five hundred eight
21 of this article, four of whom shall be licensed acupuncturists, four of
22 whom shall be licensed physicians certified to use acupuncture and three
23 of whom shall be public members representing the consumer and community.
24 Of the acupuncturists first appointed to the board, one may be a regis-
25 tered specialist's assistant-acupuncture provided that the term of such
26 registered specialist's assistant-acupuncture shall not be more than
27 four years. Of the members first appointed, three shall be appointed for
28 a one year term, three shall be appointed for a two year term and three
29 shall be appointed for a three year term, and two shall be appointed for
30 a four year term. Thereafter all members shall serve for five year
31 terms. In the event that more than eleven members are appointed, a
32 majority of the additional members shall be licensed acupuncturists. The
33 members of the board shall select one of themselves as chairman to serve
34 for a one year term.

35 2. An executive secretary to the board shall be appointed by the
36 commissioner.

37 3. The commissioner shall promulgate such rules and regulations as
38 they deem necessary and appropriate to effectuate the provisions of this
39 title.

40 § 8204. Requirements for a professional license. To qualify for a
41 license as a licensed acupuncturist an applicant shall fulfill the
42 following requirements:

43 1. Application: file an application with the department;

44 2. Education: provide evidence of satisfactory completion of a course
45 of formal study or its substantial equivalent in accordance with the
46 commissioner's regulations;

47 3. Experience: have experience in accordance with the commissioner's
48 regulations;

49 4. Examination: pass an examination satisfactory to the board and in
50 accordance with the commissioner's regulations. Such examination shall
51 be given at least once within twelve months of the effective date of
52 this title, and at least once annually thereafter, and shall consist of
53 both written and practical parts. Either part may be given at the
54 discretion of the department in English and/or Chinese or other
55 language. Nothing in this subdivision is to be construed to require the
56 department to issue an exam in a language other than English. The prac-

1 tical part of the exam must be directly administered by an acupuncturist
2 acceptable to the department, who may also be a member of the board. The
3 cost of the initial examination or reexamination shall be borne by the
4 applicant in accordance with a schedule established by the department
5 and approved by the director of the budget;

6 5. Age: be at least twenty-one years of age;

7 6. Character: be of good moral character as determined by the depart-
8 ment;

9 7. Fees: pay a fee of five hundred dollars to the department for
10 initial licensure, and a fee of two hundred fifty dollars for each
11 triennial registration; and

12 8. Registration: if a license is granted, register triennially with
13 the department, including present home and business address and such
14 other pertinent information as the department requires.

15 § 8205. Limited permits. 1. The department shall issue a limited
16 permit to an applicant who meets all requirements for admission to the
17 licensing examination;

18 2. All practice under a limited permit shall be under the supervision
19 of a licensed or certified acupuncturist in a public hospital, an incor-
20 porated hospital or clinic, a licensed proprietary hospital, a licensed
21 nursing home, a public health agency, the office of a licensed or certi-
22 fied acupuncturist or in the civil service of the federal or state
23 government;

24 3. Limited permits shall be for one year and may be renewed at the
25 discretion of the department for one additional year;

26 4. Supervision of a permittee by a licensed or certified acupuncturist
27 shall be on-site supervision and not necessarily direct personal super-
28 vision;

29 5. No practitioner shall supervise more than one permittee; and

30 6. The fee for each limited permit and for each renewal shall be
31 determined by the department.

32 § 8206. Exemptions; waiver. 1. A person who is validly registered as a
33 "specialist's assistant-acupuncture" in accordance with section sixty-
34 five hundred forty-one of this article and the commissioner's regu-
35 lations shall not be subject to the provisions of this title.

36 2. Any person who is validly licensed under the provisions of the
37 former chapter nine hundred fifty-nine of the laws of nineteen hundred
38 seventy-four is deemed to be licensed pursuant to this title.

39 3. Any person who is validly certified under the provisions of the
40 former chapter nine hundred fifty-nine of the laws of nineteen hundred
41 seventy-four shall continue to be certified to practice acupuncture and
42 may continue to use the title certified acupuncturist. The department
43 may establish rules and regulations providing for the certification of
44 physicians and dentists as acupuncturists, provided that such certified
45 acupuncturists do not represent themselves as licensed acupuncturists.
46 Certified acupuncturists seeking to become licensed acupuncturists shall
47 be subject to all provisions of this title.

48 4. A person who does not otherwise possess the credentials or quali-
49 fications required for the practice of acupuncture prescribed by this
50 title or the regulations promulgated hereunder or any other law but who
51 is authorized by the office of addiction services and supports or the
52 department to provide treatment for alcoholism, substance dependence, or
53 chemical dependency in a hospital or clinical program which has been
54 approved for such treatment by the office of addiction services and
55 supports or the department and who has been trained to practice acupunc-
56 ture for the treatment of alcoholism, substance dependence, or chemical

1 dependency through an educational program acceptable to the education
2 department may nevertheless practice acupuncture provided such practice
3 is limited to the treatment of alcoholism, substance dependence, or
4 chemical dependency in such clinical or hospital programs, or in a
5 program that if statutorily exempt from such approval meets standards
6 approved by the office of addiction services and supports or the depart-
7 ment, and further provided that such practice is done in accordance with
8 regulations promulgated by the office of addiction services and
9 supports, or the department. Such person shall work only under the
10 general supervision of a physician or dentist certified to practice
11 acupuncture or an individual licensed to practice acupuncture in the
12 state of New York pursuant to this title. Notwithstanding any other law,
13 rule or regulation to the contrary, persons authorized on or before the
14 effective date of this title to practice acupuncture for the treatment
15 of alcoholism, substance dependence, or chemical dependency within a
16 hospital or clinical program which has been approved for such treatment
17 by the office of addiction services and supports or the department may
18 nevertheless continue to practice acupuncture under the provisions of
19 this subdivision.

20 5. Any person who is pursuing qualification for licensure through a
21 course of formal study pursuant to this title may practice acupuncture
22 without a license, provided such practice is limited to such study.

23 6. Any person who has completed a formal course of study or a tutorial
24 apprenticeship acceptable to the department and in accordance with the
25 commissioner's regulations, prior to the effective date of this title,
26 and presents satisfactory proof of such completion, shall be exempt from
27 the education requirements set forth in subdivision two of section
28 eighty-two hundred four of this title provided an application pursuant
29 to subdivision one of section eighty-two hundred four of this title is
30 filed with the department not later than one year from the effective
31 date of this title, and in no event shall participation in such tutorial
32 apprenticeship or formal course of study constitute a violation of this
33 chapter.

34 7. Any person who is pursuing qualification for certification through
35 a formal course of study in a registered program and any person
36 appointed to the faculty of such program may practice acupuncture with-
37 out a license, provided that such practice is limited to such research,
38 study and training.

39 8. Any person who is licensed and in good standing to practice
40 acupuncture in another state or country may practice acupuncture in this
41 state without a license solely for the purpose of conducting clinical
42 training, practice demonstrations or clinical research that is within
43 the practice of acupuncture in connection with a program of basic clin-
44 ical education, graduate education, or post-graduate education in an
45 approved school of acupuncture or in its affiliated clinical facility or
46 health care agency, or before a group of licensed acupuncturists who are
47 members of a professional society. Any person practicing acupuncture in
48 New York state pursuant to this subdivision shall be subject to the
49 personal and subject matter jurisdiction and disciplinary and regulatory
50 authority of the department as if he or she is a licensee and as if the
51 exemption pursuant to this subdivision is a license. Such individual
52 shall comply with the provisions of this title, the rules of the depart-
53 ment, and the regulations of the commissioner, relating to professional
54 misconduct, disciplinary proceedings and penalties for professional
55 misconduct.

TITLE 24
ATHLETIC TRAINERS

Section 8300. Introduction.

8301. Definition.

8302. Definition of practice of athletic training.

8303. Use of the title "certified athletic trainer".

8304. State committee for athletic trainers.

8305. Requirements and procedure for professional certification.

8306. Special provisions.

8307. Non-liability of certified athletic trainers for first aid
or emergency treatment.

8308. Separability.

§ 8300. Introduction. This title applies to the profession of athletic training. The general provisions of all professions contained in title one of this article shall apply to this title.

§ 8301. Definition. As used in this title "athletic trainer" means any person who is duly certified in accordance with this title to perform athletic training under the supervision of a physician and limits his or her practice to secondary schools, institutions of postsecondary education, professional athletic organizations, or a person who, under the supervision of a physician, carries out comparable functions on orthopedic athletic injuries, excluding spinal cord injuries, in a health care organization. Supervision of an athletic trainer by a physician shall be continuous but shall not be construed as requiring the physical presence of the supervising physician at the time and place where such services are performed. The scope of work described in this title shall not be construed as authorizing the reconditioning of neurologic injuries, conditions or disease.

§ 8302. Definition of practice of athletic training. The practice of the profession of athletic training is defined as the application of principles, methods and procedures for managing athletic injuries, which shall include the preconditioning, conditioning and reconditioning of an individual who has suffered an athletic injury through the use of appropriate preventative and supportive devices, under the supervision of a physician and recognizing illness and referring to the appropriate medical professional with implementation of treatment pursuant to physician's orders. Athletic training includes instruction to coaches, athletes, parents, medical personnel and communities in the area of care and prevention of athletic injuries. The scope of work described in this title shall not be construed as authorizing the reconditioning of neurologic injuries, conditions or disease.

§ 8303. Use of the title "certified athletic trainer". Only a person certified or otherwise authorized under this title shall use the title "certified athletic trainer".

§ 8304. State committee for athletic trainers. A state committee for athletic trainers shall be appointed by the commissioner, upon the recommendation of the commissioner and shall assist on matters of certification and professional conduct in accordance with section six thousand five hundred eight of this article. The committee shall consist of five members who are athletic trainers certified in this state. The committee shall assist the state board for medicine in athletic training matters. Nominations and terms of office of the members of the state committee for athletic trainers shall conform to the corresponding provisions relating thereto for state boards under title one of this article. Notwithstanding the foregoing, the members of the first

1 committee need not be certified prior to their appointment to the
2 committee.

3 § 8305. Requirements and procedure for professional certification. For
4 certification as a certified athletic trainer under this title, an
5 applicant shall fulfill the following requirements:

6 1. Application: file an application with the department;

7 2. Education: have received an education including a bachelor's, its
8 equivalent or higher degree in accordance with the commissioner's regu-
9 lations;

10 3. Experience: have experience in accordance with the commissioner's
11 regulations;

12 4. Examination: pass an examination in accordance with the commission-
13 er's regulations;

14 5. Age: be at least twenty-one years of age; and

15 6. Fees: pay a fee for an initial certificate of one hundred dollars
16 to the department; and a fee of fifty dollars for each triennial regis-
17 tration period.

18 § 8306. Special provisions. A person shall be certified without exam-
19 ination provided that, within three years from the effective date of
20 regulations implementing the provisions of this title, the individual:

21 1. files an application and pays the appropriate fees to the depart-
22 ment; and

23 2. meets the requirements of subdivisions two and five of section
24 eight thousand three hundred five of this title and who in addition:

25 a. has been actively engaged in the profession of athletic training
26 for a minimum of four years during the seven years immediately preceding
27 the effective date of this title; or

28 b. is certified by a United States certifying body acceptable to the
29 department.

30 § 8307. Non-liability of certified athletic trainers for first aid or
31 emergency treatment. Notwithstanding any inconsistent provision of any
32 general, special or local law, any certified athletic trainer who volun-
33 tarily and without the expectation of monetary compensation renders
34 first aid or emergency treatment at the scene of an accident or other
35 emergency, outside a hospital, doctor's office or any other place having
36 proper and necessary athletic training equipment, to a person who is
37 unconscious, ill or injured, shall not be liable for damages for inju-
38 ries alleged to have been sustained by such person or for damages for
39 the death of such person alleged to have occurred by reason of an act or
40 omission in the rendering of such first aid or emergency treatment
41 unless it is established that such injuries were or such death was
42 caused by gross negligence on the part of such athletic trainer. Nothing
43 in this section shall be deemed or construed to relieve a certified
44 athletic trainer from liability for damages for injuries or death caused
45 by an act or omission on the part of an athletic trainer while rendering
46 professional services in the normal and ordinary course of his or her
47 practice.

48 § 8308. Separability. If any section of this title, or part thereof,
49 shall be adjudged by any court of competent jurisdiction to be invalid,
50 such judgment shall not affect, impair or invalidate the remainder of
51 any other section or part thereof.

52 TITLE 25

53 MENTAL HEALTH PRACTITIONERS

54 Section 8400. Introduction.

55 8401. Definitions.

56 8402. Mental health counseling.

1 8403. Marriage and family therapy.

2 8404. Creative arts therapy.

3 8405. Psychoanalysis.

4 8406. State board for mental health practitioners.

5 8407. Boundaries of professional competency.

6 8408. Hospital privileges.

7 8409. Limited permits.

8 8410. Exemptions.

9 8411. Special provisions.

10 8412. Mandatory continuing education.

11 § 8400. Introduction. This title applies to the professions of mental
12 health counseling, marriage and family therapy, creative arts therapy,
13 and psychoanalysis and provides for the licensing of such practitioners.
14 The general provisions for all professions contained in title one this
15 article apply to this title.

16 § 8401. Definitions. For purposes of this title, the following terms
17 shall have the following meanings:

18 1. "Board" means the state board for mental health practitioners
19 authorized by section eighty-four hundred six of this title.

20 2. "Psychotherapy" means the treatment of mental, nervous, emotional,
21 behavioral and addictive disorders, and ailments by the use of both
22 verbal and behavioral methods of intervention in interpersonal relation-
23 ships with the intent of assisting the persons to modify attitudes,
24 thinking, affect, and behavior which are intellectually, socially and
25 emotionally maladaptive.

26 § 8402. Mental health counseling. 1. The practice of the profession of
27 mental health counseling is defined as:

28 a. the evaluation, assessment, amelioration, treatment, modification,
29 or adjustment to a disability, problem, or disorder of behavior, charac-
30 ter, development, emotion, personality or relationships by the use of
31 verbal or behavioral methods with individuals, couples, families or
32 groups in private practice, group, or organized settings; and

33 b. the use of assessment instruments and mental health counseling and
34 psychotherapy to identify, evaluate and treat dysfunctions and disorders
35 for purposes of providing appropriate mental health counseling services.

36 2. Only a person licensed or exempt under this title shall practice
37 mental health counseling or use the title "mental health counselor".
38 Only a person licensed under this title shall use the title "licensed
39 mental health counselor" or any other designation tending to imply that
40 the person is licensed to practice mental health counseling.

41 3. Requirements for a professional license. To qualify for a license
42 as a "licensed mental health counselor", an applicant shall fulfill the
43 following requirements:

44 a. Application: File an application with the department;

45 b. Education: Have received an education, including a master's or
46 higher degree in counseling from a program registered by the department
47 or determined by the department to be the substantial equivalent there-
48 of, in accordance with the commissioner's regulations. The graduate
49 coursework shall include, but not be limited to, the following areas:

50 (i) human growth and development;

51 (ii) social and cultural foundations of counseling;

52 (iii) counseling theory and practice and psychopathology;

53 (iv) group dynamics;

54 (v) lifestyle and career development;

55 (vi) assessment and appraisal of individuals, couples and families and
56 groups;

1 (vii) research and program evaluation;
2 (viii) professional orientation and ethics;
3 (ix) foundations of mental health counseling and consultation;
4 (x) clinical instruction; and
5 (xi) completion of a minimum one year supervised internship or practi-
6 cum in mental health counseling;

7 c. Experience: An applicant shall complete a minimum of three thousand
8 hours of post-master's supervised experience relevant to the practice of
9 mental health counseling satisfactory to the board and in accordance
10 with the commissioner's regulations. Satisfactory experience obtained in
11 an entity operating under a waiver issued by the department pursuant to
12 section sixty-five hundred three-a of this article may be accepted by
13 the department, notwithstanding that such experience may have been
14 obtained prior to the effective date of such section sixty-five hundred
15 three-a of this article and/or prior to the entity having obtained a
16 waiver. The department may, for good cause shown, accept satisfactory
17 experience that was obtained in a setting that would have been eligible
18 for a waiver but which has not obtained a waiver from the department or
19 experience that was obtained in good faith by the applicant under the
20 belief that appropriate authorization had been obtained for the experi-
21 ence, provided that such experience meets all other requirements for
22 acceptable experience;

23 d. Examination: Pass an examination satisfactory to the board and in
24 accordance with the commissioner's regulations;

25 e. Age: Be at least twenty-one years of age;

26 f. Character: Be of good moral character as determined by the depart-
27 ment; and

28 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
29 license and a fee of one hundred seventy dollars for each triennial
30 registration period.

31 § 8403. Marriage and family therapy. 1. The practice of the profession
32 of marriage and family therapy is defined as:

33 a. the assessment and treatment of nervous and mental disorders,
34 whether affective, cognitive or behavioral, which results in dysfunc-
35 tional interpersonal family relationships including, but not limited to
36 familial relationships, marital/couple relationships, parent-child
37 relationships, pre-marital and other personal relationships;

38 b. the use of mental health counseling, psychotherapy and therapeutic
39 techniques to evaluate and treat marital, relational, and family
40 systems, and individuals in relationship to these systems;

41 c. the use of mental health counseling and psychotherapeutic tech-
42 niques to treat mental, emotional and behavioral disorders and ailments
43 within the context of marital, relational and family systems to prevent
44 and ameliorate dysfunction; and

45 d. the use of assessment instruments and mental health counseling and
46 psychotherapy to identify and evaluate dysfunctions and disorders for
47 purposes of providing appropriate marriage and family therapy services.

48 2. Only a person licensed or exempt under this title shall practice
49 marriage and family therapy or use the title "marriage and family thera-
50 pist". Only a person licensed under this title shall use the titles
51 "licensed marriage and family therapist", "licensed marriage therapist",
52 "licensed family therapist" or any other designation tending to imply
53 that the person is licensed to practice marriage and family therapy.

54 3. Requirements for a professional license. To qualify for a license
55 as a "licensed marriage and family therapist", an applicant shall
56 fulfill the following requirements:

1 a. Application: File an application with the department;
2 b. Education: Have received a master's or doctoral degree in marriage
3 and family therapy from a program registered by the department, or
4 determined by the department to be the substantial equivalent, in
5 accordance with the commissioner's regulations or a graduate degree in
6 an allied field from a program registered by the department and graduate
7 level coursework determined to be equivalent to that required in a
8 program registered by the department. This coursework shall include,
9 but not be limited to:
10 (i) the study of human development, including individual, child and
11 family development;
12 (ii) psychopathology;
13 (iii) marital and family therapy;
14 (iv) family law;
15 (v) research;
16 (vi) professional ethics; and
17 (vii) a practicum of at least three hundred client contact hours;
18 c. Experience: The completion of at least one thousand five hundred
19 client contact hours of supervised clinical experience, by persons hold-
20 ing a degree from a master's or doctoral program, or the substantial
21 equivalent, in accordance with the commissioner's regulations or the
22 completion of at least one thousand five hundred client hours of super-
23 vised post-master's clinical experience in marriage and family therapy
24 satisfactory to the department in accordance with the commissioner's
25 regulations. Satisfactory experience obtained in an entity operating
26 under a waiver issued by the department pursuant to section sixty-five
27 hundred three-a of this article may be accepted by the department,
28 notwithstanding that such experience may have been obtained prior to the
29 effective date of such section sixty-five hundred three-a of this arti-
30 cle and/or prior to the entity having obtained a waiver. The department
31 may, for good cause shown, accept satisfactory experience that was
32 obtained in a setting that would have been eligible for a waiver but
33 which has not obtained a waiver from the department or experience that
34 was obtained in good faith by the applicant under the belief that appro-
35 priate authorization had been obtained for the experience, provided that
36 such experience meets all other requirements for acceptable experience;
37 d. Examination: Pass an examination satisfactory to the board and in
38 accordance with the commissioner's regulations;
39 e. Age: Be at least twenty-one years of age;
40 f. Character: Be of good moral character as determined by the depart-
41 ment; and
42 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
43 license and a fee of one hundred seventy dollars for each triennial
44 registration period.
45 § 8404. Creative arts therapy. 1. The practice of the profession of
46 creative arts therapy is defined as:
47 a. the assessment, evaluation, and the therapeutic intervention and
48 treatment, which may be either primary, parallel or adjunctive, of
49 mental, emotional, developmental and behavioral disorders through the
50 use of the arts as approved by the department; and
51 b. the use of assessment instruments and mental health counseling and
52 psychotherapy to identify, evaluate and treat dysfunctions and disorders
53 for purposes of providing appropriate creative arts therapy services.
54 2. Only a person licensed or exempt under this title shall practice
55 creative arts therapy or use the title "creative arts therapist". Only a
56 person licensed under this title shall use the title "licensed creative

1 arts therapist" or any other designation tending to imply that the
2 person is licensed to practice creative arts therapy.

3 3. Requirements for a professional license. To qualify for a license
4 as a "licensed creative arts therapist", an applicant shall fulfill the
5 following requirements:

6 a. Application: File an application with the department;

7 b. Education: Have received an education, including a master's or
8 higher degree in creative arts therapy from a program registered by the
9 department or determined by the department to be the substantial equiv-
10 alent thereof, in accordance with the commissioner's regulations. The
11 graduate coursework shall include, but not be limited to, the following
12 areas:

13 (i) human growth and development;

14 (ii) theories in therapy;

15 (iii) group dynamics;

16 (iv) assessment and appraisal of individuals and groups;

17 (v) research and program evaluation;

18 (vi) professional orientation and ethics;

19 (vii) foundations of creative arts therapy and psychopathology; and

20 (viii) clinical instruction;

21 c. Experience: Have completed at least fifteen hundred hours of post-
22 master's supervised experience in one or more creative arts therapies
23 satisfactory to the department and in accordance with the commissioner's
24 regulations. Satisfactory experience obtained in an entity operating
25 under a waiver issued by the department pursuant to section sixty-five
26 hundred three-a of this article may be accepted by the department,
27 notwithstanding that such experience may have been obtained prior to the
28 effective date of such section sixty-five hundred three-a of this arti-
29 cle and/or prior to the entity having obtained a waiver. The department
30 may, for good cause shown, accept satisfactory experience that was
31 obtained in a setting that would have been eligible for a waiver but
32 which has not obtained a waiver from the department or experience that
33 was obtained in good faith by the applicant under the belief that appro-
34 priate authorization had been obtained for the experience, provided that
35 such experience meets all other requirements for acceptable experience;

36 d. Examination: Pass an examination in creative arts therapy satisfac-
37 tory to the department and in accordance with the commissioner's regu-
38 lations;

39 e. Age: Be at least twenty-one years of age;

40 f. Character: Be of good moral character as determined by the depart-
41 ment; and

42 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
43 license and a fee of one hundred seventy dollars for each triennial
44 registration period.

45 § 8405. Psychoanalysis. 1. The practice of the profession of psycho-
46 analysis is defined as:

47 a. the observation, description, evaluation, and interpretation of
48 dynamic unconscious mental processes that contribute to the formation of
49 personality and behavior in order to identify and resolve unconscious
50 psychic problems which affect interpersonal relationships and emotional
51 development, to facilitate changes in personality and behavior through
52 the use of verbal and nonverbal cognitive and emotional communication,
53 and to develop adaptive functioning; and

54 b. the use of assessment instruments and mental health counseling and
55 psychotherapy to identify, evaluate and treat dysfunctions and disorders
56 for purposes of providing appropriate psychoanalytic services.

1 2. Only a person licensed or exempt under this title shall practice
2 psychoanalysis or use the title "psychoanalyst". Only a person licensed
3 under this title shall use the title "licensed psychoanalyst" or any
4 other designation tending to imply that the person is licensed to prac-
5 tice psychoanalysis.

6 3. Requirements for a professional license. To qualify for a license
7 as a "licensed psychoanalyst", an applicant shall fulfill the following
8 requirements:

9 a. Application: File an application with the department;

10 b. Education: Have received a master's degree or higher from a
11 degree-granting program registered by the department or the substantial
12 equivalent and have completed a program of study registered by the
13 department in a psychoanalytic institute chartered by the department or
14 the substantial equivalent as determined by the department. The program
15 of study in a psychoanalytic institute shall include coursework substan-
16 tially equivalent to coursework required for a master's degree in a
17 health or mental health field of study. The coursework shall include,
18 but not be limited to, the following areas:

19 (i) personality development;

20 (ii) psychoanalytic theory of psychopathology;

21 (iii) psychoanalytic theory of psychodiagnosis;

22 (iv) sociocultural influence on growth and psychopathology;

23 (v) practice technique (including dreams and symbolic processes);

24 (vi) analysis of resistance, transference, and countertransference;

25 (vii) case seminars on clinical practice;

26 (viii) practice in psychopathology and psychodiagnosis;

27 (ix) professional ethics and psychoanalytic research methodology; and

28 (x) a minimum of three hundred hours of personal analysis and one
29 hundred fifty hours of supervised analysis;

30 c. Experience: Have completed a minimum of fifteen hundred hours of
31 supervised clinical practice satisfactory to the department and in
32 accordance with the commissioner's regulations. Satisfactory experience
33 obtained in an entity operating under a waiver issued by the department
34 pursuant to section sixty-five hundred three-a of this article may be
35 accepted by the department, notwithstanding that such experience may
36 have been obtained prior to the effective date of such section sixty-
37 five hundred three-a and/or prior to the entity having obtained a waiv-
38 er. The department may, for good cause shown, accept satisfactory expe-
39 rience that was obtained in a setting that would have been eligible for
40 a waiver but which has not obtained a waiver from the department or
41 experience that was obtained in good faith by the applicant under the
42 belief that appropriate authorization had been obtained for the experi-
43 ence, provided that such experience meets all other requirements for
44 acceptable experience;

45 d. Examination: Pass an examination in psychoanalysis satisfactory to
46 the department and in accordance with the commissioner's regulations;

47 e. Age: Be at least twenty-one years of age;

48 f. Character: Be of good moral character as determined by the depart-
49 ment; and

50 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial
51 license and a fee of one hundred seventy dollars for each triennial
52 registration period.

53 § 8406. State board for mental health practitioners. A state board for
54 mental health practitioners shall be appointed by the commissioner for
55 the purpose of assisting the department on matters of licensing and
56 regulation. The board shall be composed of at least three licensed

1 members from each profession licensed pursuant to this title and at
2 least three public representatives who do not hold interests in the
3 organization, financing, or delivery of mental health services. Addi-
4 tionally, the board shall contain one physician who shall be a psychia-
5 trist. Members of the first board need not be licensed prior to their
6 appointment to the board. The terms of the first appointed members shall
7 be staggered so that five are appointed for three years, five are
8 appointed for four years, and six are appointed for five years. An exec-
9 utive secretary to the board shall be appointed by the commissioner.

10 § 8407. Boundaries of professional competency. 1. It shall be deemed
11 practicing outside the boundaries of his or her professional competence
12 for a person licensed pursuant to this title, in the case of treatment
13 of any serious mental illness, to provide any mental health service for
14 such illness on a continuous and sustained basis without a medical eval-
15 uation of the illness by, and consultation with, a physician regarding
16 such illness. Such medical evaluation and consultation shall be to
17 determine and advise whether any medical care is indicated for such
18 illness. For purposes of this section, "serious mental illness" means
19 schizophrenia, schizoaffective disorder, bipolar disorder, major depres-
20 sive disorder, panic disorder, obsessive-compulsive disorder, atten-
21 tion-deficit hyperactivity disorder and autism.

22 2. Any individual whose license or authority to practice derives from
23 the provisions of this title shall be prohibited from:

24 a. prescribing or administering drugs as defined in this chapter as a
25 treatment, therapy, or professional service in the practice of his or
26 her profession; or

27 b. using invasive procedures as a treatment, therapy, or professional
28 service in the practice of his or her profession. For purposes of this
29 subdivision, "invasive procedure" means any procedure in which human
30 tissue is cut, altered, or otherwise infiltrated by mechanical or other
31 means. Invasive procedure includes surgery, lasers, ionizing radiation,
32 therapeutic ultrasound, or electroconvulsive therapy.

33 § 8408. Hospital privileges. Nothing in this title shall be deemed to
34 authorize, grant, or extend hospital privileges to individuals licensed
35 under this title.

36 § 8409. Limited permits. The following requirements for a limited
37 permit shall apply to all professions licensed pursuant to this title:

38 1. The department may issue a limited permit to an applicant who meets
39 all qualifications for licensure, except the examination and/or experi-
40 ence requirements, in accordance with regulations promulgated therefor.

41 2. Limited permits shall be for two years; such limited permits may be
42 renewed, at the discretion of the department, for up to two additional
43 one year periods.

44 3. The fee for each limited permit and for each renewal shall be
45 seventy dollars.

46 § 8410. Exemptions. Nothing contained in this title shall be construed
47 to:

48 1. Apply to the practice, conduct, activities, services or use of any
49 title by any person licensed or otherwise authorized to practice medi-
50 cine within the state pursuant to title two of this article or by any
51 person registered to perform services as a physician assistant within
52 the state pursuant to title four of this article or by any person
53 licensed or otherwise authorized to practice psychology within this
54 state pursuant to title seventeen of this article or by any person
55 licensed or otherwise authorized to practice social work within this
56 state pursuant to title eighteen of this article, or by any person

1 licensed or otherwise authorized to practice nursing as a registered
2 professional nurse or nurse practitioner within this state pursuant to
3 title twelve of this article or by any person licensed or otherwise
4 authorized to practice applied behavior analysis within the state pursu-
5 ant to title twenty-nine of this article; provided, however, that no
6 physician, physician's assistant, registered professional nurse, nurse
7 practitioner, psychologist, licensed master social worker, licensed
8 clinical social worker, licensed behavior analyst or certified behavior
9 analyst assistant may use the titles "licensed mental health counselor",
10 "licensed marriage and family therapist", "licensed creative arts thera-
11 pist", or "licensed psychoanalyst", unless licensed under this article;

12 2. Prohibit or limit any individual who is credentialed under any law,
13 including attorneys, rape crisis counselors, certified alcoholism coun-
14 selors and certified substance abuse counselors from providing mental
15 health services within their respective established authorities;

16 3. Prohibit or limit the practice of a profession licensed pursuant to
17 this title by a student, intern or resident in, and as part of, a super-
18 vised educational program in an institution approved by the department;

19 4. Prohibit or limit the provision of pastoral counseling services by
20 any member of the clergy or Christian Science practitioner, within the
21 context of his or her ministerial charge or obligation;

22 5. Prohibit or limit individuals, churches, schools, teachers, organ-
23 izations, or not-for-profit businesses, from providing instruction,
24 advice, support, encouragement, or information to individuals, families,
25 and relational groups;

26 6. Prohibit or limit an occupational therapist from performing work
27 consistent with title twenty of this article;

28 7. Prohibit the practice of mental health counseling, marriage and
29 family therapy, creative arts therapy or psychoanalysis, to the extent
30 permissible within the scope of practice of such professions, by any
31 not-for-profit corporation or education corporation providing services
32 within the state of New York and operating under a waiver pursuant to
33 section sixty-five hundred three-a of this title, provided that such
34 entities offering mental health counseling, marriage and family therapy,
35 creative arts therapy or psychoanalysis services shall only provide such
36 services through an individual appropriately licensed or otherwise
37 authorized to provide such services or a professional entity authorized
38 by law to provide such services;

39 8. a. Prevent a person without a license from: performing assessments
40 including but not limited to basic information collection, gathering of
41 demographic data, and informal observations, screening and referral used
42 for general eligibility for a program or service and determining the
43 functional status of an individual for the purpose of determining need
44 for services; advising individuals regarding the appropriateness of
45 benefits they are eligible for; providing general advice and guidance
46 and assisting individuals or groups with difficult day to day problems
47 such as finding employment, locating sources of assistance, and organiz-
48 ing community groups to work on a specific problem; providing peer
49 services; selecting for suitability and providing substance abuse treat-
50 ment services or group re-entry services to incarcerated individuals in
51 state correctional facilities; or providing substance abuse treatment
52 services or re-entry services to incarcerated individuals in local
53 correctional facilities.

54 b. Prevent a person without a license from creating, developing or
55 implementing a service plan or recovery plan that is not a behavioral
56 health diagnosis or treatment plan. Such service or recovery plans shall

1 include, but are not limited to, coordinating, evaluating or determining
2 the need for, or the provision of the following services: job training
3 and employability; housing; homeless services and shelters for homeless
4 individuals and families; refugee services; residential, day or communi-
5 ty habilitation services; general public assistance; in home services
6 and supports or home-delivered meals; recovery supports; adult or child
7 protective services including investigations; detention as defined in
8 section five hundred two of the executive law; prevention and residen-
9 tial services for victims of domestic violence; services for runaway and
10 homeless youth; foster care, adoption, preventive services or services
11 in accordance with an approved plan pursuant to section four hundred
12 four of the social services law, including, adoption and foster home
13 studies and assessments, family service plans, transition plans, perman-
14 ency planning activities, and case planning or case management as such
15 terms are defined in the regulations of the office of children and fami-
16 ly services; residential rehabilitation; home and community based
17 services; and de-escalation techniques, peer services or skill develop-
18 ment.

19 c. (i) Prevent a person without a license from participating as a
20 member of a multi-disciplinary team to assist in the development of or
21 implementation of a behavioral health services or treatment plan;
22 provided that such team shall include one or more professionals licensed
23 under this title or titles two, twelve, seventeen or eighteen of this
24 article; and provided, further, that the activities performed by members
25 of the team shall be consistent with the scope of practice for each team
26 member licensed or authorized under this article, and those who are not
27 so authorized may not engage in the following restricted practices: the
28 diagnosis of mental, emotional, behavioral, addictive and developmental
29 disorders and disabilities; patient assessment and evaluating; the
30 provision of psychotherapeutic treatment; the provision of treatment
31 other than psychotherapeutic treatment; or independently developing and
32 implementing assessment-based treatment plans as defined in section
33 seventy-seven hundred one of this chapter.

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

42 (A) helping an individual with the completion of forms or question-
43 naires;

44 (B) reviewing existing case records and collecting background informa-
45 tion about an individual which may be used by the licensed professional
46 or multi-disciplinary team;

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

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

54 (E) providing advice, information, and assistance to individuals and
55 family members to identify needs and available resources in the communi-
56 ty to help meet the needs of the individual or family member;

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

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

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

11 (I) identifying gaps in services and coordinating access to or arrang-
12 ing services for individuals such as home care, community based
13 services, housing, employment, transportation, child care, vocational
14 training, or health care;

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

18 (K) reporting on behavior, actions, and responses to treatment by
19 collecting written and/or observational data as part of a multi-disci-
20 plinary team;

21 (L) using de-escalation techniques consistent with appropriate train-
22 ing;

23 (M) performing assessments using standardized, structured interview
24 tools or instruments;

25 (N) directly delivering services outlined in the service plan that are
26 not clinical in nature but have been tailored to an individual based on
27 any diagnoses such individual may have received from a licensed profes-
28 sional; and

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

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

35 9. Notwithstanding any other provision of law to the contrary, nothing
36 in this title shall be construed to prohibit or limit the activities or
37 services provided under this title by any person who is employed or who
38 commences employment in a program or service operated, regulated, fund-
39 ed, or approved by the department of mental hygiene, the office of chil-
40 dren and family services, the department of corrections and community
41 supervision, the office of temporary and disability assistance, the
42 state office for the aging and the department or a local governmental
43 unit as that term is defined in section 41.03 of the mental hygiene law
44 or a social services district as defined in section sixty-one of the
45 social services law on or before two years from the date that the regu-
46 lations issued in accordance with section six of part Y of chapter
47 fifty-seven of the laws of two thousand eighteen appear in the state
48 register or are adopted, whichever is later. Such prohibitions or limi-
49 tations shall not apply to such employees for as long as they remain
50 employed by such programs or services and whether they remain employed
51 by the same or other employers providing such programs or services.
52 Provided however, that any person who commences employment in such
53 program or service after such date and performs services that are
54 restricted under this title shall be appropriately licensed or author-
55 ized under this title. Each state oversight agency shall create and

1 maintain a process to verify employment history of individuals exempt
2 under this subdivision.

3 10. The activities or services provided by a person with a master's
4 level degree required for licensure pursuant to this title, working
5 under the supervision of a professional licensed pursuant to title
6 seventeen or eighteen of this article in a program or service operated,
7 regulated, funded, or approved by the department of mental hygiene, the
8 office of children and family services, the department of corrections
9 and community supervision, the office of temporary and disability
10 assistance, the state office for the aging and the department or a local
11 government unit as that term is defined in section 41.03 of the mental
12 hygiene law or a social services district as defined in section sixty-
13 one of the social services law.

14 § 8411. Special provisions. 1. This section shall apply to all
15 professions licensed pursuant to this title, unless otherwise provided.

16 2. Any nonexempt person practicing a profession to be licensed pursu-
17 ant to this title shall apply for a license of said profession within
18 one year of the effective date of the specified profession.

19 a. If such person does not meet the requirements for a license estab-
20 lished within this title, such person may meet alternative criteria
21 determined by the department to be the substantial equivalent of such
22 criteria.

23 b. If such person meets the requirements for a license established
24 within this title, except for examination, and has been certified or
25 registered by a national certifying or registering body having certif-
26 ication or registration standards acceptable to the commissioner, the
27 department shall license without examination.

28 c. If such person meets the requirements for a license established
29 within this title, except for examination, and there exists no national
30 certifying or registering body having certification or registration
31 standards acceptable to the commissioner, the department shall license
32 without examination if the applicant submits evidence satisfactory to
33 the department of having been engaged in the practice of the specified
34 profession for at least five of the immediately preceding eight years.

35 3. Any person licensed pursuant to this title may use accepted classi-
36 fications of signs, symptoms, dysfunctions and disorders, as approved in
37 accordance with regulations promulgated by the department, in the prac-
38 tice of such licensed profession.

39 § 8412. Mandatory continuing education. 1. a. Each licensed mental
40 health counselor, marriage and family therapist, psychoanalyst, and
41 creative arts therapist required under this title to register triennial-
42 ly with the department to practice in this state, shall comply with the
43 provisions of mandatory continuing education requirements prescribed in
44 subdivision two of this section, except as set forth in paragraphs b and
45 c of this subdivision. Licensed mental health counselors, marriage and
46 family therapists, psychoanalysts, and creative arts therapists who do
47 not satisfy the mandatory continuing education requirements shall not
48 practice until they have met such requirements, and they have been
49 issued a registration certificate, except that a licensed mental health
50 counselor, marriage and family therapist, psychoanalyst, and creative
51 arts therapist may practice without having met such requirements if he
52 or she is issued a conditional registration certificate pursuant to
53 subdivision three of this section.

54 b. Each licensed mental health counselor, marriage and family thera-
55 pist, psychoanalyst, and creative arts therapist shall be exempt from
56 the mandatory continuing education requirements for the triennial regis-

1 tration period during which they are first licensed. In accordance with
2 the intent of this section, adjustment to the mandatory continuing
3 education requirement may be granted by the department for reasons of
4 health that are certified by an appropriate health care professional,
5 for extended active duty with the armed forces of the United States, or
6 for other good cause acceptable to the department which may prevent
7 compliance.

8 c. A licensed mental health counselor, marriage and family therapist,
9 psychoanalyst, and creative arts therapist not engaged in practice, as
10 determined by the department, shall be exempt from the mandatory contin-
11 uing education requirement upon the filing of a statement with the
12 department declaring such status. Any licensee who returns to the prac-
13 tice of mental health counseling, marriage and family therapy, psycho-
14 analysis, and creative arts therapy during the triennial registration
15 period shall notify the department prior to reentering the profession
16 and shall meet such mandatory education requirements as shall be
17 prescribed by regulations of the commissioner.

18 2. During each triennial registration period an applicant for regis-
19 tration as a licensed mental health counselor, marriage and family ther-
20 apist, psychoanalyst, and creative arts therapist shall complete a mini-
21 mum of thirty-six hours of acceptable formal continuing education, a
22 maximum of twelve hours of which may be self-instructional course work
23 acceptable to the department. Any licensed mental health counselor,
24 marriage and family therapist, psychoanalyst, and creative arts thera-
25 pist whose first registration date following the effective date of this
26 section occurs less than three years from such effective date, but on or
27 after January first, two thousand seventeen, shall complete continuing
28 education hours on a prorated basis at the rate of one hour per month
29 for the period beginning January first, two thousand seventeen up to the
30 first registration date thereafter. A licensee who has not satisfied the
31 mandatory continuing education requirement shall not be issued a trien-
32 nal registration certificate by the department and shall not practice
33 unless and until a conditional registration certificate is issued as
34 provided for in subdivision three of this section. Continuing education
35 hours taken during one triennium may not be transferred to the subse-
36 quent triennium.

37 3. a. The department, in its discretion, may issue a conditional
38 registration to a licensee who fails to meet the continuing education
39 requirements established in subdivision two of this section but who
40 agrees to make up any deficiencies and complete any additional education
41 which the department may require. The fee for such a conditional regis-
42 tration shall be the same as, and in addition to, the fee for the trien-
43 nal registration. The duration of such conditional registration shall
44 be determined by the department but shall not exceed one year. Any
45 licensee who is notified of the denial of registration for failure to
46 submit evidence, satisfactory to the department, of required continuing
47 education and who practices without such registration may be subject to
48 disciplinary proceedings pursuant to section sixty-five hundred ten of
49 this article.

50 b. For purposes of this section "acceptable formal education" shall
51 mean formal courses of learning which contribute to professional prac-
52 tice in mental health counseling, marriage and family therapy, psycho-
53 analysis, or creative arts therapies and which meet the standards
54 prescribed by regulations of the commissioner. Such formal courses of
55 learning shall include, but not be limited to, collegiate level credit
56 and non-credit courses, professional development programs and technical

sessions offered by national, state and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Continuing education courses must be taken from a provider who has been approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Licensed mental health counselors, marriage and family therapists, psychoanalysts, and creative arts therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

c. The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fees required by paragraph g of subdivision three of section eighty-four hundred two of this title and paragraph g of subdivision three of section eighty-four hundred five of this title.

TITLE 26

RESPIRATORY THERAPISTS AND RESPIRATORY THERAPY TECHNICIANS

Section 8500. Introduction.

8501. Definition of the practice of respiratory therapy.

8502. Practice of respiratory therapy and use of the title "respiratory therapist".

8503. State board for respiratory therapy.

8504. Requirements for licensure as a respiratory therapist.

8504-a. Mandatory continuing education for respiratory therapists.

8505. Exempt persons.

8506. Limited permits.

8507. Special provisions.

8508. Definition of the practice of respiratory therapy technician.

8509. Duties of respiratory therapy technicians and use of the title "respiratory therapy technician".

8510. Requirements for licensure as a respiratory therapy technician.

8510-a. Mandatory continuing education for respiratory therapy technicians.

8511. Limited permits.

8512. Exempt persons.

8513. Special provisions.

§ 8500. Introduction. This title applies to the practice of respiratory therapy and provides for the licensing of respiratory therapists and respiratory therapy technicians. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 8501. Definition of the practice of respiratory therapy. The practice of the profession of respiratory therapy, which shall be undertaken pursuant to the direction of a duly licensed physician, is defined as

1 the performance of cardiopulmonary evaluation, respiratory therapy
2 treatment techniques, and education of the patient, family and public.

3 1. Evaluation shall include the acquisition, analysis and interpreta-
4 tion of data obtained from physiological specimens, performing diagnos-
5 tic tests, studies and research of the cardiopulmonary system and neuro-
6 physiological studies related to respiratory care.

7 2. Therapy shall include the application and monitoring of medical
8 gases (excluding anesthetic gases) and environmental control systems,
9 mechanical ventilatory support, artificial airway care, bronchopulmonary
10 hygiene, pharmacologic agents related to respiratory care procedures,
11 and cardiopulmonary rehabilitation related and limited to respiratory
12 care.

13 3. Respiratory therapy services may be performed pursuant to a
14 prescription of a licensed physician or certified nurse practitioner.

15 § 8502. Practice of respiratory therapy and use of the title "respir-
16 atory therapist". 1. Only a person licensed or exempt under this title
17 shall practice respiratory therapy or use the title "respiratory thera-
18 pist".

19 2. A licensed respiratory therapist may supervise respiratory therapy
20 technicians in the practice of their profession in such capacities as
21 are prescribed by law and as from time to time may be set by the commis-
22 sioner.

23 § 8503. State board for respiratory therapy. A state board for respir-
24 atory therapy shall be appointed by the recommendation of the commis-
25 sioner for the purpose of assisting the department on matters of profes-
26 sional licensing and conduct in accordance with section sixty-five
27 hundred eight of this article. The board shall be composed of not less
28 than five licensed respiratory therapists, two licensed respiratory
29 therapy technicians, and four additional members who shall include at
30 least one licensed physician and at least one public member. Members of
31 the first board who are respiratory therapy practitioners need not be
32 licensed prior to appointment on the board, provided, however, that the
33 first appointed respiratory therapists shall be registered by a national
34 certifying or accrediting board, acceptable to the department and the
35 first appointed respiratory therapy technicians shall be certified by a
36 national certifying or accrediting board, acceptable to the department.
37 An executive secretary to the board shall be appointed by the commis-
38 sioner.

39 § 8504. Requirements for licensure as a respiratory therapist. To
40 qualify for a license as a respiratory therapist, an applicant shall
41 fulfill the following requirements:

42 1. Application: file an application with the department;

43 2. Education: have received an education, including completion of an
44 approved associate degree program in respiratory therapy or in a program
45 determined by the department to be the equivalent;

46 3. Experience: have experience satisfactory to the board and in
47 accordance with the commissioner's regulations;

48 4. Examination: pass an examination satisfactory to the board and in
49 accordance with the commissioner's regulations;

50 5. Age: be at least eighteen years of age;

51 6. Character: be of good moral character as determined by the depart-
52 ment; and

53 7. Fees: pay a fee of one hundred seventy-five dollars to the depart-
54 ment for admission to a department conducted examination and for an
55 initial license; a fee of eighty-five dollars for each re-examination; a
56 fee of one hundred fifteen dollars for an initial license for persons

1 not requiring admission to a department conducted examination and a fee
2 of one hundred fifty-five dollars for each triennial registration period
3 commencing on and after June first, nineteen hundred ninety-three.

4 § 8504-a. Mandatory continuing education for respiratory therapists.

5 1. a. Each licensed respiratory therapist required under this title to
6 register triennially with the department to practice in the state shall
7 comply with provisions of the mandatory continuing education require-
8 ments prescribed in subdivision two of this section except as set forth
9 in paragraphs b and c of this subdivision. Respiratory therapists who do
10 not satisfy the mandatory continuing education requirement shall not
11 practice until they have met such requirements, and have been issued a
12 registration certificate, except that a respiratory therapist may prac-
13 tice without having met such requirements if he or she is issued a
14 conditional registration certificate pursuant to subdivision three of
15 this section.

16 b. Respiratory therapists shall be exempt from the mandatory continu-
17 ing education requirement for the triennial registration period during
18 which they are first licensed. In accord with the intent of this
19 section, adjustment to the mandatory continuing education requirement
20 may be granted by the department for reasons of health, certified by an
21 appropriate health care professional, for extended active duty with the
22 armed forces of the United States, or for other good cause acceptable to
23 the department which may prevent compliance.

24 c. A licensed respiratory therapist not engaged in practice as deter-
25 mined by the department, shall be exempt from the mandatory continuing
26 education requirement upon the filing of a statement with the department
27 declaring such status. Any licensee who returns to their respective
28 practice as a respiratory therapist during the triennial registration
29 period shall notify the department prior to reentering the profession
30 and shall meet such mandatory education requirements as shall be
31 prescribed by regulations of the commissioner.

32 2. During each triennial registration period an applicant for regis-
33 tration as a respiratory therapist shall complete a minimum of thirty
34 hours of acceptable formal continuing education, as specified in subdi-
35 vision four of this section, provided that no more than fifteen hours of
36 such continuing education shall consist of self-study courses. Any
37 respiratory therapist whose first registration date following the effec-
38 tive date of this section occurs less than three years from such effec-
39 tive date, but on or after January first, two thousand one, shall
40 complete continuing education hours on a prorated basis at the rate of
41 five-sixths of one hour per month for the period beginning January
42 first, two thousand up to the first registration date thereafter. A
43 licensee who has not satisfied the mandatory continuing education
44 requirements shall not be issued a triennial registration certificate by
45 the department and shall not practice unless and until a conditional
46 registration certificate is issued as provided for in subdivision three
47 of this section. With the exception of continuing education hours
48 completed during the registration period immediately preceding the
49 effective date of this section, continuing education hours completed
50 during one triennium may not be transferred to a subsequent triennium.

51 3. The department, in its discretion, may issue a conditional regis-
52 tration to a licensee who fails to meet the continuing education
53 requirements established in subdivision two of this section but who
54 agrees to make up any deficiencies and complete any additional education
55 which the department may require. The fee for such a conditional regis-
56 tration shall be the same as, and in addition to, the fee for the trien-

1 nial registration. The duration of such conditional registration shall
2 be determined by the department but shall not exceed one year. Any
3 licensee who is notified of the denial of registration for failure to
4 submit evidence, satisfactory to the department, of required continuing
5 education and who practices as a respiratory therapist without such
6 registration, may be subject to disciplinary proceedings pursuant to
7 section sixty-five hundred ten of this article.

8 4. As used in subdivision two of this section, "acceptable formal
9 continuing education" for respiratory therapy shall mean formal courses
10 of learning which contribute to professional practice in respiratory
11 therapy and which meet the standards prescribed by regulations of the
12 commissioner. The department may, in its discretion and as needed to
13 contribute to the health and welfare of the public, require the
14 completion of continuing education courses in specific subjects.

15 5. Respiratory therapists shall maintain adequate documentation of
16 completion of acceptable formal continuing education and shall provide
17 such documentation at the request of the department.

18 6. The mandatory continuing education fee for respiratory therapists
19 shall be thirty dollars, shall be payable on or before the first day of
20 each triennial registration period, and shall be paid in addition to the
21 triennial registration fee required by section eighty-five hundred four
22 of this title.

23 § 8505. Exempt persons. This title shall not prohibit:

24 1. The practice of respiratory therapy as an integral part of a
25 program of study by students enrolled in approved respiratory therapy
26 education programs;

27 2. The performance of any of the modalities included in the definition
28 of respiratory therapy by any other duly licensed, certified or regis-
29 tered health care provider, provided that such modalities are within the
30 scope of his or her practice;

31 3. Unlicensed assistants from being employed in a hospital, as defined
32 in article twenty-eight of this chapter, for purposes other than the
33 practice of respiratory therapy;

34 4. The practice of respiratory therapy by any legally qualified
35 respiratory therapy practitioner of any other state or territory who is
36 serving in the armed forces or the public health service of the United
37 States or who is employed by the veterans' administration, while engaged
38 in the performance of his or her duties.

39 5. The provision of polysomnographic technology services, as defined
40 by the commissioner, by an individual, under the direction and super-
41 vision of a licensed physician, who has obtained authorization issued by
42 the department. Such authorization shall be issued to individuals who
43 have met standards, including those relating to education, experience,
44 examination and character, as promulgated in regulations of the commis-
45 sioner. Such authorization shall be subject to the full disciplinary and
46 regulatory authority of the department, pursuant to this title, as if
47 such authorization were a professional license issued under this title.
48 The application fee for such authorization shall be three hundred
49 dollars. Each authorization holder shall register with the department
50 every three years and shall pay a registration fee of three hundred
51 dollars.

52 § 8506. Limited permits. Permits limited as to eligibility, practice
53 and duration shall be issued by the department to eligible applicants as
54 follows:

1 1. Eligibility. A person who fulfills all requirements for registra-
2 tion as a respiratory therapist except that relating to the examination
3 shall be eligible for a limited permit.

4 2. Limit of practice. All practice under a limited permit shall be
5 under the direct supervision of a licensed respiratory therapist physi-
6 cian specializing in pulmonary medicine, an anesthesiologist or an
7 otherwise legally authorized physician.

8 3. Duration. A limited permit shall expire one year from the date of
9 issuance or upon notice to the permittee by the department that the
10 application for licensure has been denied, or ten days after notifica-
11 tion to the permittee of failure on the professional licensing examina-
12 tion, whichever first occurs; provided, however, that if the permittee
13 is awaiting the results of a licensing examination at the time such
14 limited permit expires, such permit shall continue to be valid until ten
15 days after notification to the permittee of the result of such examina-
16 tion.

17 4. Fees. The fee for each limited permit shall be seventy dollars.

18 § 8507. Special provisions. A person shall be licensed without exam-
19 ination provided that, within one year of the effective date of this
20 title, the individual:

21 1. files an application and pays the appropriate fees to the depart-
22 ment; and

23 2. (a) is registered by a national certifying or accrediting board for
24 respiratory therapy acceptable to the department, or

25 (b) has practiced respiratory therapy in a hospital, as defined in
26 article twenty-eight of this chapter, in the state for not less than
27 three years within the last five years prior to the effective date of
28 this title, or

29 (c) has met the educational standards of a hospital, as defined in
30 article twenty-eight of this chapter, or, in the case of a hospital
31 operated by a public benefit corporation, has met the educational stand-
32 ards of such corporation, and has practiced as a respiratory therapist
33 for at least one year in such hospital.

34 § 8508. Definition of the practice of respiratory therapy technician.
35 A respiratory therapy technician means a person licensed in accordance
36 with this title who works under the supervision of a licensed respir-
37 atory therapist or a licensed or otherwise legally authorized physician
38 performing tasks and responsibilities within the framework of the prac-
39 tice of respiratory therapy.

40 § 8509. Duties of respiratory therapy technicians and use of the title
41 "respiratory therapy technician". Only a person licensed or otherwise
42 authorized under this title shall participate in the practice of respir-
43 atory therapy as a respiratory therapy technician and only a person
44 licensed under this title shall use the title "respiratory therapy tech-
45 nician".

46 § 8510. Requirements for licensure as a respiratory therapy techni-
47 cian. To qualify for a license as a respiratory therapy technician an
48 applicant shall fulfill the following requirements:

49 1. Application: file an application with the department;

50 2. Education: have received an education including completion of high
51 school or its equivalent and have completed an approved one-year certif-
52 icate respiratory therapy education program, or a program determined
53 equivalent, in accordance with the commissioner's regulations;

54 3. Experience: have experience satisfactory to the board and in
55 accordance with the commissioner's regulations;

1 4. Examination: pass an examination satisfactory to the board and in
2 accordance with the commissioner's regulations;

3 5. Age: be at least eighteen years of age;

4 6. Character: be of good moral character as determined by the depart-
5 ment; and

6 7. Fees: pay a fee of ninety dollars to the department for admission
7 to a department conducted examination and for an initial license; a fee
8 of sixty dollars for each re-examination; a fee of fifty dollars for an
9 initial license for persons not requiring admission to a department
10 conducted examination and a fee of ninety dollars for each triennial
11 registration period commencing on and after June first, nineteen hundred
12 ninety-three.

13 § 8510-a. Mandatory continuing education for respiratory therapy tech-
14 nicians. 1. a. Each licensed respiratory therapy technician required
15 under this title to register triennially with the department to practice
16 in the state shall comply with provisions of the mandatory continuing
17 education requirements prescribed in subdivision two of this section
18 except as set forth in paragraphs b and c of this subdivision. Respir-
19 atory therapy technicians who do not satisfy the mandatory continuing
20 education requirement shall not practice until they have met such
21 requirements, and have been issued a registration certificate, except
22 that a respiratory therapy technician may practice without having met
23 such requirements if he or she is issued a conditional registration
24 certificate pursuant to subdivision three of this section.

25 b. Respiratory therapy technicians shall be exempt from the mandatory
26 continuing education requirement for the triennial registration period
27 during which they are first licensed. In accord with the intent of this
28 section, adjustment to the mandatory continuing education requirement
29 may be granted by the department for reasons of health, certified by an
30 appropriate health care professional, for extended active duty with the
31 armed forces of the United States, or for other good cause acceptable to
32 the department which may prevent compliance.

33 c. A licensed respiratory therapy technician not engaged in practice
34 as determined by the department, shall be exempt from the mandatory
35 continuing education requirement upon the filing of a statement with the
36 department declaring such status. Any licensee who returns to their
37 respective practice as a respiratory therapy technician during the
38 triennial registration period shall notify the department prior to reen-
39 tering the profession and shall meet such mandatory education require-
40 ments as shall be prescribed by regulations of the commissioner.

41 2. During each triennial registration period an applicant for regis-
42 tration as a respiratory therapy technician shall complete a minimum of
43 twenty-four hours of acceptable formal continuing education, as speci-
44 fied in subdivision four of this section, provided that no more than
45 twelve hours of such continuing education shall consist of self-study
46 courses. Any respiratory therapy technician whose first registration
47 date following the effective date of this section occurs less than three
48 years from such effective date, but on or after January first, two thou-
49 sand one, shall complete continuing education hours on a prorated basis
50 at the rate of two-thirds of one hour per month for the period beginning
51 January first, two thousand up to the first registration date thereaft-
52 er. A licensee who has not satisfied the mandatory continuing education
53 requirements shall not be issued a triennial registration certificate by
54 the department and shall not practice unless and until a conditional
55 registration certificate is issued as provided for in subdivision three
56 of this section. With the exception of continuing education hours taken

1 during the registration period immediately preceding the effective date
2 of this section, continuing education hours completed during one trien-
3 num may not be transferred to a subsequent triennium.

4 3. The department, in its discretion, may issue a conditional regis-
5 tration to a licensee who fails to meet the continuing education
6 requirements established in subdivision two of this section but who
7 agrees to make up any deficiencies and complete any additional education
8 which the department may require. The fee for such a conditional regis-
9 tration shall be the same as, and in addition to, the fee for the trien-
10 nnial registration. The duration of such conditional registration shall
11 be determined by the department but shall not exceed one year. Any
12 licensee who is notified of the denial of registration for failure to
13 submit evidence, satisfactory to the department, of required continuing
14 education and who practices as a respiratory therapy technician without
15 such registration, may be subject to the disciplinary proceedings pursu-
16 ant to section sixty-five hundred ten of this article.

17 4. As used in subdivision two of this section, "acceptable formal
18 continuing education" for respiratory therapy technicians shall mean
19 formal courses of learning which contribute to professional practice as
20 a respiratory therapy technician and which meet the standards prescribed
21 by regulations of the commissioner. The department may, in its
22 discretion and as needed to contribute to the health and welfare of the
23 public, require the completion of continuing education courses in
24 specific subjects.

25 5. Respiratory therapy technicians shall maintain adequate documenta-
26 tion of completion of acceptable formal continuing education and shall
27 provide such documentation at the request of the department.

28 6. The mandatory continuing education fee for respiratory therapy
29 technicians shall be twenty-five dollars, shall be payable on or before
30 the first day of each triennial registration period, and shall be paid
31 in addition to the triennial registration fee required by section eight-
32 y-five hundred ten of this title.

33 § 8511. Limited permits. 1. Eligibility. The department may issue a
34 limited permit to an applicant for respiratory therapy technician who
35 meets all requirements for admission to the licensing examination.

36 2. Limit of practice. All practice under a limited permit shall be
37 under the direct supervision of a licensed respiratory therapist or a
38 licensed or otherwise legally authorized physician.

39 3. Duration. A limited permit shall expire one year from the date of
40 issuance or upon notice to the permittee by the department that the
41 application for registration has been denied, or ten days after notifi-
42 cation to the permittee of failure on the professional licensing exam-
43 ination, whichever first occurs; provided, however, that if the permit-
44 tee is awaiting the results of a licensing examination at the time such
45 limited permit expires, such permit shall continue to be valid until ten
46 days after notification to the permittee of the result of such examina-
47 tion.

48 4. Fees. The fee for each limited permit shall be fifty dollars.

49 § 8512. Exempt persons. This title shall not prohibit:

50 1. a respiratory therapy student or a respiratory therapy technician
51 student from engaging in clinical assistance under the supervision of a
52 licensed respiratory therapist or a licensed or otherwise legally
53 authorized physician as an integral part of a program of study by
54 students enrolled in an approved respiratory therapy technician program
55 or in a clinical facility or health care agency affiliated with the
56 program for respiratory therapy technicians; or

2. the performance of any of the tasks or responsibilities included in the definition of respiratory therapy technician by any other duly licensed, certified or registered health care provider, provided that such tasks or responsibilities are within the scope of his or her practice; or

3. unlicensed assistants from being employed in a hospital, as defined in article twenty-eight of this chapter, for purposes other than the practice of respiratory therapy technician; or

4. the practice of respiratory therapy by any legally qualified respiratory therapy practitioner of any other state or territory who is serving in the armed forces or the public health service of the United States or who is employed by the veterans' administration, while engaged in the performance of his or her duties.

§ 8513. Special provisions. A person shall be licensed without examination provided that, within one year of the effective date of this title, the individual:

1. files an application and pays the appropriate fees to the department; and

2. a. is certified by a national certifying or accrediting board for respiratory therapy technicians acceptable to the department, or

b. has practiced as a respiratory therapy technician in a hospital, as defined in article twenty-eight of this chapter, in the state for not less than two years within the last five years, or

c. has met the educational standards of a hospital, as defined in article twenty-eight of this chapter, or, in the case of a hospital operated by a public benefit corporation, has met the educational standards of such corporation, and has practiced as a respiratory therapy technician for at least one year in such hospital.

TITLE 27

CLINICAL LABORATORY TECHNOLOGY PRACTICE ACT

Section 8600. Introduction.

8601. Definition of the practice of clinical laboratory technology and clinical laboratory technology practitioner.

8602. Practice of clinical laboratory technology and cytotechnology and use of the titles "licensed clinical laboratory technologist" and "licensed cytotechnologist".

8603. Practice as a clinical laboratory technician and histological technician and the use of the titles "clinical laboratory technician" and "histological technician".

8604. State board for clinical laboratory technology.

8605. Requirements for a license as a clinical laboratory technologist or cytotechnologist.

8606. Requirements for certification as a clinical laboratory technician.

8606-a. Requirements for certification as a histological technician.

8607. Special provisions.

8608. Limited and provisional permits.

8609. Exempt persons.

8610. Restricted clinical laboratory licenses.

§ 8600. Introduction. This title defines the practice of clinical laboratory technology and provides for the licensing of clinical laboratory technologists and cytotechnologists and for the certification of clinical laboratory technicians and histological technicians. The gener-

1 al provisions for all professions contained in title one of this article
2 shall apply to this title.

3 § 8601. Definition of the practice of clinical laboratory technology
4 and clinical laboratory technology practitioner. 1. "Clinical laboratory
5 technology" means the performance of microbiological, virological, sero-
6 logical, chemical, immunohematological, hematological, biophysical,
7 cytogenetical, cytological or histological procedures and examinations
8 and any other test or procedure conducted by a laboratory as defined by
9 title five of article five of this chapter, on material derived from the
10 human body which provides information for the diagnosis, prevention or
11 treatment of a disease or assessment of a human medical condition.

12 2. A "clinical laboratory technology practitioner" means clinical
13 laboratory technologists, cytotechnologists, clinical laboratory techni-
14 cians, and histological technicians as such terms are defined in this
15 subdivision, who practice clinical laboratory technology in a licensed
16 clinical laboratory. For the purposes of this title, a licensed clin-
17 ical laboratory does not include a laboratory operated by any licensed
18 physician, dentist, podiatrist, midwife or certified nurse practitioner
19 who performs laboratory tests or procedures, personally or through his
20 or her employees, solely as an adjunct to the treatment of his or her
21 own patients.

22 a. "Clinical laboratory technologist" means a clinical laboratory
23 practitioner who, pursuant to established and approved protocols of the
24 department of health, performs clinical laboratory procedures and exam-
25 inations and any other tests or procedures conducted by a clinical labo-
26 ratory, including maintaining equipment and records, and performing
27 quality assurance activities related to examination performance, and
28 which require the exercise of independent judgment and responsibility,
29 as determined by the department.

30 b. "Cytotechnologist" means a clinical laboratory practitioner who,
31 pursuant to established and approved protocols of the department,
32 performs cytological procedures and examinations and any other such
33 tests including maintaining equipment and records and performing quality
34 assurance activities related to examination performance, and which
35 require the exercise of independent judgment and responsibility, as
36 determined by the department.

37 c. "Clinical laboratory technician" means a clinical laboratory prac-
38 titioner who performs clinical laboratory procedures and examinations
39 pursuant to established and approved protocols of the department, which
40 require limited exercise of independent judgment and which are performed
41 under the supervision of a clinical laboratory technologist, laboratory
42 supervisor, or director of a clinical laboratory.

43 d. "Histological technician" means a clinical laboratory practitioner
44 who pursuant to established and approved protocols of the department
45 performs slide based histological assays, tests, and procedures and any
46 other such tests conducted by a clinical histology laboratory, including
47 maintaining equipment and records and performing quality assurance
48 activities relating to procedure performance on histological testing of
49 human tissues and which requires limited exercise of independent judg-
50 ment and is performed under the supervision of a laboratory supervisor,
51 designated by the director of a clinical laboratory or under the super-
52 vision of the director of the clinical laboratory.

53 e. "Director of a clinical laboratory" means a director as that term
54 is defined in section five hundred seventy-one of this chapter.

55 f. "Laboratory supervisor" means an individual who, under the general
56 direction of the laboratory director, supervises technical personnel and

1 reporting of findings, performs tests requiring special scientific
2 skills, and, in the absence of the director, is responsible for the
3 proper performance of all laboratory procedures.

4 § 8602. Practice of clinical laboratory technology and cytotechnology
5 and use of the titles "licensed clinical laboratory technologist" and
6 "licensed cytotechnologist". No person shall practice clinical laborato-
7 ry technology or hold himself or herself out as a clinical laboratory
8 technologist or a cytotechnologist in this state unless he or she is
9 licensed or exempt pursuant to this title.

10 § 8603. Practice as a clinical laboratory technician and histological
11 technician and the use of the titles "clinical laboratory technician"
12 and "histological technician". No person shall practice as a clinical
13 laboratory technician or as a histological technician or hold himself or
14 herself out as a clinical laboratory technician or a histological tech-
15 nician in this state unless he or she is certified or exempt pursuant to
16 this title, provided that an individual licensed as a clinical laborato-
17 ry technologist, cytotechnologist, or clinical laboratory technician may
18 practice the profession of histological technician.

19 § 8604. State board for clinical laboratory technology. A state board
20 for clinical laboratory technology shall be appointed by the commission-
21 er for the purpose of assisting the department on matters of profes-
22 sional licensing and professional conduct in accordance with section
23 sixty-five hundred eight of this article. The board shall be composed of
24 twelve members, four of whom shall be licensed clinical laboratory tech-
25 nologists, two of whom shall be licensed cytotechnologists, one of whom
26 shall be a certified clinical laboratory technician, one of whom shall
27 be a certified histological technician, two members of the public, one
28 representative of the diagnostic/manufacturing industry, and one direc-
29 tor of a clinical laboratory who shall be a physician. An executive
30 secretary to the board shall be appointed by the commissioner. The clin-
31 ical laboratory practitioner members of the initial board need not be
32 licensed prior to their appointment but shall have met all other
33 requirements of licensing except the filing of an application, the pass-
34 ing of a satisfactory exam and paying a fee.

35 § 8605. Requirements for a license as a clinical laboratory technolo-
36 gist or cytotechnologist. To qualify for a license as a clinical labora-
37 tory technology practitioner under one of the titles defined in subdivi-
38 sion two of section eighty-six hundred one of this title, an applicant
39 shall fulfill the particular requirements of a subdivision of this
40 section applicable to the license and title sought by the applicant:

41 1. Licensure as a clinical laboratory technologist.

42 a. Application: file an application with the department;

43 b. Education: have received an education, including a bachelor's
44 degree in clinical laboratory technology from a program registered by
45 the department or determined by the department to be the substantial
46 equivalent, or have received a bachelor's degree that includes a minimum
47 number of credit hours in the sciences and received appropriate clinical
48 education in an accredited clinical laboratory technology program or a
49 program to be determined by the department to be the substantial equiv-
50 alent;

51 c. Examination: pass an examination satisfactory to the board and in
52 accordance with the commissioner's regulations;

53 d. Age: be at least eighteen years of age;

54 e. Character: be of good moral character as determined by the depart-
55 ment; and

1 f. Fees: pay a fee of one hundred seventy-five dollars for an initial
2 license and a fee of one hundred seventy dollars for each triennial
3 registration period.

4 2. Licensure as a cytotechnologist.

5 a. Application: file an application with the department;

6 b. Education: have received an education, including a bachelor's
7 degree in cytotechnology from a program registered by the department or
8 determined by the department to be the substantial equivalent, or have
9 received a bachelor's degree that includes a minimum number of credit
10 hours in the sciences and received appropriate clinical education in an
11 accredited cytotechnology program or a program determined by the depart-
12 ment to be the substantial equivalent;

13 c. Examination: pass an examination acceptable to the board and in
14 accordance with the commissioner's regulations;

15 d. Age: be at least eighteen years of age;

16 e. Character: be of good moral character as determined by the depart-
17 ment; and

18 f. Fees: pay a fee of one hundred seventy-five dollars for an initial
19 license and a fee of one hundred seventy dollars for each triennial
20 registration period.

21 § 8606. Requirements for certification as a clinical laboratory tech-
22 nician. For certification as a clinical laboratory technician under this
23 title, an applicant shall fulfill the following requirements:

24 1. Application: file an application with the department;

25 2. Education: have received an education, including an associate's
26 degree from an approved clinical laboratory technician program regis-
27 tered by the department or determined by the department to be the
28 substantial equivalent;

29 3. Examination: pass an examination satisfactory to the board and in
30 accordance with the commissioner's regulations;

31 4. Age: be at least eighteen years of age;

32 5. Character: be of good moral character as determined by the depart-
33 ment; and

34 6. Fees: pay a fee of one hundred twenty-five dollars for an initial
35 certification and a fee of one hundred twenty dollars for each triennial
36 registration period.

37 § 8606-a. Requirements for certification as a histological technician.
38 For certification as a histological technician under this title, an
39 applicant shall fulfill the following requirements:

40 1. Application: file an application with the department;

41 2. Education: have received an education, including an associate's
42 degree from an approved histological technician program registered by
43 the department or determined by the department to be the substantial
44 equivalent, or have received an associate's degree that includes a mini-
45 mum number of credit hours in the sciences and received appropriate
46 clinical education in a histological technician program approved by the
47 department or a program to be determined by the department to be the
48 substantial equivalent;

49 3. Examination: pass an examination satisfactory to the board and in
50 accordance with the commissioner's regulations;

51 4. Age: be at least eighteen years of age;

52 5. Character: be of good moral character as determined by the depart-
53 ment; and

54 6. Fees: pay a fee of one hundred twenty-five dollars for an initial
55 certification and a fee of one hundred twenty dollars for each triennial
56 registration period.

§ 8607. Special provisions. 1. Notwithstanding the requirements of sections eighty-six hundred five and eighty-six hundred six of this title, and until July first, two thousand nine, an individual may be licensed as a clinical laboratory technology practitioner, as defined in section eighty-six hundred one of this title, provided that an individual may be licensed pursuant to subparagraph (vi) of paragraph a or subparagraph (iii) of paragraph b of this subdivision until December thirty-first, two thousand thirteen provided such person:

a. In the case of clinical laboratory technologist, has either:

(i) met the educational requirements for clinical laboratory technologist as defined in section eighty-six hundred five of this title and has been performing the duties of a clinical laboratory technologist for two of the past five years prior to December thirty-first, two thousand seven; or completed an approved baccalaureate degree program in biological, chemical or physical sciences from an accredited college or university and has been performing the duties of a clinical laboratory technologist for two of the past five years prior to December thirty-first, two thousand seven;

(ii) been engaged full-time in the education of clinical laboratory practitioners for the equivalent of two of the past five years prior to December thirty-first, two thousand seven;

(iii) performed the duties of a clinical laboratory technologist for at least five years prior to December thirty-first, two thousand seven as verified by a director of a clinical laboratory;

(iv) become previously qualified under other regulatory requirements for that license or its equivalent;

(v) become a currently certified clinical laboratory technician with a bachelor's degree from an accredited college that includes a minimum number of credit hours in the sciences and four years of documented work experience as a clinical laboratory technician, acceptable to the department; or

(vi) become qualified to perform the duties of a clinical laboratory technologist in a clinical laboratory operated in accordance with title five of article five of this chapter and the regulations promulgated thereunder, and competently performed the duties of a clinical laboratory technologist in a clinical laboratory for a period of not less than six months in the three years immediately preceding December thirty-first, two thousand seven as verified by a director of the clinical laboratory.

b. In the case of a clinical laboratory technician, has either:

(i) met the educational requirements of a clinical laboratory technician as defined in section eighty-six hundred six of this title and performed the duties of a clinical laboratory technician for two of the past five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a clinical laboratory technician for at least five years prior to December thirty-first, two thousand seven or has previously qualified under other regulatory requirements for such a certification or such certification's equivalent; or

(iii) become qualified to perform the duties of a clinical laboratory technician in a clinical laboratory operated in accordance with title five of article five of this chapter and the regulations promulgated thereunder, and competently performed the duties of a clinical laboratory technician in a clinical laboratory for a period of not less than six months in the three years immediately preceding December thirty-first, two thousand seven as verified by a director of the clinical laboratory.

c. In the case of cytotechnologist, has either:

1 (i) met the educational requirements of a cytotechnologist as defined
2 in section eighty-six hundred five of this title and performed the
3 duties of a cytotechnologist for two of the previous five years prior to
4 December thirty-first, two thousand seven;

5 (ii) performed the duties of a cytotechnologist for at least five
6 years prior to December thirty-first, two thousand seven as verified by
7 a director of a clinical laboratory; or

8 (iii) has previously qualified under other regulatory requirements for
9 such a license or such license's equivalent.

10 d. In the case of a histological technician, has either:

11 (i) met the educational requirements of a histological technician as
12 defined in section eighty-six hundred six-a of this title and performed
13 the duties of a histological technician for two of the past five years
14 prior to December thirty-first, two thousand seven;

15 (ii) performed the duties of a histological technician for at least
16 five years prior to December thirty-first, two thousand seven or has
17 previously qualified under other regulatory requirements for such a
18 certification or such certification's equivalent; or

19 (iii) become qualified to perform the duties of a histological techni-
20 cian in a clinical laboratory operated in accordance with title five of
21 article five of this chapter and the regulations promulgated thereunder,
22 and competently performed the duties of a histological technician in a
23 clinical laboratory for a period of not less than six months in the
24 three years immediately preceding December thirty-first, two thousand
25 seven as verified by a director of the clinical laboratory.

26 2. For the purposes of subdivision one of this section, it shall be
27 determined that the filing of an application with the department on or
28 before January first, two thousand nine shall qualify for purposes of
29 such subdivision, regardless of the time period required for processing
30 such application, provided that an application for licensure pursuant to
31 subparagraph (vi) of paragraph a, subparagraph (iii) of paragraph b, or
32 subparagraph (iii) or paragraph d of subdivision one of this section
33 shall be submitted on or before September first, two thousand thirteen.

34 3. The commissioner may adopt such regulations as appropriate to
35 license or certify individuals who hold valid licenses, certifications
36 or their equivalent in another state or country, provided the standards
37 for granting licenses or certifications to such individuals are not less
38 than the standards required of persons otherwise licensed or certified
39 pursuant to this title.

40 § 8608. Limited and provisional permits. 1. Limited permit. On the
41 recommendation of the board, the department may issue a limited permit
42 to practice as a clinical laboratory practitioner to an applicant who
43 has met all requirements for licensure as a clinical laboratory technol-
44 ogist or cytotechnologist or certification as a clinical laboratory
45 technician or histological technician, except those relating to the
46 examination and provided that the individual is under the general super-
47 vision of the director of a clinical laboratory, as determined by the
48 department. This limited permit shall be valid for a period of not more
49 than one year, and may be renewed, at the discretion of the department,
50 for one additional year.

51 2. Provisional permit. (a) On the recommendation of the board, the
52 department may issue a provisional permit to practice as a clinical
53 laboratory practitioner to an applicant who is employed in a clinical
54 laboratory for the purpose of enabling the applicant to complete the
55 education requirements and/or to pass the exam required for licensure as
56 a clinical laboratory technologist or histological technician and

provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department, and provided further that the applicant meets the requirements outlined in paragraph b of this subdivision. This provisional permit shall be valid for a period of not more than one year, and may be renewed, at the discretion of the department, for one additional year.

b. To qualify for a provisional permit, the applicant shall:

(i) file an application with the department;

(ii) have at least one of the following enumerated qualifications:

(A) be licensed as a clinical laboratory technologist, or the equivalent as determined by the department, in another jurisdiction or possess a current certification in a clinical laboratory technology from a national certification organization acceptable to the department; or

(B) have received both an education, including a bachelor's degree in the biological, chemical, or physical sciences, and training in a clinical laboratory, provided that such education and training are acceptable to the department; or

(C) have received a bachelor's degree in the biological, chemical, or physical sciences or in mathematics, and have served as a research assistant in a research laboratory, under the direction of the director or the principal researcher of such research laboratory, working on the research and development of any procedures and examinations to be conducted by a laboratory, as defined in title five of article five of this chapter, on material derived from the human body which provides information for the diagnosis, prevention or treatment of a disease or assessment of a human medical condition; or

(D) for those seeking a provisional permit as a histological technician, have received an education, including an associate's degree that includes a minimum number of credit hours in the sciences, provided that such education is acceptable to the department;

(iii) be at least eighteen years of age;

(iv) be of good moral character as determined by the department; and

(v) pay a fee of three hundred forty-five dollars for a provisional permit provided that the fee for a provisional permit as a histological technician shall be two hundred forty-five dollars.

(c) Each provisional permit shall be subject to the disciplinary provisions applicable to licensees pursuant to subtitle three of title one of this article.

3. The commissioner is authorized to adopt such rules and regulations as may be necessary to implement the provisions of this section.

§ 8609. Exempt persons. This title shall not be construed to apply to:

1. the practice, conduct, activities, or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to title four of this article, or by any person registered to perform services as a physician assistant or specialist assistant within the state pursuant to title four of this article, or by any person licensed to practice dentistry within the state pursuant to title seven of this article or by any person licensed to practice podiatry within the state pursuant to title fourteen of this article or by any person certified as a nurse practitioner within the state pursuant to title twelve of this article or by any person licensed to perform services as a respiratory therapist or respiratory therapy technician under title twenty-six of this article or any person licensed to practice midwifery within the state pursuant to title thirteen of this article or a person licensed to practice nursing pursuant to title twelve of this article, or a person licensed to practice pursuant to article thirty-five of this

chapter; provided, however, that no such person shall use the titles licensed laboratory technologist, cytotechnologist, or certified laboratory technician, unless licensed or certified under this title; or

2. clinical laboratory technology practitioners employed by the United States government or any bureau, division, or agency thereof, while in the discharge of the employee's official duties; or

3. clinical laboratory technology practitioners employed by the New York State Department of Health Wadsworth Center Laboratory or the New York City Department of Health and Mental Hygiene Public Health Laboratory, while in the discharge of the employee's official duties; or

4. clinical laboratory technology practitioners engaged in teaching or research, provided that the results of any examination performed are not used in health maintenance, diagnosis or treatment of disease and are not added to the patient's permanent record; or

5. students or trainees enrolled in approved clinical laboratory science or technology education programs or training programs described in subparagraph (iii) of paragraph c of subdivision one of section eighty-six hundred ten of this title provided that these activities constitute a part of a planned course in the program, that the persons are designated by a title such as intern, trainee, fellow or student, and the persons work directly under the supervision of an individual licensed or exempt pursuant to subdivision one, two, four or eight of this section; or

6. persons employed by a clinical laboratory to perform supportive functions not related to the direct performance of laboratory procedures or examinations; or

7. persons who are working in facilities registered pursuant to section five hundred seventy-nine of this chapter and only perform waived tests as defined in section five hundred seventy-one of this chapter pursuant to such registration; or

8. a director of a clinical laboratory holding a valid certificate of qualification pursuant to section five hundred seventy-three of this chapter.

§ 8610. Restricted clinical laboratory licenses. 1. Restricted clinical laboratory license.

a. The department may issue a restricted license pursuant to which the restricted licensee may receive a certificate to perform certain examinations and procedures within the definition of clinical laboratory technology set forth in subdivision one of section eighty-six hundred one of this title, provided that such a restricted licensee may perform examinations and procedures only in those of the following areas which are specifically listed in his or her certificate: histocompatibility, cytogenetics, stem cell process, flow cytometry/cellular immunology and molecular diagnosis to the extent such molecular diagnosis is included in genetic testing-molecular and molecular oncology, and toxicology (under paragraph b-1 of this subdivision).

b. Notwithstanding paragraph a of this subdivision, restricted licensees employed at National Cancer Institute designated cancer centers or at teaching hospitals that are eligible for distributions pursuant to paragraph (c) of subdivision three of section twenty-eight hundred seven-m of this chapter may receive a certificate that also includes the practice of molecular diagnosis including but not limited to genetic testing-molecular and molecular oncology, and restricted licensees employed at National Cancer Institute designated cancer centers may receive a certificate that includes the use of mass spectrometry or any tests and procedures acceptable to the commissioner, in consultation

1 with the commissioner, in the field of proteomics, provided that such
2 certificate holders may practice in such additional areas only at such
3 centers, teaching hospitals or other sites as may be designated by the
4 commissioner.

5 b-1. Only individuals employed in a New York state department of
6 health authorized toxicology laboratory, operating under the direction
7 of a clinical laboratory director, may obtain a certificate in toxicolo-
8 gy.

9 c. To qualify for a restricted license, an applicant shall:

10 (i) file an application with the department;

11 (ii) have received an education, including a bachelor's degree in the
12 biological, chemical, or physical sciences or in mathematics from a
13 program registered by the department or determined by the department to
14 be the substantial equivalent;

15 (iii) have completed a training program with a planned sequence of
16 supervised employment or engagement in activities appropriate for the
17 area of certification, which training program is satisfactory to the
18 department in quality, breadth, scope and nature and is provided by an
19 entity that shall be responsible for the services provided. The training
20 program shall be described and attested to by the clinical director of
21 the laboratory in which it is located prior to the beginning of the
22 program. The duration of the training program shall be one year of full-
23 time training in the specific areas in which the applicant is seeking
24 certification or the part-time equivalent thereof, as determined by the
25 department, and the successful completion of such program shall be
26 certified by a laboratory director who is responsible for overseeing
27 such program;

28 (iv) be at least eighteen years of age;

29 (v) be of good moral character as determined by the department; and

30 (vi) pay a fee of one hundred seventy-five dollars for an initial
31 restricted license and a fee of one hundred seventy dollars for each
32 triennial registration period.

33 d. Each restricted licensee shall register with the department as
34 required of licensees pursuant to section sixty-five hundred two of this
35 article and shall be subject to the disciplinary provisions applicable
36 to licensees pursuant to subtitle three of title one of this article.

37 2. The commissioner is authorized to adopt such rules and regulations
38 as may be necessary to implement the provisions of this section.

39 3. Nothing in this section shall restrict a clinical laboratory prac-
40 titioner, as defined in subdivision two of section eighty-six hundred
41 one of this title, from performing any of the examinations or procedures
42 which restricted clinical laboratory licensees are permitted to perform
43 under this section and which such clinical laboratory practitioner is
44 otherwise authorized to perform.

45 TITLE 28

46 MEDICAL PHYSICS PRACTICE

47 Section 8700. Introduction.

48 8701. Definitions.

49 8702. Definition of "practice of medical physics".

50 8703. Use of the title "professional medical physicist".

51 8704. State committee for medical physics.

52 8705. Requirements and procedures for professional licensure.

53 8706. Limited permits.

54 8707. Exemptions.

55 8708. Licensure without examination.

56 8709. Separability.

1 § 8700. Introduction. This title applies to the profession of medical
2 physics. The general provisions for all licensed healthcare professions
3 contained in title one of this article apply to this title.

4 § 8701. Definitions. As used in this title:

5 1. "Clinical" shall mean activities directly relating to the treatment
6 or diagnosis of human ailments.

7 2. "Specialty" or "specialty area" shall mean the following branch or
8 branches of special competence within medical physics:

9 a. "Diagnostic radiological physics" shall mean the branch of medical
10 physics relating to the diagnostic application of radiation, the analy-
11 sis and interpretation of image quality, performance measurements and
12 the calibration of equipment associated with the production and use of
13 such radiation, the analysis and interpretation of measurements associ-
14 ated with patient doses and exposures, and the radiation safety aspects
15 associated with the production and use of such radiation;

16 b. "Medical health physics" shall mean the branch of medical physics
17 pertaining to the radiation safety aspects of the use of radiation for
18 both diagnostic and therapeutic purposes, and the use of equipment to
19 perform appropriate radiation measurements;

20 c. "Medical nuclear physics" shall mean the branch of medical physics
21 pertaining to the therapeutic and diagnostic application of radionu-
22 clides, excluding those used in sealed sources for therapeutic purposes,
23 the analysis and interpretation of performance measurements associated
24 with radiation imaging equipment and performance oversight of radionu-
25 clide calibration equipment associated with the use and production of
26 radionuclides, the analysis and interpretation of measurements and
27 calculations associated with patient organ doses, and the radiation
28 safety aspects associated with the production and use of such radionu-
29 clides; and

30 d. "Therapeutic radiological physics" or "radiation oncology physics"
31 shall mean the branch of medical physics relating to the therapeutic
32 application of radiation, the analysis and interpretation of radiation
33 equipment performance measurements and the calibration of equipment
34 associated with the production and use of such radiation, the analysis
35 and interpretation of measurements associated with patient doses, and
36 the radiation safety aspects associated with the production and use of
37 such radiation.

38 3. "Medical physics" shall mean the branch of physics limited to the
39 field of radiological physics.

40 4. "Radiation" shall mean all ionizing radiation above background
41 levels or any non-ionizing radiation used in diagnostic imaging or in
42 radiation oncology.

43 5. "Radiological physics" shall mean diagnostic radiological physics,
44 therapeutic radiological physics or radiation oncology physics, medical
45 nuclear physics and medical health physics.

46 6. "Radiological procedure" shall mean any test, measurement, calcu-
47 lation or radiation exposure for the purpose of diagnosis or treatment
48 of any medical condition of a human, including therapeutic radiation,
49 diagnostic imaging and measurements, and nuclear medicine procedures.

50 § 8702. Definition of "practice of medical physics". 1. The "practice
51 of the profession of medical physics" shall mean the use and application
52 of accepted principles and protocols of physics in a clinical setting to
53 assure the correct quality, quantity and placement of radiation during
54 the performance of a radiological procedure, so as to protect the
55 patient and other persons from harmful, excessive or misapplied radi-
56 ation. Such practice shall include, but not necessarily be limited to:

1 radiation beam calibration and characterization; oversight and responsi-
2 bility for patient radiation dose measurement, calculation and report-
3 ing; oversight and responsibility for quality control; instrument spec-
4 ification; optimization of image quality; acceptance testing; shielding
5 design; protection analysis on radiation emitting equipment and radio-
6 pharmaceuticals; and consultation with a physician to assure accurate
7 radiation dosage and application to a specific patient.

8 2. A license to practice medical physics shall be issued with special
9 competency in one or more specialty areas in which the licensee has
10 satisfied the requirements of section eighty-seven hundred five of this
11 title.

12 3. The practice in any specialty by a person whose license is not
13 issued with special competency for such specialty shall be deemed the
14 unauthorized practice of the profession of medical physics.

15 4. Only a person licensed under this title shall practice the profes-
16 sion of medical physics.

17 § 8703. Use of the title "professional medical physicist". Only a
18 person licensed under this title shall use the title "professional
19 medical physicist".

20 § 8704. State committee for medical physics. 1. A state committee for
21 medical physics shall be appointed by the commissioner and shall assist
22 on matters of licensure and professional conduct in accordance with
23 section sixty-five hundred eight of this title. Notwithstanding the
24 provisions of section sixty-five hundred eight of this title, the
25 committee shall assist the board for medicine solely in medical physics
26 matters, which board shall also function as the state board for medical
27 physics. The licensure requirements for professional medical physicists
28 shall be waived for the initial committee appointees, provided that such
29 appointees shall have received national certification in their special-
30 ty.

31 2. The committee shall consist of eight individuals, to be composed of
32 the following:

33 a. Four licensed medical physicists represented by each of the follow-
34 ing specialties:

35 (i) diagnostic radiological physics;

36 (ii) therapeutic radiological or radiation oncology physics;

37 (iii) medical nuclear physics; and

38 (iv) medical health physics;

39 b. Three licensed physicians represented by each of the following
40 specialties:

41 (i) diagnostic radiology;

42 (ii) radiation therapy or radiation oncology; and

43 (iii) nuclear medicine; and

44 (c) A representative of the public at large.

45 § 8705. Requirements and procedures for professional licensure. To
46 qualify for a license as a professional medical physicist, an applicant
47 shall fulfill the following requirements:

48 1. Application: file an application with the department;

49 2. Education: have received an education including a master's or
50 doctoral degree from an accredited college or university in accordance
51 with the commissioner's regulations. Such person shall have completed
52 such courses of instruction as are deemed necessary by the commissioner
53 to practice in the medical physics specialty in which the applicant has
54 applied for a license;

1 3. Experience: have experience in his or her medical physics specialty
2 satisfactory to the board and in accordance with the commissioner's
3 regulations;

4 4. Examination: pass an examination in his or her medical specialty
5 satisfactory to the board and in accordance with the commissioner's
6 regulations. The examination requirement may be waived by the board on
7 recommendation of the commissioner for certain applicants with extensive
8 experience as a medical physicist;

9 5. Age: be at least twenty-one years of age;

10 6. Fee: pay a fee of three hundred dollars to the department for
11 admission to a department conducted examination for licensure, a fee of
12 one hundred fifty dollars for licensure with special competency in the
13 first specialty and twenty-five dollars for each additional specialty,
14 and a fee of three hundred dollars for each biennial registration peri-
15 od.

16 § 8706. Limited permits. Permits limited as to eligibility, practice
17 and duration shall be issued by the department to eligible applicants,
18 as follows:

19 1. Eligibility. The following persons shall be eligible for a limited
20 permit:

21 a. a person who fulfills all requirements for a license as a profes-
22 sional medical physicist except those relating to examination or experi-
23 ence; or

24 b. a medical physics student enrolled in a graduate or post-graduate
25 curriculum approved by the department;

26 2. Limit of practice. A permittee shall be authorized to practice
27 medical physics only under the direct and immediate supervision of a
28 professional medical physicist and only in the specialty of such profes-
29 sional medical physicist;

30 3. Duration. A limited permit shall be valid for two years. It may be
31 renewed biennially at the discretion of the department;

32 4. Fee. The fee for each limited permit and for each renewal shall be
33 sixty dollars.

34 § 8707. Exemptions. Nothing in this title shall be construed to
35 affect, prevent or in any manner expand or limit the authority of any
36 person otherwise authorized by law or regulation to practice any func-
37 tion of a medical physicist, or any department or agency authorized by
38 law or regulation to regulate the use of radiation, nor prohibit the
39 repair or calibration of any test equipment used by professional medical
40 physicists by any person otherwise allowed to do so under state or
41 federal law, nor serve to limit radiologic and/or imaging technicians or
42 any individual otherwise authorized by law or regulation from performing
43 quality control measurements or obtaining quality control data, nor
44 serve to limit a service engineer in the repair of radiation producing
45 equipment nor an installation engineer in the installation of radiation
46 producing equipment.

47 § 8708. Licensure without examination. 1. Within eighteen months of
48 the effective date of regulations implementing the provisions of this
49 title, the department may issue a license to practice medical physics
50 with special competency in one or more specialties in this state, with-
51 out an examination, to a person who meets the requirements of subdivi-
52 sions one, five and six of section eighty-seven hundred five of this
53 title and who in addition has an earned bachelor's, master's or doctoral
54 degree from an accredited college or university that signifies the
55 completion of a course of study acceptable to the department, and has
56 demonstrated to the department's satisfaction, in the case of an earned

bachelor's degree, the completion of at least fifteen years of full-time work experience in the medical physics specialty for which application is made, or, in the case of an earned master's or doctoral degree, the completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made and the equivalent of one year or more of full-time work experience in the ten years preceding the date of application for each additional specialty for which application is made.

2. On receipt of an application and fee pursuant to section eighty-seven hundred five of this title, the department may issue a license to practice medical physics with special competency in one or more specialties in this state to a person who holds a license to practice medical physics in another state, territory or jurisdiction that has requirements for licensing of medical physicists which the department determines to be substantially the same as the requirements of this title.

§ 8709. Separability. If any section of this title, or part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of any other section or part thereof.

TITLE 29

APPLIED BEHAVIOR ANALYSIS

Section 8800. Introduction.

8801. Definitions.

8802. Definition of the practice of "applied behavior analysis".

8803. The practice of and use of the title "licensed behavior analyst" or "certified behavior analyst assistant".

8804. Requirements and procedures for professional licensure.

8805. Special provisions.

8806. Limited permits.

8807. Exemptions.

8808. State board for applied behavior analysis.

§ 8800. Introduction. This title applies to the profession and practice of applied behavior analysis and to the use of the titles "licensed behavior analyst" and "certified behavior analyst assistant". The general provisions for all licensed healthcare professions contained in title one of this article shall apply to this title.

§ 8801. Definitions. As used in this title, the following term shall have the following meaning: "applied behavior analysis" or "ABA" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

§ 8802. Definition of the practice of "applied behavior analysis". 1. The practice of applied behavior analysis by a "licensed behavior analyst" shall mean the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior, pursuant to a diagnosis and prescription or order from a person who is licensed or otherwise authorized to provide such diagnosis and prescription or ordering services pursuant to a profession enumerated in this title, for the purpose of providing behavioral health treatment for persons with autism and autism spectrum disorders and related disorders.

2. The practice of applied behavior analysis by a "licensed behavior analyst" shall mean the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior, pursuant to a diagnosis and prescription or order from a person who is licensed or otherwise authorized to provide such diagnosis and prescription or ordering services pursuant to a profession enumerated in this title, for the purpose of providing behavioral health treatment. For purposes of this section, prescriptions or orders for behavioral health treatment provided by a licensed behavior analyst shall be limited to providing treatment to individuals with behavioral health conditions that appear in the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American Psychiatric Association, or an equivalent classification system as determined by the department. In addition, licensed behavior analysts providing services pursuant to a prescription or order, as authorized by this section, shall provide a report at least annually regarding the status of the individual served to the licensed person prescribing or ordering such service or more frequently, if needed, in order to report significant changes in the condition of the individual.

3. The practice of applied behavior analysis by a "certified behavior analyst assistant" means the services and activities provided by a person certified in accordance with this title who works under the supervision of a licensed behavior analyst to perform such patient related applied behavior analysis tasks as are assigned by the supervising licensed behavior analyst. Supervision of a certified behavior analyst assistant by a licensed behavior analyst shall be in accordance with regulations of the commissioner. No licensed behavior analyst shall supervise more than six certified behavior analyst assistants.

4. The practice of applied behavior analysis shall not include diagnosis of a disorder or condition for which ABA may be appropriate, or prescribing or ordering ABA for a particular individual.

5. Any individual whose license or authority to practice derives from the provisions of this title shall be prohibited from:

a. Prescribing or administering drugs as defined in this chapter or as a treatment, therapy, or professional service in the practice of his or her profession; or

b. Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes, but is not limited to, surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 8803. The practice of and use of the title "licensed behavior analyst" or "certified behavior analyst assistant". Only a person licensed, certified or exempt under this title shall practice applied behavior analysis. Only a person licensed or certified under this title shall use the titles "licensed behavior analyst" or "certified behavior analyst assistant".

§ 8804. Requirements and procedures for professional licensure. 1. To qualify for certification as a certified behavior analyst assistant, an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

1 b. Education: have received an education, including a bachelor's or
2 higher degree from a program registered by the department or determined
3 by the department to be the substantial equivalent thereof, in accord-
4 ance with the commissioner's regulations.

5 c. Experience: have experience in the practice of applied behavior
6 analysis satisfactory to the board and the department in accordance with
7 the commissioner's regulations.

8 d. Examination: pass an examination acceptable to the board and the
9 department in accordance with the commissioner's regulations.

10 e. Age: be at least twenty-one years of age;

11 f. Character: be of good moral character as determined by the depart-
12 ment and submit an attestation of moral character; and

13 g. Fee: pay a fee of one hundred fifty dollars for an initial license
14 and a fee of seventy-five dollars for each triennial registration peri-
15 od.

16 2. To qualify for a license as a licensed behavior analyst, an appli-
17 cant shall fulfill the following requirements:

18 a. Application: file an application with the department;

19 b. Education: have received an education, including a master's or
20 higher degree from a program registered by the department or determined
21 by the department to be the substantial equivalent, thereof, in accord-
22 ance with the commissioner's regulations.

23 c. Experience: have experience in the practice of applied behavior
24 analysis satisfactory to the board and the department in accordance with
25 the commissioner's regulations.

26 d. Examination: pass an examination acceptable to the board and the
27 department in accordance with the commissioner's regulations.

28 e. Age: be at least twenty-one years of age;

29 f. Character: be of good moral character as determined by the depart-
30 ment and submit an attestation of moral character; and

31 g. Fee: pay a fee of two hundred dollars for an initial license and a
32 fee of one hundred dollars for each triennial registration period.

33 § 8805. Special provisions. An individual who meets the requirements
34 for a license or certification as a licensed behavior analyst or a
35 certified behavior analyst assistant, except for examination, experience
36 and education, and who is certified or registered by a national certify-
37 ing body having certification or registration standards acceptable to
38 the commissioner, may be licensed or certified, without meeting addi-
39 tional requirements as to examination, experience and education,
40 provided that such individual submits an application to the department
41 within two years of the effective date of this section.

42 § 8806. Limited permits. The following requirements for a limited
43 permit shall apply to all professions licensed or certified pursuant to
44 this title:

45 1. The department may issue a limited permit to an applicant who meets
46 all qualifications for licensure, except the examination and/or experi-
47 ence requirements, in accordance with regulations promulgated therefor.

48 2. Limited permits shall be for one year; such limited permits may be
49 renewed, at the discretion of the department, for one additional year.

50 3. The fee for each limited permit and for each renewal shall be
51 seventy dollars.

52 4. A limited permit holder shall practice only under supervision as
53 determined in accordance with the commissioner's regulations.

54 § 8807. Exemptions. 1. Nothing contained in this title shall be
55 construed to limit the scopes of practice of any other profession
56 licensed under this title.

1 2. Nothing in this title shall be construed as prohibiting a person
2 from performing the duties of a licensed behavior analyst or a certified
3 behavior analyst assistant, in the course of such employment, if such
4 person is employed:

5 a. by a federal, state, county or municipal agency, or other political
6 subdivision;

7 b. by a chartered elementary or secondary school or degree-granting
8 institution;

9 c. as a certified teacher or teaching assistant, other than a pupil
10 personnel services professional, in an approved program as defined in
11 paragraph b of subdivision one of section forty-four hundred ten of the
12 education law; or

13 d. in a setting to the extent that the exemption in paragraph d of
14 subdivision six of section forty-four hundred ten of the education law
15 applies.

16 3. Nothing in this title shall be construed as prohibiting a certified
17 teacher or teaching assistant, other than a pupil personnel services
18 professional, from performing the duties of a licensed behavior analyst
19 or certified behavior analyst assistant, in the course of such employ-
20 ment or contractual agreement, if such person is employed or contracted
21 with an agency approved by the department of health to provide early
22 intervention services or has an agreement with the department of health
23 to provide early intervention services pursuant to title two-A of arti-
24 cle twenty-five of this chapter.

25 4. Nothing in this title shall be construed as prohibiting the activ-
26 ities and services required of a student, intern, or resident in an
27 educational program acceptable to the department pursuant to the commis-
28 sioner's regulations, pursuing a course of study leading to a bachelor's
29 or higher degree in an educational program acceptable to the department
30 pursuant to the commissioner's regulations in an institution approved by
31 the department, provided that such activities and services constitute a
32 part of his or her supervised course of study in an educational program
33 acceptable to the department pursuant to the commissioner's regulations.
34 Such person shall be designated by title which clearly indicates his or
35 her training status.

36 5. Nothing in this title shall be construed to affect or prevent a
37 person without a license or other authorization pursuant to this title
38 from performing assessments, including collecting basic information,
39 gathering demographic data, and making informal observations, for the
40 purpose of determining need for services unrelated to an ABA plan.
41 Further, licensure or authorization pursuant to this title shall not be
42 required to create, develop or implement a service plan unrelated to an
43 ABA plan. This title shall not apply to behavioral health treatments
44 other than ABA that may be provided to persons with autism spectrum
45 disorder. A license under this title shall not be required for persons
46 to participate as a member of a multi-disciplinary team to implement an
47 ABA plan; provided, however, that such team shall include one or more
48 professionals licensed under this title or titles two, seventeen, eigh-
49 teen or twenty-five of this article; and provided further that the
50 activities performed by members of the team shall be consistent with the
51 scope of practice for each team member licensed or authorized under this
52 title, and those who are not so authorized may not engage in the follow-
53 ing restricted practices: creation, modification or termination of an
54 ABA plan; diagnosis of mental, emotional, behavioral, addictive and
55 developmental disorders and disabilities; patient assessment and evalu-
56 ating; provision of psychotherapeutic treatment; provision of treatment

1 other than psychotherapeutic treatment; and development and implementa-
2 tion of assessment-based treatment plans, as defined in section eighty-
3 eight hundred two of this title. Provided further, however, that nothing
4 in this subdivision shall be construed as requiring a license or author-
5 ization for any particular activity or function based solely on the fact
6 that the activity or function is not listed in this subdivision.
7 Provided further, however, that nothing in this subdivision shall
8 authorize the delegation of restricted activities to an individual who
9 is not appropriately licensed or authorized under this title.

10 6. Nothing in this title shall be construed as prohibiting an early
11 intervention ABA aide, pursuant to regulations promulgated by the
12 commissioner, and acting under the supervision and direction of a quali-
13 fied supervisor who is licensed or otherwise authorized pursuant to this
14 chapter from:

15 (a) assisting the supervisor and qualified personnel with the imple-
16 mentation of individual ABA plans;

17 (b) assisting in the recording and collection of data needed to moni-
18 tor progress;

19 (c) participating in required team meetings; and

20 (d) completing any other activities as directed by his or her supervi-
21 sor and as necessary to assist in the implementation of individual ABA
22 plans. Provided however, that nothing in this subdivision shall author-
23 ize the delegation of restricted activities to an individual who is not
24 appropriately licensed or otherwise authorized under this title;
25 provided further however, that in regard to the early intervention
26 program established pursuant to title two-A of article twenty-five of
27 this chapter, an early intervention ABA aide under the supervision and
28 direction of a qualified supervisor may complete activities necessary to
29 assist in the implementation of an individual ABA plan, provided that
30 such activities do not require professional skill or judgment.

31 7. This title shall not be construed to prohibit care delivered by any
32 family member, household member or friend, or person employed primarily
33 in a domestic capacity who does not hold himself or herself out, or
34 accept employment, as a person licensed to practice applied behavior
35 analysis under the provisions of this title; provided that, if such
36 person is remunerated, the person does not hold himself or herself out
37 as one who accepts employment for performing such care.

38 8. Nothing in this title shall be construed as prohibiting programs
39 certified by the office of alcoholism and substance abuse services from
40 providing substance use disorder services for persons with autism and
41 autism spectrum disorders and related disorders.

42 § 8808. State board for applied behavior analysis. 1. A state board
43 for applied behavior analysis shall be appointed by the commissioner and
44 shall assist on matters of licensing and professional conduct in accord-
45 ance with section sixty-five hundred eight of this article. An executive
46 secretary of the board shall be appointed by the commissioner.

47 2. The board shall consist of seven individuals, to be composed of the
48 following:

49 (a) Three licensed behavior analysts;

50 (b) One certified behavior analyst assistant;

51 (c) One licensed psychologist, who may currently prescribe treatment
52 involving applied behavior analysis in his or her professional practice;
53 and

54 (d) Two public representatives, as defined in paragraph b of subdivi-
55 sion one of section sixty-five hundred eight of this article.

TITLE 30LICENSED PATHOLOGISTS' ASSISTANTSSection 8850. Definitions.

8851. Practice as pathologists' assistant and use of the title "pathologists' assistant".

8852. Requirements for licensure as a pathologists' assistant.

8853. Special provisions; eligibility.

8854. State committee for pathologists' assistants.

8855. Limited permits.

8856. Exemptions and exempt persons.

§ 8850. Definitions. As used in this title: 1. The term "pathologists' assistant" means a person licensed to assist physicians who practice pathology by providing services within the permitted scope of practice for pathologists' assistants as defined in subdivision four of this section. All such services shall be performed under the direction and supervision of a licensed physician who practices anatomic pathology.

2. The term "direction and supervision" means continuous direction and supervision, but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to title two of this article.

4. The term "scope of practice for pathologists' assistants" means the provision of the following services under the direction and supervision of a licensed physician who practices anatomic pathology: a. preparing gross tissue sections for pathology analysis, including but not limited to, cutting, staining as required, describing gross anatomic features, dissecting surgical specimens, and submitting tissues for bio-banking, histologic processing, or other analyses; b. performing human postmortem examinations, including but not limited to, selection of tissues and fluids for further examination, external examination, dissection, and gathering and recording information for autopsy reports; and c. other functions and responsibilities in furtherance of and consistent with the foregoing as determined by the department. The term does not include the authority to diagnose or provide a medical opinion. Services of a pathologists' assistant must be performed in a laboratory or other site authorized under law to perform such services.

5. The term "committee" means the state committee for pathologists' assistants created by this title.

§ 8851. Practice as pathologists' assistant and use of the title "pathologists' assistant". Only persons licensed or otherwise authorized to practice as a pathologists' assistant under this title shall practice pathologist assisting or use the title "pathologists' assistant" or the term "pathologists' assistant" alone or in combination with other terms and phrases in describing their services and activities or the designation "Path A".

§ 8852. Requirements for licensure as a pathologists' assistant. To qualify for licensure as a "licensed pathologists' assistant", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: receive an education, including a bachelor's or higher degree in pathologists' assistant, granted on the basis of completion of a program of pathologists' assistant registered with the department or the substantial equivalent thereof, in accordance with the commissioner's regulations;

1 3. Examination: obtain a passing score on an examination acceptable to
2 the department;

3 4. Age: at the time of application be at least twenty-one years of
4 age;

5 5. Character: be of good moral character as determined by the depart-
6 ment; and

7 6. Fee: pay a fee determined by the department for an initial license
8 and for each triennial registration period.

9 § 8853. Special provisions; eligibility. An individual who meets the
10 requirements for a license as a licensed pathologists' assistant except
11 for examination and education and who has been performing the duties of
12 a pathologists' assistant for two of the five years prior to the effec-
13 tive date of this title may be licensed without meeting additional
14 requirements, provided that such individual submits an application to
15 the department within two years of the effective date of this title. For
16 this purpose, the applicant's supervising physicians must attest to the
17 applicant's experience and competence.

18 § 8854. State committee for pathologists' assistants. 1. A state
19 committee for pathologists' assistants shall be appointed by the commis-
20 sioner as a committee of the board of medicine to advise solely on
21 matters relating to pathologists' assistants and shall assist on matters
22 of licensure and professional conduct. The pathologists' assistant
23 members of the initial committee need not be licensed prior to their
24 appointment but shall have met all other requirements of licensing
25 pursuant to section eighty-eight hundred fifty-two of this title except
26 the filing of an application and paying a fee.

27 2. The committee shall consist of no fewer than five individuals, to
28 be composed of a minimum of the following:

29 (a) one licensed physician who practices pathology;

30 (b) three licensed pathologists' assistants; and

31 (c) one public representative.

32 § 8855. Limited permits. 1. Eligibility. A person who fulfills all
33 requirements for licensure as a pathologists' assistant except that
34 relating to the examination shall be eligible for a limited permit.

35 2. Limit of practice. A permittee shall be authorized to practice as a
36 pathologists' assistant only under the direction and supervision of a
37 licensed physician who practices anatomic pathology and pursuant to the
38 order and direction of that licensed physician.

39 3. Duration. A limited permit shall expire one year from the date of
40 issuance. A limited permit may be extended for one additional year for
41 good cause as determined by the department.

42 4. Fees. The fee for each limited permit shall be determined by the
43 department.

44 § 8856. Exemptions and exempt persons. This title shall not prohibit:

45 1. The performance of any tasks or responsibilities by any student
46 engaged in clinical training in a general hospital licensed pursuant to
47 title twenty-eight of this chapter, provided such practice is limited to
48 clinical training that shall be carried out under the direct supervision
49 of a licensed physician who practices anatomic pathology; or

50 2. The performance of any tasks or responsibilities by any person
51 licensed under this title, provided such tasks or responsibilities are
52 permitted by the title governing the profession pursuant to which such
53 person is licensed; or

54 3. The performance of any tasks or responsibilities by any legally
55 qualified pathologists' assistants of any other state or territory who
56 is serving in the armed forces or the public health service of the

1 United States or who is employed by the veterans' administration, while
2 engaged in the performance of his or her duties; or

3 4. The performance of any tasks and responsibilities by any individual
4 legally carrying out the examinations and tests enumerated in subdivi-
5 sion two of section five hundred seventy-nine of this chapter.

6 § 3. The state finance law is amended by adding a new section 98-d to
7 read as follows:

8 § 98-d. Licensed healthcare professions account. 1. There is hereby
9 established in the joint custody of the state comptroller and the
10 commissioner of taxation and finance an account of the miscellaneous
11 special revenue fund to be known as the licensed healthcare professions
12 account.

13 2. Notwithstanding any other law, rule or regulation to the contrary,
14 the state comptroller is hereby authorized and directed to receive for
15 deposit to the credit of the licensed healthcare professions account,
16 payments relating to the responsibilities of the department of health
17 pursuant to article fifty-one of the public health law, including fees
18 for professional licenses and registration, penalties for professional
19 misconduct, charges for test administration, verification and certif-
20 ication of credentials, and restoration of revoked and annulled
21 licenses, and surcharges and charges as established by statute or by the
22 department of health's regulations pursuant to such article.

23 3. Moneys of this account, following appropriation by the legislature,
24 shall be available to the department of health for services and expenses
25 for regulation, oversight, and enforcement of licensed healthcare
26 professions enumerated in article fifty-one of the public health law.

27 § 4. Subdivision (d) of section 4504 of the civil practice law and
28 rules, as added by chapter 987 of the laws of 1971, is amended to read
29 as follows:

30 (d) Proof of negligence; unauthorized practice of medicine. In any
31 action for damages for personal injuries or death against a person not
32 authorized to practice medicine under [~~article 131 of the education law~~]
33 title 2 of article 51 of the public health law for any act or acts
34 constituting the practice of medicine, when such act or acts were a
35 competent producing proximate or contributing cause of such injuries or
36 death, the fact that such person practiced medicine without being so
37 authorized shall be deemed prima facie evidence of negligence.

38 § 5. Subdivision (a) of section 1203 of the limited liability company
39 law, as amended by chapter 475 of the laws of 2014, is amended to read
40 as follows:

41 (a) Notwithstanding the education law or any other provision of law,
42 one or more professionals each of whom is authorized by law to render a
43 professional service within the state, or one or more professionals, at
44 least one of whom is authorized by law to render a professional service
45 within the state, may form, or cause to be formed, a professional
46 service limited liability company for pecuniary profit under this arti-
47 cle for the purpose of rendering the professional service or services as
48 such professionals are authorized to practice. With respect to a profes-
49 sional service limited liability company formed to provide medical
50 services as such services are defined in [~~article 131 of the education~~
51 ~~law~~] title 2 of article 51 of the public health law, each member of such
52 limited liability company must be licensed pursuant to [~~article 131 of~~
53 ~~the education law~~] title 2 of article 51 of the public health law to
54 practice medicine in this state. With respect to a professional service
55 limited liability company formed to provide dental services as such
56 services are defined in [~~article 133 of the education law~~] title 7 of

1 article 51 of the public health law, each member of such limited liabil-
2 ity company must be licensed pursuant to [~~article 133 of the education~~
3 ~~law~~] title 7 of article 51 of the public health law to practice dentis-
4 try in this state. With respect to a professional service limited
5 liability company formed to provide veterinary services as such services
6 are defined in article 135 of the education law, each member of such
7 limited liability company must be licensed pursuant to article 135 of
8 the education law to practice veterinary medicine in this state. With
9 respect to a professional service limited liability company formed to
10 provide professional engineering, land surveying, architectural, land-
11 scape architectural and/or geological services as such services are
12 defined in article 145, article 147 and article 148 of the education
13 law, each member of such limited liability company must be licensed
14 pursuant to article 145, article 147 and/or article 148 of the education
15 law to practice one or more of such professions in this state. With
16 respect to a professional service limited liability company formed to
17 provide licensed clinical social work services as such services are
18 defined in [~~article 154 of the education law~~] title 18 of article 51 of
19 the public health law, each member of such limited liability company
20 shall be licensed pursuant to [~~article 154 of the education law~~] title
21 18 of article 51 of the public health law to practice licensed clinical
22 social work in this state. With respect to a professional service limit-
23 ed liability company formed to provide creative arts therapy services as
24 such services are defined in [~~article 163 of the education law~~] title 25
25 of article 51 of the public health law, each member of such limited
26 liability company must be licensed pursuant to [~~article 163 of the~~
27 ~~education law~~] title 25 of article 51 of the public health law to prac-
28 tice creative arts therapy in this state. With respect to a professional
29 service limited liability company formed to provide marriage and family
30 therapy services as such services are defined in [~~article 163 of the~~
31 ~~education law~~] title 25 of article 51 of the public health law, each
32 member of such limited liability company must be licensed pursuant to
33 [~~article 163 of the education law~~] title 25 of article 51 of the public
34 health law to practice marriage and family therapy in this state. With
35 respect to a professional service limited liability company formed to
36 provide mental health counseling services as such services are defined
37 in [~~article 163 of the education law~~] title 25 of article 51 of the
38 public health law, each member of such limited liability company must be
39 licensed pursuant to [~~article 163 of the education law~~] title 25 of
40 article 51 of the public health law to practice mental health counseling
41 in this state. With respect to a professional service limited liability
42 company formed to provide psychoanalysis services as such services are
43 defined in [~~article 163 of the education law~~] title 25 of article 51 of
44 the public health law, each member of such limited liability company
45 must be licensed pursuant to [~~article 163 of the education law~~] title 25
46 of article 51 of the public health law to practice psychoanalysis in
47 this state. With respect to a professional service limited liability
48 company formed to provide applied behavior analysis services as such
49 services are defined in [~~article 167 of the education law~~] title 29 of
50 article 51 of the public health law, each member of such limited liabil-
51 ity company must be licensed or certified pursuant to [~~article 167 of~~
52 ~~the education law~~] title 29 of article 51 of the public health law to
53 practice applied behavior analysis in this state. In addition to engag-
54 ing in such profession or professions, a professional service limited
55 liability company may engage in any other business or activities as to
56 which a limited liability company may be formed under section two

1 hundred one of this chapter. Notwithstanding any other provision of
2 this section, a professional service limited liability company (i)
3 authorized to practice law may only engage in another profession or
4 business or activities or (ii) which is engaged in a profession or other
5 business or activities other than law may only engage in the practice of
6 law, to the extent not prohibited by any other law of this state or any
7 rule adopted by the appropriate appellate division of the supreme court
8 or the court of appeals.

9 § 6. Subdivision (b) of section 1207 of the limited liability company
10 law, as amended by chapter 475 of the laws of 2014, is amended to read
11 as follows:

12 (b) With respect to a professional service limited liability company
13 formed to provide medical services as such services are defined in
14 ~~[article 131 of the education law]~~ title 2 of article 51 of the public
15 health law, each member of such limited liability company must be
16 licensed pursuant to ~~[article 131 of the education law]~~ title 2 of arti-
17 cle 51 of the public health law to practice medicine in this state. With
18 respect to a professional service limited liability company formed to
19 provide dental services as such services are defined in ~~[article 133 of~~
20 ~~the education law]~~ title 7 of article 51 of the public health law, each
21 member of such limited liability company must be licensed pursuant to
22 ~~[article 133 of the education law]~~ title 7 of article 51 of the public
23 health law to practice dentistry in this state. With respect to a
24 professional service limited liability company formed to provide veteri-
25 nary services as such services are defined in article 135 of the educa-
26 tion law, each member of such limited liability company must be licensed
27 pursuant to article 135 of the education law to practice veterinary
28 medicine in this state. With respect to a professional service limited
29 liability company formed to provide professional engineering, land
30 surveying, architectural, landscape architectural and/or geological
31 services as such services are defined in article 145, article 147 and
32 article 148 of the education law, each member of such limited liability
33 company must be licensed pursuant to article 145, article 147 and/or
34 article 148 of the education law to practice one or more of such
35 professions in this state. With respect to a professional service limit-
36 ed liability company formed to provide licensed clinical social work
37 services as such services are defined in ~~[article 154 of the education~~
38 ~~law]~~ title 18 of article 51 of the public health law, each member of
39 such limited liability company shall be licensed pursuant to ~~[article~~
40 ~~154 of the education law]~~ title 18 of article 51 of the public health
41 law to practice licensed clinical social work in this state. With
42 respect to a professional service limited liability company formed to
43 provide creative arts therapy services as such services are defined in
44 ~~[article 163 of the education law]~~ title 25 of article 51 of the public
45 health law, each member of such limited liability company must be
46 licensed pursuant to ~~[article 163 of the education law]~~ title 25 of
47 article 51 of the public health law to practice creative arts therapy in
48 this state. With respect to a professional service limited liability
49 company formed to provide marriage and family therapy services as such
50 services are defined in ~~[article 163 of the education law]~~ title 25 of
51 article 51 of the public health law, each member of such limited liabil-
52 ity company must be licensed pursuant to ~~[article 163 of the education~~
53 ~~law]~~ title 25 of article 51 of the public health law to practice
54 marriage and family therapy in this state. With respect to a profes-
55 sional service limited liability company formed to provide mental health
56 counseling services as such services are defined in ~~[article 163 of the~~

1 ~~education law~~] title 25 of article 51 of the public health law, each
2 member of such limited liability company must be licensed pursuant to
3 ~~[article 163 of the education law]~~ title 25 of article 51 of the public
4 health law to practice mental health counseling in this state. With
5 respect to a professional service limited liability company formed to
6 provide psychoanalysis services as such services are defined in ~~[article~~
7 ~~163 of the education law]~~ title 25 of article 51 of the public health
8 law, each member of such limited liability company must be licensed
9 pursuant to ~~[article 163 of the education law]~~ title 25 of article 51 of
10 the public health law to practice psychoanalysis in this state. With
11 respect to a professional service limited liability company formed to
12 provide applied behavior analysis services as such services are defined
13 in ~~[article 167 of the education law]~~ title 29 of article 51 of the
14 public health law, each member of such limited liability company must be
15 licensed or certified pursuant to ~~[article 167 of the education law]~~
16 title 29 of article 51 of the public health law to practice applied
17 behavior analysis in this state.

18 § 7. Subdivisions (a), (b), (c) and (f) of section 1301 of the limited
19 liability company law, subdivisions (a) and (f) as amended by chapter
20 475 of the laws of 2014, are amended to read as follows:

21 (a) "Foreign professional service limited liability company" means a
22 professional service limited liability company, whether or not denomi-
23 nated as such, organized under the laws of a jurisdiction other than
24 this state, (i) each of whose members and managers, if any, is a profes-
25 sional authorized by law to render a professional service within this
26 state and who is or has been engaged in the practice of such profession
27 in such professional service limited liability company or a predecessor
28 entity, or will engage in the practice of such profession in the profes-
29 sional service limited liability company within thirty days of the date
30 such professional becomes a member, or each of whose members and manag-
31 ers, if any, is a professional at least one of such members is author-
32 ized by law to render a professional service within this state and who
33 is or has been engaged in the practice of such profession in such
34 professional service limited liability company or a predecessor entity,
35 or will engage in the practice of such profession in the professional
36 service limited liability company within thirty days of the date such
37 professional becomes a member, or (ii) authorized by, or holding a
38 license, certificate, registration or permit issued by the licensing
39 authority pursuant to, the education law to render a professional
40 service within this state; except that all members and managers, if any,
41 of a foreign professional service limited liability company that
42 provides health services in this state shall be licensed in this state.
43 With respect to a foreign professional service limited liability company
44 which provides veterinary services as such services are defined in arti-
45 cle 135 of the education law, each member of such foreign professional
46 service limited liability company shall be licensed pursuant to article
47 135 of the education law to practice veterinary medicine. With respect
48 to a foreign professional service limited liability company which
49 provides medical services as such services are defined in ~~[article 131~~
50 ~~of the education law]~~ title 2 of article 51 of the public health law,
51 each member of such foreign professional service limited liability
52 company must be licensed pursuant to ~~[article 131 of the education law]~~
53 title 2 of article 51 of the public health law to practice medicine in
54 this state. With respect to a foreign professional service limited
55 liability company which provides dental services as such services are
56 defined in ~~[article 133 of the education law]~~ title 7 of article 51 of

1 the public health law, each member of such foreign professional service
2 limited liability company must be licensed pursuant to [~~article 133 of~~
3 ~~the education law~~] title 7 of article 51 of the public health law to
4 practice dentistry in this state. With respect to a foreign professional
5 service limited liability company which provides professional engineer-
6 ing, land surveying, geologic, architectural and/or landscape architec-
7 tural services as such services are defined in article 145, article 147
8 and article 148 of the education law, each member of such foreign
9 professional service limited liability company must be licensed pursuant
10 to article 145, article 147 and/or article 148 of the education law to
11 practice one or more of such professions in this state. With respect to
12 a foreign professional service limited liability company which provides
13 licensed clinical social work services as such services are defined in
14 [~~article 154 of the education law~~] title 18 of article 51 of the public
15 health law, each member of such foreign professional service limited
16 liability company shall be licensed pursuant to [~~article 154 of the~~
17 ~~education law~~] title 18 of article 51 of the public health law to prac-
18 tice clinical social work in this state. With respect to a foreign
19 professional service limited liability company which provides creative
20 arts therapy services as such services are defined in [~~article 163 of~~
21 ~~the education law~~] title 25 of article 51 of the public health law, each
22 member of such foreign professional service limited liability company
23 must be licensed pursuant to [~~article 163 of the education law~~] title 25
24 of article 51 of the public health law to practice creative arts therapy
25 in this state. With respect to a foreign professional service limited
26 liability company which provides marriage and family therapy services as
27 such services are defined in [~~article 163 of the education law~~] title 25
28 of article 51 of the public health law, each member of such foreign
29 professional service limited liability company must be licensed pursuant
30 to [~~article 163 of the education law~~] title 25 of article 51 of the
31 public health law to practice marriage and family therapy in this state.
32 With respect to a foreign professional service limited liability company
33 which provides mental health counseling services as such services are
34 defined in [~~article 163 of the education law~~] title 25 of article 51 of
35 the public health law, each member of such foreign professional service
36 limited liability company must be licensed pursuant to [~~article 163 of~~
37 ~~the education law~~] title 25 of article 51 of the public health law to
38 practice mental health counseling in this state. With respect to a
39 foreign professional service limited liability company which provides
40 psychoanalysis services as such services are defined in [~~article 163 of~~
41 ~~the education law~~] title 25 of article 51 of the public health law, each
42 member of such foreign professional service limited liability company
43 must be licensed pursuant to [~~article 163 of the education law~~] title 25
44 of article 51 of the public health law to practice psychoanalysis in
45 this state. With respect to a foreign professional service limited
46 liability company which provides applied behavior analysis services as
47 such services are defined in [~~article 167 of the education law~~] title 29
48 of article 51 of the public health law, each member of such foreign
49 professional service limited liability company must be licensed or
50 certified pursuant to [~~article 167 of the education law~~] title 29 of
51 article 51 of the public health law to practice applied behavior analy-
52 sis in this state.

53 (b) "Licensing authority" means the regents of the university of the
54 state of New York or the state education department, as the case may be,
55 in the case of all professions licensed under title eight of the educa-
56 tion law, the department of health in the case of all professions

1 licensed under article fifty-one of the public health law, and the
2 appropriate appellate division of the supreme court in the case of the
3 profession of law.

4 (c) "Profession" includes any practice as an attorney and counselor-
5 at-law, or as a licensed physician, and those professions designated in
6 title eight of the education law or article fifty-one of the public
7 health law.

8 (f) "Professional partnership" means (1) a partnership without limited
9 partners each of whose partners is a professional authorized by law to
10 render a professional service within this state, (2) a partnership with-
11 out limited partners each of whose partners is a professional, at least
12 one of whom is authorized by law to render a professional service within
13 this state or (3) a partnership without limited partners authorized by,
14 or holding a license, certificate, registration or permit issued by the
15 licensing authority pursuant to the education law to render a profes-
16 sional service within this state; except that all partners of a profes-
17 sional partnership that provides medical services in this state must be
18 licensed pursuant to [~~article 131 of the education law~~] title 2 of arti-
19 cle 51 of the public health law to practice medicine in this state and
20 all partners of a professional partnership that provides dental services
21 in this state must be licensed pursuant to [~~article 133 of the education~~
22 ~~law~~] title 7 of article 51 of the public health law to practice dentis-
23 try in this state; except that all partners of a professional partner-
24 ship that provides veterinary services in this state must be licensed
25 pursuant to article 135 of the education law to practice veterinary
26 medicine in this state; and further except that all partners of a
27 professional partnership that provides professional engineering, land
28 surveying, geologic, architectural, and/or landscape architectural
29 services in this state must be licensed pursuant to article 145, article
30 147 and/or article 148 of the education law to practice one or more of
31 such professions.

32 § 8. The tenth, twelfth, fourteenth, and sixteenth undesignated para-
33 graphs of section 2 of the partnership law, the tenth, twelfth, and
34 sixteenth undesignated paragraphs as added by chapter 576 of the laws of
35 1994, and the fourteenth undesignated paragraph as amended by chapter
36 475 of the laws of 2014, are amended to read as follows:

37 "Licensing authority" means the regents of the university of the state
38 of New York or the state education department, as the case may be, in
39 the case of all professions licensed under title eight of the education
40 law, the department of health in the case of all professions licensed
41 under article fifty-one of the public health law and the appropriate
42 appellate division of the supreme court in the case of the profession of
43 law.

44 "Profession" includes any practice as an attorney and counsellor-at-
45 law or as a licensed physician, and those professions designated in
46 title eight of the education law or article fifty-one of the public
47 health law.

48 "Professional partnership" means (1) a partnership without limited
49 partners each of whose partners is a professional authorized by law to
50 render a professional service within this state, (2) a partnership with-
51 out limited partners each of whose partners is a professional, at least
52 one of whom is authorized by law to render a professional service within
53 this state or (3) a partnership without limited partners authorized by,
54 or holding a license, certificate, registration or permit issued by the
55 licensing authority pursuant to the education law to render a profes-
56 sional service within this state; except that all partners of a profes-

sional partnership that provides medical services in this state must be licensed pursuant to [~~article 131 of the education law~~] title 2 of article 51 of the public health law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to [~~article 133 of the education law~~] title 7 of article 51 of the public health law to practice dentistry in this state; and further except that all partners of a professional partnership that provides professional engineering, land surveying, geologic, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state.

"Professional service corporation" means (i) a corporation organized under article fifteen of the business corporation law and (ii) any other corporation organized under the business corporation law or any predecessor statute, which is authorized by, or holds a license, certificate, registration or permit issued by, the licensing authority pursuant to the education law or the public health law to render professional services within this state.

§ 9. Subdivision (q) of section 121-1500 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to [~~article 131 of the education law~~] title 2 of article 51 of the public health law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to [~~article 133 of the education law~~] title 7 of article 51 of the public health law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to [~~article 154 of the education law~~] title 18 of article 51 of the public health law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to

1 ~~[article 163 of the education law]~~ title 25 of article 51 of the public
2 health law to practice psychoanalysis in this state. Each partner of a
3 registered limited liability partnership formed to provide applied
4 behavior analysis service in this state must be licensed or certified
5 pursuant to ~~[article 167 of the education law]~~ title 29 of article 51 of
6 the public health law to practice applied behavior analysis in this
7 state.

8 § 10. Subdivision (q) of section 121-1502 of the partnership law, as
9 amended by chapter 475 of the laws of 2014, is amended to read as
10 follows:

11 (q) Each partner of a foreign limited liability partnership which
12 provides medical services in this state must be licensed pursuant to
13 ~~[article 131 of the education law]~~ title 2 of article 51 of the public
14 health law to practice medicine in the state and each partner of a
15 foreign limited liability partnership which provides dental services in
16 the state must be licensed pursuant to ~~[article 133 of the education~~
17 ~~law]~~ title 7 of article 51 of the public health law to practice dentis-
18 try in this state. Each partner of a foreign limited liability partner-
19 ship which provides veterinary service in the state shall be licensed
20 pursuant to article 135 of the education law to practice veterinary
21 medicine in this state. Each partner of a foreign limited liability
22 partnership which provides professional engineering, land surveying,
23 geological services, architectural and/or landscape architectural
24 services in this state must be licensed pursuant to article 145, article
25 147 and/or article 148 of the education law to practice one or more of
26 such professions. Each partner of a foreign limited liability partner-
27 ship which provides licensed clinical social work services in this state
28 must be licensed pursuant to ~~[article 154 of the education law]~~ title 18
29 of article 51 of the public health law to practice licensed clinical
30 social work in this state. Each partner of a foreign limited liability
31 partnership which provides creative arts therapy services in this state
32 must be licensed pursuant to ~~[article 163 of the education law]~~ title 25
33 of article 51 of the public health law to practice creative arts therapy
34 in this state. Each partner of a foreign limited liability partnership
35 which provides marriage and family therapy services in this state must
36 be licensed pursuant to ~~[article 163 of the education law]~~ title 25 of
37 article 51 of the public health law to practice marriage and family
38 therapy in this state. Each partner of a foreign limited liability part-
39 nership which provides mental health counseling services in this state
40 must be licensed pursuant to ~~[article 163 of the education law]~~ title 25
41 of article 51 of the public health law to practice mental health coun-
42 seling in this state. Each partner of a foreign limited liability part-
43 nership which provides psychoanalysis services in this state must be
44 licensed pursuant to ~~[article 163 of the education law]~~ title 25 of
45 article 51 of the public health law to practice psychoanalysis in this
46 state. Each partner of a foreign limited liability partnership which
47 provides applied behavior analysis services in this state must be
48 licensed or certified pursuant to ~~[article 167 of the education law]~~
49 title 29 of article 51 of the public health law to practice applied
50 behavior analysis in this state.

51 § 11. Section 24-a of the corrections law, as amended by chapter 322
52 of the laws of 2021, is amended to read as follows:

53 § 24-a. Actions against persons rendering health care services at the
54 request of the department; defense and indemnification. The provisions
55 of section seventeen of the public officers law shall apply to any
56 person holding a license to practice a profession pursuant to ~~[article~~

~~one hundred thirty one, one hundred thirty one B, one hundred thirty two, one hundred thirty three, one hundred thirty six, one hundred thirty seven, one hundred thirty nine, one hundred forty one, one hundred forty three, one hundred fifty six or one hundred fifty nine of the education law]~~ titles two, four, six, seven, nine, ten, twelve, fourteen, fifteen, twenty, and twenty-two of article fifty-one of the public health law, who is rendering or has rendered professional services authorized under such license while acting at the request of the department or a facility of the department in providing health care and treatment or professional consultation to incarcerated individuals of state correctional facilities, or to the infant children of incarcerated individuals while such infants are cared for in facility nurseries pursuant to section six hundred eleven of this chapter, without regard to whether such health care and treatment or professional consultation is provided within or without a correctional facility.

§ 12. Section 910 of the education law, as amended by chapter 477 of the laws of 2004, is amended to read as follows:

§ 910. Choice of method of treatment. Whenever affected by the requirements of this article, the school employee so affected, and, in the case of a child, the parent of, or person in parental relation to, such child, shall have the right to determine the form or manner of treatment or remedial care to be prescribed or applied, but the treatment or remedial care must be in accordance with and as allowed under the provisions of ~~[article one hundred thirty one of this chapter]~~ title two of article fifty-one of the public health law.

§ 13. Section 522 of the executive law, as added by chapter 552 of the laws of 1993, is amended to read as follows:

§ 522. Actions against persons rendering health care services at the request of the division; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any person holding a license to practice a profession pursuant to ~~[article one hundred thirty one, one hundred thirty one B, one hundred thirty two, one hundred thirty three, one hundred thirty six, one hundred thirty seven, one hundred thirty nine, one hundred forty one, one hundred forty three, one hundred fifty six or one hundred fifty nine of the education law]~~ titles two, four, six, seven, nine, ten, twelve, fourteen, fifteen, twenty, and twenty-two of article fifty-one of the public health law, who is rendering or has rendered professional services authorized under such license while acting at the request of the division or a facility of the division in providing health care and treatment or professional consultation to residents of division facilities, or to infants of residents while such infants are cared for in division facilities pursuant to section five hundred sixteen of this ~~[article]~~ subtitle, without regard to whether such health care and treatment or professional consultation is provided within or without a division facility.

§ 14. Paragraph 4 of subdivision (a) of section 33.16 of the mental hygiene law, as amended by chapter 226 of the laws of 1991, is amended to read as follows:

4. "Mental health practitioner" or "practitioner" means a person employed by or rendering a service at a facility maintaining the clinical record licensed under ~~[article one hundred thirty one of the education law]~~ title two of article fifty-one of the public health law who practices psychiatry or a person licensed under ~~[article one hundred thirty nine, one hundred fifty three or one hundred fifty four of the education law]~~ titles twelve, seventeen, or eighteen of article fifty-

1 one of the public health law or any other person not prohibited by law
2 from providing mental health or developmental disabilities services.

3 § 15. Section 14 of the public health law, as amended by chapter 2 of
4 the laws of 1998, is amended to read as follows:

5 § 14. Actions against persons rendering professional services at the
6 request of the department; defense and indemnification. The provisions
7 of section seventeen of the public officers law shall apply to any
8 physician, dentist, nurse or other health care professional who: (i) is
9 licensed to practice pursuant to [~~article one hundred thirty-one, one~~
10 ~~hundred thirty-one-B, one hundred thirty-three, one hundred thirty-six,~~
11 ~~one hundred thirty-seven, one hundred thirty-nine, one hundred forty-~~
12 ~~three, one hundred fifty-six, one hundred fifty-seven, one hundred~~
13 ~~fifty-nine or one hundred sixty-four of the education law]~~ titles two,
14 four, six, seven, nine, ten, twelve, fifteen, twenty, twenty-one, twen-
15 ty-two and twenty-six of article fifty-one of this chapter and who is
16 rendering professional treatment or consultation in connection with
17 professional treatment authorized under such license at the request of
18 the department, or at a departmental facility, including clinical prac-
19 tice provided pursuant to a clinical practice plan established pursuant
20 to subdivision fourteen of section two hundred six of this chapter, to
21 patients receiving care or professional consultation from the department
22 while rendering such professional treatment or consultation; (ii) is
23 rendering consultation in connection with an audit or prepayment review
24 of claims or treatment requests under the medical assistance program; or
25 (iii) assists the department as consultants or expert witnesses in the
26 investigation or prosecution of alleged violations of article twenty-
27 eight, thirty-six, forty-four or forty-seven of this chapter or rules
28 and regulations adopted pursuant thereto.

29 § 16. Paragraph (d) of subdivision 1 of section 18 of the public
30 health law, as added by chapter 497 of the laws of 1986, is amended to
31 read as follows:

32 (d) "Health care practitioner" or "practitioner" means a person
33 licensed under [~~article one hundred thirty-one, one hundred~~
34 ~~thirty-one-B, one hundred thirty-two, one hundred thirty-three, one~~
35 ~~hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one~~
36 ~~hundred forty-three, one hundred forty-four, one hundred fifty-three,~~
37 ~~one hundred fifty-four, one hundred fifty-six or one hundred fifty-nine~~
38 ~~of the education law]~~ titles two, four, six, seven, nine, twelve, four-
39 teen, fifteen, sixteen, seventeen, eighteen, twenty, and twenty-two of
40 article fifty-one of this chapter or a person certified under former
41 section twenty-five hundred sixty of this chapter.

42 § 17. The opening paragraph of subdivision 1 of section 19 of the
43 public health law, as added by chapter 572 of the laws of 1990, is
44 amended to read as follows:

45 No physician licensed under [~~article one hundred thirty-one of the~~
46 ~~education law]~~ title two of article fifty-one of this chapter shall
47 charge from a beneficiary of health insurance under title XVIII of the
48 federal social security act (medicare) any amount in excess of the
49 following limitations:

50 § 18. Subdivisions 1 and 9-b, clause 2 of subparagraph (ii) of para-
51 graph (h) and paragraph (p) of subdivision 10, paragraph (a) of subdivi-
52 sion 11, paragraphs (a) and (b) of subdivision 13, and paragraph (c) of
53 subdivision 17 of section 230 of the public health law, subdivision 1 as
54 amended by chapter 537 of the laws of 1998, subdivision 9-b as amended
55 by chapter 11 of the laws of 2015, clause 2 of subparagraph (ii) of
56 paragraph (h) of subdivision 10 as amended by chapter 477 of the laws of

1 2008, paragraph (p) of subdivision 10 as amended by chapter 599 of the
2 laws of 1996, paragraph (a) of subdivision 11 as amended by chapter 627
3 of the laws of 1996, paragraphs (a) and (b) of subdivision 13 as added
4 by and paragraph (c) of subdivision 17 as amended by chapter 606 of the
5 laws of 1991, are amended to read as follows:

6 1. A state board for professional medical conduct is hereby created in
7 the department in matters of professional misconduct as defined in
8 sections sixty-five hundred thirty and sixty-five hundred thirty-one of
9 [~~the education law~~] this chapter. Its physician members shall be
10 appointed by the commissioner at least eighty-five percent of whom shall
11 be from among nominations submitted by the medical society of the state
12 of New York, the New York state osteopathic society, the New York acade-
13 my of medicine, county medical societies, statewide specialty societies
14 recognized by the council of medical specialty societies, and the hospi-
15 tal association of New York state. Its lay members shall be appointed by
16 the commissioner with the approval of the governor. The board of regents
17 shall also appoint twenty percent of the members of the board. Not less
18 than sixty-seven percent of the members appointed by the board of
19 regents shall be physicians. Not less than eighty-five percent of the
20 physician members appointed by the board of regents shall be from among
21 nominations submitted by the medical society of the state of New York,
22 the New York state osteopathic society, the New York academy of medi-
23 cine, county medical societies, statewide medical societies recognized
24 by the council of medical specialty societies, and the hospital associ-
25 ation of New York state. Any failure to meet the percentage thresholds
26 stated in this subdivision shall not be grounds for invalidating any
27 action by or on authority of the board for professional medical conduct
28 or a committee or a member thereof. The board for professional medical
29 conduct shall consist of not fewer than eighteen physicians licensed in
30 the state for at least five years, two of whom shall be doctors of
31 osteopathy, not fewer than two of whom shall be physicians who dedicate
32 a significant portion of their practice to the use of non-conventional
33 medical treatments who may be nominated by New York state medical asso-
34 ciations dedicated to the advancement of such treatments, at least one
35 of whom shall have expertise in palliative care, and not fewer than
36 seven lay members. An executive secretary shall be appointed by the
37 chairperson and shall be a licensed physician. Such executive secretary
38 shall not be a member of the board, shall hold office at the pleasure
39 of, and shall have the powers and duties assigned and the annual salary
40 fixed by, the chairperson. The chairperson shall also assign such secre-
41 taries or other persons to the board as are necessary.

42 9-b. Neither the board for professional medical conduct nor the office
43 of professional medical conduct shall charge a licensee with misconduct
44 as defined in sections sixty-five hundred thirty and sixty-five hundred
45 thirty-one of [~~the education law~~] this chapter, or cause a report made
46 to the director of such office to be investigated beyond a preliminary
47 review as set forth in clause (A) of subparagraph (i) of paragraph (a)
48 of subdivision ten of this section, where such report is determined to
49 be based solely upon the recommendation or provision of a treatment
50 modality to a particular patient by such licensee that is not
51 universally accepted by the medical profession, including but not limit-
52 ed to, varying modalities used in the treatment of Lyme disease and
53 other tick-borne diseases. When a licensee, acting in accordance with
54 paragraph e of subdivision four of section sixty-five hundred twenty-
55 seven of [~~the education law~~] this chapter, recommends or provides a
56 treatment modality that effectively treats human disease, pain, injury,

1 deformity or physical condition for which the licensee is treating a
2 patient, the recommendation or provision of that modality to a partic-
3 ular patient shall not, by itself, constitute professional misconduct.
4 The licensee shall otherwise abide by all other applicable professional
5 requirements.

6 (2) make arrangements for the transfer and maintenance of the medical
7 records of his or her former patients. Records shall be either trans-
8 ferred to the licensee's former patients consistent with the provisions
9 of sections seventeen and eighteen of this chapter or to another physi-
10 cian or health care practitioner as provided in clause (1) of this
11 subparagraph who shall expressly assume responsibility for their care
12 and maintenance and for providing access to such records, as provided in
13 subdivisions twenty-two and thirty-two of section sixty-five hundred
14 thirty of ~~[the education law]~~ this chapter, the rules of the ~~[board of~~
15 ~~regents]~~ department or the regulations of the commissioner of ~~[educa-~~
16 ~~tion]~~ health and sections seventeen and eighteen of this chapter. When
17 records are not transferred to the licensee's former patients or to
18 another physician or health care practitioner, the licensee whose
19 license has been revoked, annulled, surrendered, suspended or restricted
20 shall remain responsible for the care and maintenance of the medical
21 records of his or her former patients and shall be subject to additional
22 proceedings pursuant to subdivisions twenty-two, thirty-two and forty of
23 section sixty-five hundred thirty of ~~[the education law]~~ this chapter in
24 the event that the licensee fails to maintain those medical records or
25 fails to make them available to a former patient.

26 (p) Convictions of crimes or administrative violations. In cases of
27 professional misconduct based solely upon a violation of subdivision
28 nine of section sixty-five hundred thirty of ~~[the education law]~~ this
29 chapter, the director may direct that charges be prepared and served and
30 may refer the matter to a committee on professional conduct for its
31 review and report of findings, conclusions as to guilt, and determi-
32 nation. In such cases, the notice of hearing shall state that the licen-
33 see shall file a written answer to each of the charges and allegations
34 in the statement of charges no later than ten days prior to the hearing,
35 and that any charge or allegation not so answered shall be deemed admit-
36 ted, that the licensee may wish to seek the advice of counsel prior to
37 filing such answer that the licensee may file a brief and affidavits
38 with the committee on professional conduct, that the licensee may appear
39 personally before the committee on professional conduct, may be repres-
40 ented by counsel and may present evidence or sworn testimony in his or
41 her behalf, and the notice may contain such other information as may be
42 considered appropriate by the director. The department may also present
43 evidence or sworn testimony and file a brief at the hearing. A steno-
44 graphic record of the hearing shall be made. Such evidence or sworn
45 testimony offered to the committee on professional conduct shall be
46 strictly limited to evidence and testimony relating to the nature and
47 severity of the penalty to be imposed upon the licensee. Where the
48 charges are based on the conviction of state law crimes in other juris-
49 dictions, evidence may be offered to the committee which would show that
50 the conviction would not be a crime in New York state. The committee on
51 professional conduct may reasonably limit the number of witnesses whose
52 testimony will be received and the length of time any witness will be
53 permitted to testify. The determination of the committee shall be served
54 upon the licensee and the department in accordance with the provisions
55 of paragraph (h) of this subdivision. A determination pursuant to this

1 subdivision may be reviewed by the administrative review board for
2 professional medical conduct.

3 (a) The medical society of the state of New York, the New York state
4 osteopathic society or any district osteopathic society, any statewide
5 medical specialty society or organization, and every county medical
6 society, every person licensed pursuant to [~~articles one hundred thir-~~
7 ~~ty one, one hundred thirty one B, one hundred thirty three, one hundred~~
8 ~~thirty seven and one hundred thirty nine of the education law~~] titles
9 two, four, seven, ten, and twelve of article fifty-one of this chapter,
10 and the chief executive officer, the chief of the medical staff and the
11 chairperson of each department of every institution which is established
12 pursuant to article twenty-eight of this chapter and a comprehensive
13 health services plan pursuant to article forty-four of this chapter or
14 article forty-three of the insurance law, shall, and any other person
15 may, report to the board any information which such person, medical
16 society, organization institution or plan has which reasonably appears
17 to show that a licensee is guilty of professional misconduct as defined
18 in sections sixty-five hundred thirty and sixty-five hundred thirty-one
19 of [~~the education law~~] this chapter. Such reports shall remain confiden-
20 tial and shall not be admitted into evidence in any administrative or
21 judicial proceeding except that the board, its staff, or the members of
22 its committees may begin investigations on the basis of such reports and
23 may use them to develop further information.

24 (a) Temporary surrender. The license and registration of a licensee
25 who may be temporarily incapacitated for the active practice of medicine
26 and whose alleged incapacity has not resulted in harm to a patient may
27 be voluntarily surrendered to the board for professional medical
28 conduct, which may accept and hold such license during the period of
29 such alleged incapacity or the board for professional medical conduct
30 may accept the surrender of such license after agreement to conditions
31 to be met prior to the restoration of the license. The board shall give
32 prompt written notification of such surrender to the division of profes-
33 sional licensing services of the state education department, and to each
34 hospital at which the licensee has privileges. The licensee whose
35 license is so surrendered shall notify all patients and all persons who
36 request medical services that the licensee has temporarily withdrawn
37 from the practice of medicine. The licensure status of each such licen-
38 see shall be "inactive" and the licensee shall not be authorized to
39 practice medicine. The temporary surrender shall not be deemed to be an
40 admission of disability or of professional misconduct, and shall not be
41 used as evidence of a violation of subdivision seven or eight of section
42 sixty-five hundred thirty of [~~the education law~~] this chapter unless the
43 licensee practices while the license is "inactive". Any such practice
44 shall constitute a violation of subdivision twelve of section sixty-five
45 hundred thirty of [~~the education law~~] this chapter. The surrender of a
46 license under this subdivision shall not bar any disciplinary action
47 except action based solely upon the provisions of subdivision seven or
48 eight of section sixty-five hundred thirty of [~~the education law~~] this
49 chapter and where no harm to a patient has resulted, and shall not bar
50 any civil or criminal action or proceeding which might be brought with-
51 out regard to such surrender. A surrendered license shall be restored
52 upon a showing to the satisfaction of a committee of professional
53 conduct of the state board for professional medical conduct that the
54 licensee is not incapacitated for the active practice of medicine
55 provided, however, that the committee may impose reasonable conditions
56 on the licensee, if it determined that due to the nature and extent of

1 the licensee's former incapacity such conditions are necessary to
2 protect the health of the people. The chairperson of the committee shall
3 issue a restoration order adopting the decision of the committee. Prompt
4 written notification of such restoration shall be given to the division
5 of professional licensing services of the [~~state education~~] department
6 and to all hospitals which were notified of the surrender of the
7 license.

8 (b) Permanent surrender. The license and registration of a licensee
9 who may be permanently incapacitated for the active practice of medi-
10 cine, and whose alleged incapacity has not resulted in harm to a
11 patient, may be voluntarily surrendered to the board for professional
12 medical conduct. The board shall give prompt written notification of
13 such surrender to the division of professional licensing services of the
14 state education department, and to each hospital at which the licensee
15 has privileges. The licensee whose license is so surrendered shall noti-
16 fy all patients and all persons who request medical services that the
17 licensee has permanently withdrawn from the practice of medicine. The
18 permanent surrender shall not be deemed to be an admission of disability
19 of or professional misconduct, and shall not be used as evidence of a
20 violation of subdivision seven or eight of section sixty-five hundred
21 thirty of [~~the education law~~] this chapter. The surrender shall not bar
22 any civil or criminal action or proceeding which might be brought with-
23 out regard to such surrender. There shall be no restoration of a license
24 that has been surrendered pursuant to this subdivision.

25 (c) If the committee determines that reasonable cause exists as speci-
26 fied in paragraph (a) of this subdivision and that there is insufficient
27 evidence for the matter to constitute misconduct as defined in sections
28 sixty-five hundred thirty and section sixty-five hundred thirty-one of
29 [~~the education law~~] this chapter, the committee may issue an order
30 directing that the licensee's practice of medicine be monitored for a
31 period specified in the order, which shall in no event exceed one year,
32 by a licensee approved by the director, which may include members of
33 county medical societies or district osteopathic societies designated by
34 the commissioner. The licensee responsible for monitoring the licensee
35 shall submit regular reports to the director. If the licensee refuses to
36 cooperate with the licensee responsible for monitoring or if the moni-
37 toring licensee submits a report that the licensee is not practicing
38 medicine with reasonable skill and safety to his or her patients, the
39 committee may refer the matter to the director for further proceedings
40 pursuant to subdivision ten of this section. An order pursuant to this
41 paragraph shall be kept confidential and shall not be subject to discov-
42 ery or subpoena, unless the licensee refuses to comply with the order.

43 § 19. Paragraph (i) of subdivision 1 of section 230-d of the public
44 health law, as amended by chapter 438 of the laws of 2012, is amended to
45 read as follows:

46 (i) "Licensee" shall mean an individual licensed or otherwise author-
47 ized under article one hundred thirty-one, one hundred thirty-one-B,
48 individuals who have obtained an issuance of a privilege to perform
49 podiatric standard or advanced ankle surgery pursuant to subdivisions
50 one and two of section seven thousand nine of [~~the education law~~] this
51 chapter.

52 § 20. Subdivision 5 of section 230-d of the public health law, as
53 added by chapter 365 of the laws of 2007, is amended to read as follows:

54 5. The commissioner shall make, adopt, promulgate and enforce such
55 rules and regulations, as he or she may deem appropriate, to effectuate
56 the purposes of this section. Where any rule or regulation under this

1 section would affect the scope of practice of a health care practitioner
2 licensed, registered or certified under title eight of the education law
3 other than those licensed under [~~articles one hundred thirty-one or one~~
4 ~~hundred thirty-one B of the education law~~] article fifty-one of this
5 chapter, the rule or regulation shall be made with the concurrence of
6 the commissioner of education.

7 § 21. Paragraph (a) of subdivision 3 of section 260 of the public
8 health law, as amended by chapter 84 of the laws of 2006, is amended to
9 read as follows:

10 (a) is licensed, or exempt from licensure, pursuant to [~~articles one~~
11 ~~hundred thirty-one, one hundred thirty-one B, one hundred thirty-two,~~
12 ~~one hundred thirty-three, one hundred thirty-six, one hundred thirty-~~
13 ~~seven, one hundred thirty-nine, one hundred forty, one hundred forty-~~
14 ~~one, one hundred forty-three, one hundred forty-four, one hundred~~
15 ~~fifty-three, one hundred fifty-four, one hundred fifty-five, one hundred~~
16 ~~fifty-six, one hundred fifty-seven, one hundred fifty-nine, one hundred~~
17 ~~sixty, one hundred sixty-two, or one hundred sixty-four of the education~~
18 ~~law~~] titles two, four, six, seven, nine, ten, twelve, thirteen, four-
19 teen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twen-
20 ty-six of article fifty-one of this chapter;

21 § 22. Subdivision 1 of section 462 of the public health law, as
22 amended by chapter 562 of the laws of 2001, is amended to read as
23 follows:

24 1. This article shall not apply to or affect a physician duly licensed
25 under [~~article one hundred thirty-one of the education law~~] title two of
26 article fifty-one of this chapter or x-ray technicians.

27 § 23. Subdivision 2 of section 470 of the public health law, as added
28 by chapter 514 of the laws of 2004, is amended to read as follows:

29 2. No person shall perform a tongue-splitting on another person,
30 unless the person performing such tongue-splitting is licensed to prac-
31 tice medicine pursuant to [~~article one hundred thirty-one of the educa-~~
32 ~~tion law~~] title two of article fifty-one of this chapter or licensed to
33 practice dentistry pursuant to [~~article one hundred thirty-three of the~~
34 ~~education law~~] title seven of article fifty-one of this chapter.

35 § 24. Section 2509-c of the public health law, as added by section 5
36 of subpart A of part JJ of chapter 56 of the laws of 2021, is amended to
37 read as follows:

38 § 2509-c. Availability of adverse childhood experiences services.
39 Every pediatrics health care provider licensed pursuant to [~~article one~~
40 ~~hundred thirty-one of the education law~~] title two of article fifty-one
41 of this chapter shall be required to provide the parent, guardian,
42 custodian or other authorized individual of a child that the pediatri-
43 cian sees in their official capacity, with educational materials devel-
44 oped pursuant to subdivision two of section three hundred seventy-c of
45 the social services law. Such materials may be provided electronically
46 and shall be used to inform and educate them about adverse childhood
47 experiences, the importance of protective factors and the availability
48 of services for children at risk for or experiencing adverse childhood
49 experiences.

50 § 25. Subdivision 17 of section 2511 of the public health law, as
51 added by chapter 2 of the laws of 1998, is amended to read as follows:

52 17. The commissioner, in consultation with the superintendent, is
53 authorized to establish and operate a child health information service
54 which shall utilize advanced telecommunications technologies to meet the
55 health information and support needs of children, parents and medical
56 professionals, which shall include, but not be limited to, treatment

1 guidelines for children, treatment protocols, research articles and
2 standards for the care of children from birth through eighteen years of
3 age. Such information shall not constitute the practice of medicine, as
4 defined in [~~article one hundred thirty-one of the education law~~] title
5 two of article fifty-one of this chapter.

6 § 26. Paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),
7 (k), (l), (m) and (y) of subdivision 2 of section 2999-cc of the public
8 health law, paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),
9 (k), and (l) as amended and paragraph (m) as added by chapter 454 of the
10 laws of 2015, and paragraph (y) as amended by section 1 of part V of
11 chapter 57 of the laws of 2022, are amended to read as follows:

12 (a) a physician licensed pursuant to [~~article one hundred thirty-one~~
13 ~~of the education law~~] title two of article fifty-one of this chapter;

14 (b) a physician assistant licensed pursuant to [~~article one hundred~~
15 ~~thirty-one-B of the education law~~] title four of article fifty-one of
16 this chapter;

17 (c) a dentist licensed pursuant to [~~article one hundred thirty-three~~
18 ~~of the education law~~] title seven of article fifty-one of this chapter;

19 (d) a nurse practitioner licensed pursuant to [~~article one hundred~~
20 ~~thirty-nine of the education law~~] title twelve of article fifty-one of
21 this chapter;

22 (e) a registered professional nurse licensed pursuant to [~~article one~~
23 ~~hundred thirty-nine of the education law~~] title twelve of article
24 fifty-one of this chapter only when such nurse is receiving patient-
25 specific health information or medical data at a distant site by means
26 of remote patient monitoring;

27 (f) a podiatrist licensed pursuant to [~~article one hundred forty-one~~
28 ~~of the education law~~] title fourteen of article fifty-one of this chap-
29 ter;

30 (g) an optometrist licensed pursuant to [~~article one hundred forty-~~
31 ~~three of the education law~~] title fifteen of article fifty-one of this
32 chapter;

33 (h) a psychologist licensed pursuant to [~~article one hundred fifty-~~
34 ~~three of the education law~~] title seventeen of article fifty-one of
35 this chapter;

36 (i) a social worker licensed pursuant to [~~article one hundred fifty-~~
37 ~~four of the education law~~] title eighteen of article fifty-one of this
38 chapter;

39 (j) a speech language pathologist or audiologist licensed pursuant to
40 [~~article one hundred fifty-nine of the education law~~] title twenty-two
41 of article fifty-one of this chapter;

42 (k) a midwife licensed pursuant to [~~article one hundred forty of the~~
43 ~~education law~~] title thirteen of article fifty-one of this chapter;

44 (l) a physical therapist licensed pursuant to [~~article one hundred~~
45 ~~thirty-six of the education law~~] title nine of article fifty-one of
46 this chapter;

47 (m) an occupational therapist licensed pursuant to [~~article one~~
48 ~~hundred fifty-six of the education law~~] title twenty of article fifty-
49 one of this chapter;

50 (y) a mental health practitioner licensed pursuant to [~~article one~~
51 ~~hundred sixty-three of the education law~~] title twenty-five of article
52 fifty-one of this chapter; and

53 § 27. Subdivision 7 of section 2999-cc of the public health law, as
54 amended by section 3 of subpart C of part S of chapter 57 of the laws of
55 2018, is amended to read as follows:

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

§ 28. The opening paragraph of paragraph c of subdivision 1 and subdivision 4 of section 3383 of the public health law, as added by chapter 494 of the laws of 1982, are amended to read as follows:

"Imitation controlled substance" means a substance, other than a drug for which a prescription is required pursuant to ~~[article one hundred thirty-seven of the education law]~~ title ten of article fifty-one of this chapter, that is not a controlled substance, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a controlled substance, as defined in the penal law. Evidence of representations that the substance is a controlled substance may include but is not limited to oral or written representations by the manufacturer or seller, as the case may be, about the substance with regard to:

4. No liability shall be imposed by virtue of this section on any person licensed pursuant to ~~[article one hundred thirty-one of the education law]~~ title two of article fifty-one of this chapter or licensed under this article who manufactures, ~~[distributed]~~ distributes, sells, prescribes, dispenses or possesses an imitation controlled substance for use as a placebo or for use in clinical research conducted pursuant to the federal food, drug and cosmetic act.

§ 29. Section 3700 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3700. Definitions. As used in this article:

1. Physician assistant. The term "physician assistant" means a person who is licensed as a physician assistant pursuant to section sixty-five hundred forty-one of the ~~[education]~~ public health law.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to ~~[article one hundred thirty-one of the education law]~~ title two of article fifty-one of this chapter.

3. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ physician assistants in accordance with rules and regulations of the public health and health planning council.

4. Approved program. The term "approved program" means a program for the education of physician assistants which has been formally approved by the ~~[education]~~ department.

§ 30. Section 3710 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

§ 3710. Definitions. As used in this article:

1. Specialist assistant. The term "specialist assistant" means a person who is registered pursuant to section sixty-five hundred forty-eight of the ~~[education]~~ public health law as a specialist assistant for a particular medical speciality as defined by regulations promulgated by the commissioner pursuant to section thirty-seven hundred eleven of this article.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to ~~[article one hundred thirty-one of the education law]~~ title two of article fifty-one of this chapter.

3. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of this chapter and authorized to employ specialist assistants in accordance with rules and regulations of the public health and health planning council.

4. Approved program. The term "approved program" means a program for the education of specialist assistants which has been formally approved by the ~~[education]~~ department.

§ 31. Subdivision 2 of section 4702 of the public health law, as amended by chapter 805 of the laws of 1984, is amended to read as follows:

2. "Shared health facility" or "facility" means any arrangement wherein four or more practitioners licensed under the provisions of ~~[article one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-two, one hundred thirty-three, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-six or one hundred fifty-nine of the education law]~~ titles two, three, six, seven, twelve, fourteen, fifteen, sixteen, twenty or twenty-two of article fifty-one of this chapter, one or more of whom receives payment under the program and whose total aggregate monthly remuneration from such program is in excess of five thousand dollars for any one month during the preceding twelve months, (a) practice their professions at a common physical location; and (b) share (i) common waiting areas, examining rooms, treatment rooms or other space, or (ii) the services of supporting staff, or (iii) equipment; and (c) a person, whether such person is a practitioner or not, is in charge of, controls, manages or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at said common physical location, other than the direct furnishing of professional services by the practitioners to their patients, or a person makes available to the practitioners the services of supporting staff who are not employees of the practitioners. "Shared health facility" does not mean or include practitioners practicing their profession as a partnership provided that members of the supporting staff are employees of such legal entity and if there is an office manager, or person with similar title, he or she is an employee of the legal entity whose compensation is customary and not excessive for such services and there is no person described in paragraph (c) of this subdivision. "Shared health facility" does not mean or include any entity organized pursuant to the provisions of article twenty-eight of this chapter or

operating under a certificate issued pursuant to the provisions of article thirteen of the mental hygiene law; nor shall it mean or include a facility wherein ambulatory medical services are provided by an organized group of physicians pursuant to an arrangement between such group and a health services corporation operating under article forty-three of the insurance law or a health maintenance organization operating under article forty-four of the public health law, and where the health services corporation or the health maintenance organization is reimbursed on a prepaid capitation basis for the provision of health care services under New York state's medical assistance program.

§ 32. Subdivision 12 of section 130.00 of the penal law, as added by chapter 1 of the laws of 2000, is amended to read as follows:

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: ~~[article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law]~~ titles two, six, seven and fourteen of article fifty-one of the public health law.

§ 33. Paragraph (iv) of subdivision 5 of section 1750-b of the surrogate's court procedure act, as amended by chapter 198 of the laws of 2016, is amended to read as follows:

(iv) any other health care practitioner providing services to the person who is intellectually disabled, who is licensed pursuant to ~~[article one hundred thirty-one, one hundred thirty-one B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-three, one hundred fifty-four, one hundred fifty-six, one hundred fifty-nine or one hundred sixty-four of the education law]~~ titles two, four, six, seven, nine, twelve, fourteen, fifteen, sixteen, twenty and twenty-two of article fifty-one of the public health law; or

§ 34. Subparagraph (iii) of paragraph (d) of subdivision 1 of section 367-a of the social services law, as amended by section 31 of part B of chapter 57 of the laws of 2015, is amended to read as follows:

(iii) With respect to items and services provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act and items and services provided to qualified medicare beneficiaries under part B of title XVIII of the federal social security act, the amount payable for services covered under this title shall be the amount of any co-insurance liability of such eligible persons pursuant to federal law were they not eligible for medical assistance or were they not qualified medicare beneficiaries with respect to such benefits under such part B, but shall not exceed the amount that otherwise would be made under this title if provided to an eligible person other than a person who is also a beneficiary under part B or is a qualified medicare beneficiary minus the amount payable under part B; provided, however, amounts payable under this title for items and services provided to eligible persons who are also beneficiaries under part B or to qualified medicare beneficiaries by an ambulance service under the authority of an operating certificate issued pursuant to article thirty of the public health law, a psychologist licensed under ~~[article one hundred fifty-three of the education law]~~ title seventeen of article fifty-one of the public health law, or a facility under the authority of an operating certificate issued pursuant to arti-

cle sixteen, thirty-one or thirty-two of the mental hygiene law and with respect to outpatient hospital and clinic items and services provided by a facility under the authority of an operating certificate issued pursuant to article twenty-eight of the public health law, shall not be less than the amount of any co-insurance liability of such eligible persons or such qualified medicare beneficiaries, or for which such eligible persons or such qualified medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified medicare beneficiaries with respect to such benefits under part B.

§ 35. Subdivisions 2 and 3 of section 2999-r of the public health law, as amended by chapter 461 of the laws of 2012, are amended to read as follows:

2. With respect to the planning, implementation, and operation of ACOs, the commissioner, by regulation, shall specifically delineate safe harbors that exempt ACOs from the application of the following statutes:

(a) article twenty-two of the general business law relating to arrangements and agreements in restraint of trade;

(b) ~~[article one hundred thirty-one-A of the education law]~~ title three of article fifty-one of this chapter relating to fee-splitting arrangements; and

(c) title two-D of article two of this chapter relating to health care practitioner referrals.

3. For the purposes of this article, an ACO shall be deemed to be a hospital for purposes of sections twenty-eight hundred five-j, twenty-eight hundred five-k, twenty-eight hundred five-l and twenty-eight hundred five-m of this chapter and subdivisions three and five of section sixty-five hundred twenty-seven of ~~[the education law]~~ this chapter.

§ 36. Paragraph (b) of subdivision 1 of section 4405-b of the public health law, as amended by chapter 542 of the laws of 2000, is amended to read as follows:

(b) An organization shall make a report to be made to the appropriate professional disciplinary agency within thirty days of obtaining knowledge of any information that reasonably appears to show that a health professional is guilty of professional misconduct as defined in ~~[article one hundred thirty-one or one hundred thirty-one-A of the education law]~~ title one or three of article fifty-one of this chapter. A violation of this subdivision shall not be subject to the provisions of section twelve-b of this chapter.

§ 37. Section 923 of the public health law, as added by section 23 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

§ 923. Definitions. The following words or phrases as used in this section shall have the following meanings:

1. "Underserved area" means an area or medically underserved population designated by the commissioner as having a shortage of primary care physicians, other primary care practitioners, dental practitioners or mental health practitioners.

2. "Primary care service corps practitioner" means a physician assistant, nurse practitioner, midwife, general or pedodontic dentist, dental hygienist, clinical psychologist, licensed clinical social worker, psychiatric nurse practitioner, licensed marriage and family therapist, or a licensed mental health counselor, who is licensed, registered, or certified to practice in New York state and who provides coordinated primary care services, including, but not limited to, oral health and

1 mental health services and meets the national health service corps state
2 loan repayment program eligibility criteria.

3 3. "Physician assistant" means a person who has been registered as
4 such pursuant to ~~[article one hundred thirty-one-B of the education law]~~
5 title four of article fifty-one of this chapter and meets the national
6 health service corps state loan repayment program eligibility criteria.

7 4. "Nurse practitioner" means a person who has been certified as such
8 pursuant to section sixty-nine hundred ten of ~~[the education law]~~ this
9 chapter and meets the national health service corps state loan repayment
10 program eligibility criteria.

11 5. "Midwife" means a person who has been licensed as such pursuant to
12 section sixty-nine hundred fifty-five of ~~[the education law]~~ this chap-
13 ter and meets the national health service corps state loan repayment
14 program eligibility criteria.

15 6. "Psychologist" means a person who has been licensed as such pursu-
16 ant to section seventy-six hundred three of ~~[the education law]~~ this
17 chapter and meets the national health service corps state loan repayment
18 program eligibility criteria.

19 7. "Licensed clinical social worker" means a person who has been
20 licensed as such pursuant to section seventy-seven hundred two of ~~[the~~
21 ~~education law]~~ this chapter and meets the national health service corps
22 state loan repayment program eligibility criteria.

23 8. "Psychiatric nurse practitioner" means a nurse practitioner who, by
24 reason of training and experience, provides a full spectrum of psychiat-
25 ric care, assessing, diagnosing, and managing the prevention and treat-
26 ment of psychiatric disorders and mental health problems and meets the
27 national health service corps state loan repayment program eligibility
28 criteria.

29 9. "Licensed marriage and family therapist" means a person who has
30 been licensed as such pursuant to section eighty-four hundred three of
31 ~~[the education law]~~ this chapter and meets the national health service
32 corps state loan repayment program eligibility criteria.

33 10. "Licensed mental health counselor" means a person who has been
34 licensed as such pursuant to section eighty-four hundred two of ~~[the~~
35 ~~education law]~~ this chapter and meets the national health service corps
36 state loan repayment program eligibility criteria.

37 11. "General or pedodontic dentist" means a person who has been
38 licensed or otherwise authorized to practice dentistry pursuant to
39 ~~[article one hundred thirty-three of the education law]~~ title seven of
40 article fifty-one of this chapter excluding orthodontists, endodontists
41 and periodontists and meets the national health service corps state loan
42 repayment program eligibility criteria.

43 12. "Dental hygienist" means a person who is licensed to practice
44 dental hygiene pursuant to section sixty-six hundred nine of ~~[the educa-~~
45 ~~tion law]~~ this chapter and meets the national health service corps state
46 loan repayment program eligibility criteria.

47 § 38. Subdivision 3 of section 2998-e of the public health law, as
48 added by chapter 365 of the laws of 2007, is amended to read as follows:

49 3. The commissioner shall make, adopt, promulgate and enforce such
50 rules and regulations, as he or she may deem appropriate, to effectuate
51 the purposes of this section. ~~[Where any rule or regulation under this~~
52 ~~section would affect the scope of practice of a health care practitioner~~
53 ~~licensed, registered or certified under title eight of the education law~~
54 ~~other than those licensed under articles one hundred thirty-one or one~~
55 ~~hundred thirty-one-B of the education law, the rule or regulation shall~~
56 ~~be made with the concurrence of the commissioner of education.]~~

§ 39. Subdivision 3 of section 838 of the executive law, as amended by chapter 708 of the laws of 1983, is amended to read as follows:

3. In addition to the foregoing provisions of this section, the county medical examiner or coroner shall cause a dentist authorized to practice pursuant to ~~[article one hundred thirty-three of the education law]~~ title four of article fifty-one of the public health law or a dental student in a registered school of dentistry in this state to carry out a dental examination of the deceased. The medical examiner or coroner shall forward the dental examination records to the division on a form supplied by the division for that purpose.

§ 40. Subdivisions 1 and 2 of section 1394-c of the public health law, as amended by chapter 142 of the laws of 2022, are amended to read as follows:

1. Camps for children with developmental disabilities, as defined in regulations, and in compliance with the justice center for the protection of people with special needs, shall be authorized to employ or contract with any of the individuals licensed under ~~[articles one hundred thirty-two, one hundred thirty-six, one hundred fifty-six, one hundred fifty-nine, one hundred sixty-two and one hundred sixty-seven of the education law]~~ titles four, nine, twenty, twenty-two, twenty-four and twenty-nine of article fifty-one of this chapter, to provide professional services for any period during which the camp has a valid permit to operate. Individuals hired under this section shall communicate with the camp health director when medically necessary for the sole purpose of providing health services that benefit campers and staff at the camp while the camp is in operation. In cases where the camp health director's lawful scope of practice is more limited than that of the licensed professional providing services, the camp health director shall not supervise the provision of such treatment, but shall be informed of such treatment as medically necessary to ensure the well-being of the camper and staff.

2. All decisions, identification or coordination of professional services, or other professional interactions with campers and staff, must be made based on the professional judgment of such licensees to provide professional services within his or her lawful scope of practice for the purpose of treating campers and staff during their attendance or employment at such camp, pursuant to applicable regulations ~~[promulgated by the commissioner in consultation with the commissioner of education]~~.

§ 41. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 3 of section 13-c of the workers' compensation law, subparagraph (iii) as added by chapter 803 of the laws of 1983 and subparagraph (iv) as added by chapter 649 of the laws of 1985, are amended to read as follows:

(iii) When physical therapy care is required it shall be rendered by a duly licensed physical therapist upon the referral which may be directive as to treatment of an authorized physician or podiatrist within the scope of such physical therapist's specialized training and qualifications as defined in ~~[article one hundred thirty-six of the education law]~~ title nine of article fifty-one of the public health law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the physical therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

(iv) When occupational therapy care is required it shall be rendered by a duly licensed and registered occupational therapist upon the prescription or referral of an authorized physician within the scope of such occupational therapist's specialized training and qualifications as

1 defined in [~~article one hundred fifty six of the education law~~] title
2 twenty of article fifty-one of the public health law. Reports of such
3 treatment and records of instruction for treatment, if any, shall be
4 maintained by the occupational therapist and referring professional and
5 submitted to the chairman on such forms and at such times as the chair-
6 man may require.

7 § 42. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 4
8 of section 13-c of the workers' compensation law, as added by chapter
9 362 of the laws of 1986, are amended to read as follows:

10 (iii) When physical therapy care is required it shall be rendered by a
11 duly licensed physical therapist upon the referral which may be direc-
12 tive as to treatment of an authorized physician or podiatrist within the
13 scope of such physical therapist's specialized training and qualifica-
14 tions as defined in [~~article one hundred thirty six of the education~~
15 ~~law~~] title nine of article fifty-one of the public health law. Reports
16 of such treatment and records of instruction for treatment, if any,
17 shall be maintained by the physical therapist and referring professional
18 and submitted to the chairman of such forms and at such times as the
19 chairman may require.

20 (iv) When occupational therapy care is required it shall be rendered
21 by a duly licensed and registered occupational therapist upon the
22 prescription or referral of an authorized physician within the scope of
23 such occupational therapist's specialized training and qualifications as
24 defined in [~~article one hundred fifty six of the education law~~] title
25 twenty of article fifty-one of the public health law. Reports of such
26 treatment and records of instruction for treatment, if any, shall be
27 maintained by the occupational therapist and referring professional and
28 submitted to the chairman on such forms and at such times as the chair-
29 man may require.

30 Reports of such treatment and supervision shall be made by such physi-
31 cian to the chairman on such forms and at such times as the chairman may
32 require.

33 § 43. Subdivision 2 of section 40 of the cannabis law is amended to
34 read as follows:

35 2. Medical cannabis shall not be deemed to be a "drug" for purposes of
36 [~~article one hundred thirty seven of the education law~~] title ten of
37 article fifty-one of the public health law.

38 § 44. Subdivision 25 of section 206 of the public health law, as added
39 by chapter 563 of the laws of 2008, is amended to read as follows:

40 25. (a) In assessing and reporting on the impact of section sixty-
41 eight hundred one of [~~the education law~~] this chapter, pursuant to
42 subdivision four of such section the commissioner may use: (1) influenza
43 vaccine supply data from the federal centers for disease control and
44 prevention; (2) pneumococcal vaccine supply data provided by manufactur-
45 ers and distributors of such vaccine; and (3) data from a third party
46 entity that engages in the collection of data and tracking of pharmaceu-
47 tical sales and distribution. Manufacturers and distributors of pneumo-
48 coccal vaccine shall provide or arrange for the timely provision to the
49 commissioner of such data as the commissioner may reasonably request to
50 complete the report. Provider and customer identifiable information
51 submitted pursuant to this paragraph shall be confidential, unless the
52 information provider consents to its release or the commissioner deter-
53 mines disclosure is necessary to respond to an imminent public health
54 emergency.

55 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
56 sion, the commissioner may require reporting by entities licensed pursu-

ant to article twenty-eight or thirty-six of this chapter, pharmacies registered pursuant to [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one of the this chapter, manufacturers and distributors of adult immunizing agents doing business in this state, and others possessing such adult immunizing agents of additional information needed to respond to an imminent public health emergency.

§ 45. Subdivisions 3 and 41 of section 3302 of the public health law, as amended by chapter 92 of the laws of 2021, are amended to read as follows:

3. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. No person may be authorized to so act if under [~~title VIII of the education law~~] article fifty-one of this chapter such person would not be permitted to engage in such conduct. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

41. "Outsourcing facility" means a facility that:

(a) is engaged in the compounding of sterile drugs as defined in section sixty-eight hundred two of [~~the education law~~] this chapter;

(b) is currently registered as an outsourcing facility pursuant to [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one of this chapter; and

(c) complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

Notwithstanding any other provision of law to the contrary, when an outsourcing facility distributes or dispenses any drug to any person pursuant to a prescription, such outsourcing facility shall be deemed to be providing pharmacy services and shall be subject to all laws, rules and regulations governing pharmacies and pharmacy services.

§ 46. Subdivision 2 and subparagraphs (ii) and (iii) of paragraph (a) of subdivision 3 of section 3309 of the public health law, as amended by chapter 42 of the laws of 2014, are amended to read as follows:

2. Notwithstanding any inconsistent provisions of section sixty-five hundred twelve of [~~the education law~~] this chapter or any other law, the purchase, acquisition, possession or use of an opioid antagonist pursuant to this section shall not constitute the unlawful practice of a profession or other violation under title eight of the education law, article fifty-one of this chapter, or this article.

(ii) "Health care professional" means a person licensed, registered or authorized pursuant to [~~title eight of the education law~~] article fifty-one of this chapter to prescribe prescription drugs.

(iii) "Pharmacist" means a person licensed or authorized to practice pharmacy pursuant to [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one this chapter.

§ 46-a. Paragraph (b) of subdivision 2 of section 3368 of the public health law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

(b) Medical marihuana shall not be deemed to be a "drug" for purposes of [~~article one hundred thirty seven of the education law~~] title ten of article fifty-one of this chapter.

§ 47. Subdivisions 1 and 4 of section 3381 of the public health law, as amended by chapter 433 of the laws of 2021, are amended to read as follows:

1 1. It shall be unlawful for any person to sell or furnish to another
2 person or persons, a hypodermic syringe or hypodermic needle except:

3 (a) pursuant to a prescription of a practitioner, which for the
4 purposes of this section shall include a patient specific prescription
5 form as provided for in [~~the education law~~] this chapter; or

6 (b) to persons who have been authorized by the commissioner to obtain
7 and possess such instruments; or

8 (c) by a pharmacy licensed under [~~article one hundred thirty-seven of~~
9 ~~the education law~~] title ten of article fifty-one of this chapter,
10 health care facility licensed under article twenty-eight of this chapter
11 or a health care practitioner who is otherwise authorized to prescribe
12 the use of hypodermic needles or syringes within his or her scope of
13 practice; provided, however, that such sale or furnishing: (i) shall
14 only be to a person eighteen years of age or older; and (ii) shall be in
15 accordance with subdivision four of this section; or

16 (d) under subdivision three of this section.

17 4. (a) A person eighteen years of age or older may obtain and possess
18 a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of
19 subdivision one of this section.

20 (b) Subject to regulations of the commissioner, a pharmacy licensed
21 under [~~article one hundred thirty-seven of the education law~~] title ten
22 of article fifty-one of this chapter, a health care facility licensed
23 under article twenty-eight of this chapter or a health care practitioner
24 who is otherwise authorized to prescribe the use of hypodermic needles
25 or syringes within his or her scope of practice, may obtain and possess
26 hypodermic needles or syringes for the purpose of selling or furnishing
27 them pursuant to paragraph (c) of subdivision one of this section or for
28 the purpose of disposing of them.

29 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to
30 direct consumers pursuant to this subdivision by a pharmacy, health care
31 facility, or health care practitioner shall be accompanied by a safety
32 insert. Such safety insert shall be developed or approved by the commis-
33 sioner and shall include, but not be limited to, (i) information on the
34 proper use of hypodermic syringes and hypodermic needles; (ii) the risk
35 of blood borne diseases that may result from the use of hypodermic
36 syringes and hypodermic needles; (iii) methods for preventing the trans-
37 mission or contraction of blood borne diseases; (iv) proper hypodermic
38 syringe and hypodermic needle disposal practices; (v) information on the
39 dangers of injection drug use, and how to access drug treatment; (vi) a
40 toll-free phone number for information on the human immunodeficiency
41 virus; and (vii) information on the safe disposal of hypodermic syringes
42 and hypodermic needles including the relevant provisions of the environ-
43 mental conservation law relating to the unlawful release of regulated
44 medical waste. The safety insert shall be attached to or included in the
45 hypodermic syringe and hypodermic needle packaging, or shall be given to
46 the purchaser at the point of sale or furnishing in brochure form.

47 (d) In addition to the requirements of paragraph (c) of subdivision
48 one of this section, a pharmacy licensed under [~~article one hundred~~
49 ~~thirty-seven of the education law~~] title ten of article fifty-one of
50 this chapter may sell or furnish hypodermic needles or syringes only if
51 such pharmacy stores such needles and syringes in a manner that makes
52 them available only to authorized personnel and not openly available to
53 customers.

54 (e) A pharmacy registered under [~~article one hundred thirty-seven of~~
55 ~~the education law~~] title ten of article fifty-one of this chapter may
56 offer counseling and referral services to customers purchasing hypoderm-

1 ic syringes for the purpose of: preventing injection drug abuse; the
2 provision of drug treatment; preventing and treating hepatitis C;
3 preventing drug overdose; testing for the human immunodeficiency virus;
4 and providing pre-exposure prophylaxis and non-occupational post-expo-
5 sure prophylaxis. The content of such counseling and referral shall be
6 at the professional discretion of the pharmacist.

7 (f) The commissioner shall promulgate rules and regulations necessary
8 to implement the provisions of this subdivision which shall include: (i)
9 standards for advertising to the public the availability for retail sale
10 or furnishing of hypodermic syringes or needles; and (ii) a requirement
11 that such pharmacies, health care facilities and health care practition-
12 ers cooperate in a safe disposal of used hypodermic needles or syringes.

13 (g) The commissioner may, upon the finding of a violation of this
14 section, suspend for a determinate period of time the sale or furnishing
15 of syringes by a specific entity.

16 § 48. The opening paragraph of paragraph 15 of subdivision a of
17 section 265.20 of the penal law, as added by chapter 354 of the laws of
18 1996, is amended to read as follows:

19 Possession and sale of a self-defense spray device as defined in para-
20 graph fourteen of this subdivision by a dealer in firearms licensed
21 pursuant to section 400.00 of this chapter, a pharmacist licensed pursu-
22 ant to [~~article one hundred thirty seven of the education law~~] title ten
23 of article fifty-one of the public health law or by such other vendor as
24 may be authorized and approved by the superintendent of state police.

25 § 49. Intentionally omitted.

26 § 50. Section 182 of the general business law, as added by chapter 731
27 of the laws of 1952 and as renumbered by chapter 893 of the laws of
28 1958, is amended to read as follows:

29 § 182. Cards to be furnished nurses; registry records. A nurses'
30 registry shall send out to practice nursing only persons duly licensed
31 pursuant to [~~article one hundred thirty nine of the education law~~] title
32 twelve of article fifty-one of the public health law as a registered
33 professional nurse or licensed practical nurse. Every nurses' registry,
34 before sending a person out to practice nursing, shall investigate such
35 person's educational qualifications and verify such person's licensure
36 and current registration. At least two current written references shall
37 be required of such person. The record of such investigation and
38 verification shall be kept on file in the registry.

39 Every nurses' registry that sends out any such person shall at such
40 time give to such person and send to the employer of such person a card
41 stating (1) such person's name, address and salary, (2) whether such
42 person is a registered professional nurse or licensed practical nurse,
43 (3) the number of the current registration certificate issued to such
44 person by the [~~education~~] department of health, and (4) a statement that
45 the record of such person's educational qualifications and experience in
46 the practice of nursing is on file in such registry and that a copy
47 thereof will be sent to such employer on request. A copy of such card
48 shall be kept on file in the registry.

49 The record of investigation and verification and the card-copy
50 required by this section to be kept on file shall be open to inspection
51 by any duly authorized agent of the university of the state of New York,
52 and every nurses' registry shall furnish a complete list of its regis-
53 trants on request of such agent.

54 § 51. Subdivision 4 of section 185 of the general business law, as
55 amended by chapter 998 of the laws of 1960, is amended to read as
56 follows:

1 4. Types of employment. For the purpose of placing a ceiling over the
2 fees charged by persons conducting employment agencies, types of employ-
3 ment shall be classified as follows:

4 Class "A"--domestics, household employees, unskilled or untrained
5 manual workers and laborers, including agricultural workers;

6 Class "A1"--non-professional trained or skilled industrial workers or
7 mechanics;

8 Class "B"--commercial, clerical, executive, administrative and profes-
9 sional employment, all employment outside the continental United States,
10 and all other employment not included in classes "A", "A1", "C" and "D";

11 Class "C"--theatrical engagements;

12 Class "D"--nursing engagements as defined in title twelve of article
13 ~~[one hundred thirty-nine of the education]~~ fifty-one of the public
14 health law.

15 § 52. Item (i) of subparagraph (A) of paragraph 10 of subsection (i)
16 of section 3216 of the insurance law, as amended by chapter 238 of the
17 laws of 2010, is amended to read as follows:

18 (i) Every policy which provides hospital, surgical or medical coverage
19 shall provide coverage for maternity care, including hospital, surgical
20 or medical care to the same extent that hospital, surgical or medical
21 coverage is provided for illness or disease under the policy. Such
22 maternity care coverage, other than coverage for perinatal compli-
23 cations, shall include inpatient hospital coverage for mother and for
24 newborn for at least forty-eight hours after childbirth for any delivery
25 other than a caesarean section, and for at least ninety-six hours after
26 a caesarean section. Such coverage for maternity care shall include the
27 services of a midwife licensed pursuant to title thirteen of article
28 ~~[one hundred forty of the education]~~ fifty-one of the public health law,
29 practicing consistent with section sixty-nine hundred fifty-one of the
30 ~~[education]~~ public health law and affiliated or practicing in conjunc-
31 tion with a facility licensed pursuant to article twenty-eight of the
32 public health law, but no insurer shall be required to pay for duplica-
33 tive routine services actually provided by both a licensed midwife and a
34 physician.

35 § 53. Item (i) of subparagraph (A) of paragraph 5 of subsection (k)
36 of section 3221 of the insurance law, as amended by chapter 238 of the
37 laws of 2010, is amended to read as follows:

38 (i) Every group or blanket policy delivered or issued for delivery in
39 this state which provides hospital, surgical or medical coverage shall
40 include coverage for maternity care, including hospital, surgical or
41 medical care to the same extent that coverage is provided for illness or
42 disease under the policy. Such maternity care coverage, other than
43 coverage for perinatal complications, shall include inpatient hospital
44 coverage for mother and newborn for at least forty-eight hours after
45 childbirth for any delivery other than a caesarean section, and for at
46 least ninety-six hours after a caesarean section. Such coverage for
47 maternity care shall include the services of a midwife licensed pursuant
48 to title thirteen of article ~~[one hundred forty of the education]~~
49 fifty-one of the public health law, practicing consistent with section
50 sixty-nine hundred fifty-one of the ~~[education]~~ public health law and
51 affiliated or practicing in conjunction with a facility licensed pursu-
52 ant to article twenty-eight of the public health law, but no insurer
53 shall be required to pay for duplicative routine services actually
54 provided by both a licensed midwife and a physician.

§ 54. Subparagraph (A) of paragraph 1 of subsection (c) of section 4303 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(A) Every contract issued by a corporation subject to the provisions of this article which provides hospital service, medical expense indemnity or both shall provide coverage for maternity care including hospital, surgical or medical care to the same extent that hospital service, medical expense indemnity or both are provided for illness or disease under the contract. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and for newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours following a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to article ~~[one hundred forty of the education]~~ title thirteen of article fifty-one of the public health law, practicing consistent with section sixty-nine hundred fifty-one of the ~~[education]~~ public health law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

§ 55. Intentionally omitted.

§ 56. Paragraph b of subdivision 1 of section 167 of the labor law, as amended by chapter 815 of the laws of 2022, is amended to read as follows:

b. "Nurse" shall mean a registered professional nurse or a licensed practical nurse as defined by title twelve of article ~~[one hundred thirty-nine]~~ fifty-one of the ~~[education]~~ public health law who provides direct patient care.

§ 57. Subdivision 13 of section 700 of the county law, as added by chapter 358 of the laws of 2012, is amended to read as follows:

13. In order to provide services to crime victims, witnesses, and other persons involved in the criminal justice system, and to support crime prevention programs, the district attorney may employ or contract with persons licensed and registered to practice or otherwise authorized under ~~[article one hundred fifty-three, one hundred fifty-four, or one hundred sixty-three of the education]~~ title seventeen, eighteen, or twenty-five of article fifty-one of the public health law, or contract with entities authorized to provide the services specified in such articles, in connection with the provision of any services that such persons or entities are authorized to provide and that are authorized by the district attorney.

§ 58. Paragraph (vi) of subparagraph 1 of subdivision (e) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(vi) a psychologist, licensed pursuant to title seventeen of article ~~[one hundred fifty-three of the education]~~ fifty-one of the public health law, or a social worker, licensed pursuant to title eighteen of article ~~[one hundred fifty-four of the education]~~ fifty-one of the public health law, who is treating the subject of the petition for a mental illness; or

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

(b) Fifteen percent of costs associated with resident-facing staffing contracted out by a facility for services provided by registered profes-

1 sional nurses or licensed practical nurses licensed pursuant to title
2 twelve of article [~~one hundred thirty nine of the education law~~] fifty-
3 one of this chapter or certified nurse aides who have completed certif-
4 ication and training approved by the department shall be deducted from
5 the calculation of the amount spent on resident-facing staffing and
6 direct resident care.

7 § 60. Paragraph (b) of subdivision 1 of section 2895-b of the public
8 health law, as added by chapter 156 of the laws of 2021, is amended to
9 read as follows:

10 (b) "Licensed nurse" means a registered professional nurse or licensed
11 practical nurse licensed pursuant to title twelve of article [~~one~~
12 ~~hundred thirty nine of the education law~~] fifty-one of this chapter.

13 § 61. Paragraph (a) of subdivision 2, and subdivisions 5 and 8 of
14 section 13-m of the workers' compensation law, paragraph (a) of subdivi-
15 sion 2 as amended by section 6 of part CC of chapter 55 of the laws of
16 2019, and subdivisions 5 and 8 as added by chapter 589 of the laws of
17 1989, are amended to read as follows:

18 (a) An injured employee, injured under circumstances which make such
19 injury compensable under this article, may lawfully be treated by a
20 psychologist, duly registered and licensed by the state of New York,
21 authorized by the chair to render psychological care pursuant to section
22 thirteen-b of this article. Such services shall be within the scope of
23 such psychologist's specialized training and qualifications as defined
24 in title seventeen of article [~~one hundred fifty three of the education~~]
25 fifty-one of the public health law.

26 5. Fees for psychological services shall be payable only to a duly
27 authorized psychologist as licensed in title seventeen of article [~~one~~
28 ~~hundred fifty three of the education~~] fifty-one of the public health
29 law, or to the agent, executor or administrator of the estate of such
30 psychologist. No psychologist rendering treatment to a compensation
31 claimant shall collect or receive a fee from such claimant within this
32 state, but shall have recourse for payment of services rendered only to
33 the employer under the provisions of this section.

34 8. Within the limits prescribed by the [~~education~~] public health law
35 for psychological care and treatment, the report or testimony of an
36 authorized psychologist concerning the condition of an injured employee
37 and treatment thereof shall be deemed competent evidence and the profes-
38 sional opinion of the psychologist as to causal relation and as to
39 required treatment shall be deemed competent but shall not be control-
40 ling. Nothing in this section shall be deemed to deprive any employer or
41 insurance carrier of any right to a medical examination or presentation
42 of medical testimony now conferred by law.

43 § 62. Subdivision 1 of section 794 of the general business law, as
44 amended by chapter 301 of the laws of 2000, is amended to read as
45 follows:

46 1. Prior to the expiration of a certificate of registration and as a
47 condition of renewal, each hearing aid dispenser registered pursuant to
48 subdivision one of section seven hundred ninety of this article shall
49 submit documentation showing successful completion of twenty continuing
50 education credits through a course or courses approved by the secretary
51 in consultation with the advisory board, or, in relation to audiologists
52 licensed pursuant to title twenty-two of article [~~one hundred fifty nine~~
53 ~~of the education~~] fifty-one of the public health law, the office of the
54 professions in the [~~education~~] department of health. Such formal courses
55 of learning shall include, but not be limited to, collegiate level of
56 credit in non-credit courses, professional development programs and

1 technical sessions offered by national, state and local professional
2 associations and other organizations acceptable to the secretary and any
3 other organized educational and technical programs acceptable to the
4 secretary. The secretary may, in his or her discretion, and as needed to
5 contribute to the health and welfare of the public, require the
6 completion of continuing education courses in specific subjects to
7 fulfill this mandatory continuing education requirement. Courses shall
8 be taken from a sponsor approved by the secretary pursuant to regu-
9 lations promulgated pursuant to this section.

10 § 63. Subdivision 2 of section 794 of the general business law, as
11 amended by chapter 301 of the laws of 2000, is amended to read as
12 follows:

13 2. A hearing aid dispenser registered under paragraph (b) of subdivi-
14 sion one of section seven hundred ninety of this article may satisfy the
15 requirements of subdivision one of this section by demonstrating to the
16 secretary compliance with such continuing competency requirements as are
17 prescribed by title twenty-two of article [~~one hundred fifty-nine of the~~
18 ~~education~~] fifty-one of the public health law, provided, however, that,
19 such persons shall submit documentation showing the successful
20 completion of four continuing education credits relating to the dispens-
21 ing of hearing aids.

22 § 64. Paragraph (f) of subdivision 4, subdivision 10, and paragraph
23 (a) of subdivision 15 of section 798 of the general business law, para-
24 graph (f) of subdivision 4 as added by chapter 599 of the laws of 1998,
25 subdivision 10 as amended by chapter 301 of the laws of 2000, and para-
26 graph (a) of subdivision 15 as amended by chapter 133 of the laws of
27 1999 are amended to read as follows:

28 (f) if applicable, requirements otherwise provided under title twen-
29 ty-two of article [~~one hundred fifty-nine of the education~~] fifty-one of
30 the public health law.

31 10. (a) A hearing aid dispenser, not otherwise licensed pursuant to
32 title twenty-two of article [~~one hundred fifty-nine of the education~~]
33 fifty-one of the public health law, shall provide any prospective hear-
34 ing aid users with a copy of their audiogram which shall include pure-
35 tone (air and bone conduction) and speech audiometry test results, upon
36 completion of such audiometric tests. Such audiogram shall clearly and
37 conspicuously contain the following statement: "This information is
38 intended for the sole purpose of fitting or selecting a hearing aid and
39 is not a medical examination or audiological evaluation".

40 (b) Hearing aid dispensers licensed under title twenty-two of article
41 [~~one hundred fifty-nine of the education~~] fifty-one of the public health
42 law shall comply with the provisions of such article in the conduct of
43 audiological evaluations and shall further provide a copy of the results
44 of any audiological evaluation to any prospective hearing aid users with
45 the following statement: "This is an audiological evaluation and is not
46 a medical examination".

47 (a) no hearing aid dispenser shall, through advertisement, indicate or
48 imply that any type of medical examination or audiological evaluation
49 will be provided or that the dispenser has been recommended by anyone
50 other than an individual licensed to perform such examination or evalu-
51 ation; provided, however, that nothing in this paragraph shall restrict
52 or limit any person licensed under title twenty-two of article [~~one~~
53 ~~hundred fifty-nine of the education~~] fifty-one of the public health law
54 from performing any activity thereunder or from stating in an advertise-
55 ment that an audiological evaluation will be provided where an audiolog-
56 ical evaluation is to be provided;

§ 65. Subdivision 2 of section 789 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

2. "Audiologist" means an individual who is licensed under title twenty-two of article [one hundred fifty-nine of the education] fifty-one of the public health law to evaluate hearing, and hearing and communication disorders and to engage in those practices defined in section eighty-two hundred three of the [education] public health law.

§ 66. Subdivision 9 of section 789 of the general business law, as added by chapter 599 of the laws of 1998, is amended to read as follows:

9. "Otolaryngologist" means a physician licensed under title two of article [one hundred thirty-one of the education] fifty-one of the public health law, who practices that branch of medicine which treats diseases of the ear, nose and throat.

§ 67. Subdivisions 1, 3 and 4 of section 790 of the general business law, subdivision 1 as added by chapter 599 of the laws of 1998, subdivision 3 as amended by chapter 133 of the laws of 1999 and subdivision 4 as amended by chapter 301 of the laws of 2000, are amended to read as follows:

1. Any person desiring to be engaged in the dispensing of hearing aids in this state shall be registered biennially pursuant to this article. Such person shall file with the secretary an application to be registered as a hearing aid dispenser. The secretary shall examine each application and issue a certificate of registration if either of the following criteria are satisfied:

(a) (i) the applicant is twenty-one years of age or older;
(ii) is of good moral character;
(iii) has received a high school diploma or its equivalent;
(iv) has two years college accredited coursework or its equivalent;
(v) has fully completed the required training program;
(vi) has achieved a passing score on the required examination;
(vii) has not had a registration, license or other authorization to dispense hearing aids suspended or revoked;

(viii) has paid the appropriate fees according to the provisions of section seven hundred ninety-seven of this article; and

(ix) on or after January first, two thousand three, the applicant shall demonstrate the successful completion of post-secondary coursework approved by the secretary in conjunction with the advisory board; or

(b) (i) the applicant has submitted proof of licensure under [article one hundred fifty-nine of the education law] title twenty-two of article fifty-one of the public health law as a licensed audiologist;

(ii) has paid the appropriate fees according to the provisions of section seven hundred ninety-seven of this article;

(iii) has achieved a passing score on the practical test of proficiency required pursuant to subdivision six of section seven hundred ninety-six of this article or who submits evidence satisfactory to the secretary of experience in dispensing hearing aids; and

(iv) has not had a registration, license or other authorization to dispense hearing aids suspended or revoked according to the provisions of section seven hundred ninety-nine of this article.

3. (a) Any person who has been continuously registered as a hearing aid dealer pursuant to the former article thirty-seven-A of this chapter for the three years immediately preceding January first, two thousand or who submits evidence satisfactory to the secretary of experience in the business of dispensing hearing aids in this state for the three years immediately preceding January first, two thousand, upon payment of

1 applicable fees, shall be registered as a hearing aid dispenser and
2 shall be exempt from requirements set forth in subparagraphs (iv), (v),
3 (vi) and (ix) of paragraph (a) of subdivision one of this section.

4 (b) Any person who has been continuously registered as a hearing aid
5 dealer pursuant to the former article thirty-seven-A of this chapter for
6 less than three years but more than one year immediately preceding Janu-
7 ary first, two thousand, or who submits evidence satisfactory to the
8 secretary of less than three years but more than one year's continuous
9 experience in the business of dispensing hearing aids in this state
10 immediately preceding January first, two thousand, may pay the applica-
11 ble fees and register as a hearing aid dispenser. Such registrant shall
12 be exempt from the requirements set forth in subparagraphs (iv), (v) and
13 (ix) of paragraph (a) of subdivision one of this section. Such regis-
14 trant shall achieve a passing score on the required registration exam-
15 ination by December thirty-first, two thousand; provided further that,
16 upon failing to achieve a passing score such person shall continue under
17 the supervision of a registered hearing aid dispenser until such time as
18 a passing score is achieved, provided that such passing score is
19 achieved on an examination administered within twelve months of the
20 first examination.

21 (c) Any individual who has been continuously registered as a hearing
22 aid dealer pursuant to the former article thirty-seven-A of this chapter
23 for less than twelve months immediately preceding January first, two
24 thousand or any individual with less than twelve months experience in
25 the business of dispensing hearing aids in this state immediately
26 preceding January first, two thousand shall be required to comply with
27 all the requirements set forth in subdivision one of this section.

28 (d) Any person licensed pursuant to [~~article one hundred fifty-nine of~~
29 ~~the education law~~] title twenty-two of article fifty-one of the public
30 health law, who submits evidence satisfactory to the secretary of expe-
31 rience of dispensing hearing aids in this state for the period imme-
32 diately preceding January first, two thousand, upon payment of applica-
33 ble fees shall be registered as a hearing aid dispenser and shall be
34 exempt from requirements set forth in subparagraph (iii) of paragraph
35 (b) of subdivision one of this section.

36 4. Upon application to the secretary, a temporary certificate of
37 registration authorized under section seven hundred ninety-five of this
38 article shall be issued to: (i) individuals who prove to the satisfac-
39 tion of the secretary that he or she will be supervised and trained by
40 one or more registered hearing aid dispensers for a period of twelve
41 months or (ii) individuals who are candidates for licensure under [~~arti-~~
42 ~~cle one hundred fifty-nine of the education~~] title twenty-two of article
43 fifty-one of the public health law, have satisfied the educational
44 requirement in subdivision two of section eighty-two hundred six of the
45 [~~education~~] public health law, and are actively engaged in completing
46 the experience requirement in subdivision three of section eighty-two
47 hundred six of the [~~education~~] public health law. A temporary certif-
48 icate of registration may be renewed only once.

49 (a) A person holding a temporary certificate of registration shall not
50 be the sole proprietor of, manage, or independently operate a business
51 which engages in the business of dispensing hearing aids unless such
52 business employs a registered hearing aid dispenser.

53 (b) A person holding a temporary certificate of registration shall not
54 advertise or otherwise represent that he or she holds a certificate of
55 registration as a hearing aid dispenser.

(c) A person holding a temporary certificate of registration who is a candidate for licensure under [~~article one hundred fifty-nine of the education law~~] title twenty-two of article fifty-one of the public health law shall be exempt from the requirement to complete the course of instruction prescribed by section seven hundred ninety-six of this article.

§ 68. Clause (E) of subparagraph (iii) of paragraph (a) of subdivision 4 of section 364-j of the social services law, as added by chapter 37 of the laws of 2010, is amended to read as follows:

(E) the services are optometric services, as defined in [~~article one hundred forty-three of the education law~~] title fifteen of article fifty-one of the public health law, and are provided by a diagnostic and treatment center licensed under article twenty-eight of the public health law which is affiliated with the college of optometry of the state university of New York and which has been granted an operating certificate pursuant to article twenty-eight of the public health law to provide such optometric services. Any diagnostic and treatment center providing optometric services pursuant to this clause shall prior to June first of each year report to the governor, temporary president of the senate and speaker of the assembly on the following: the total number of visits made by medical assistance recipients during the immediately preceding calendar year; the number of visits made by medical assistance recipients during the immediately preceding calendar year by recipients who were enrolled in managed care programs; the number of visits made by medical assistance recipients during the immediately preceding calendar year by recipients who were enrolled in managed care programs that provide optometric benefits as a covered service; and the number of visits made by the uninsured during the immediately preceding calendar year; or

§ 69. Subdivision 3 of section 250.10 of the criminal procedure law, as added by chapter 548 of the laws of 1980, is amended to read as follows:

3. When a defendant, pursuant to subdivision two of this section, serves notice of intent to present psychiatric evidence, the district attorney may apply to the court, upon notice to the defendant, for an order directing that the defendant submit to an examination by a psychiatrist or licensed psychologist as defined in [~~article one hundred fifty-three of the education law~~] title seventeen of article fifty-one of the public health law designated by the district attorney. If the application is granted, the psychiatrist or psychologist designated to conduct the examination must notify the district attorney and counsel for the defendant of the time and place of the examination. Defendant has a right to have his counsel present at such examination. The district attorney may also be present. The role of each counsel at such examination is that of an observer, and neither counsel shall be permitted to take an active role at the examination.

§ 70. Paragraph (r) of subdivision 1 of section 330.20 of the criminal procedure law, as added by chapter 548 of the laws of 1980, is amended to read as follows:

(r) "Licensed psychologist" means a person who is registered as a psychologist under [~~article one hundred fifty-three of the education law~~] title seventeen of article fifty-one of the public health law.

§ 71. Subdivision 6 of section 730.10 of the criminal procedure law, as renumbered by chapter 629 of the laws of 1974, is amended to read as follows:

6. "Certified psychologist" means a person who is registered as a certified psychologist under [~~article one hundred fifty-three of the education law~~] title seventeen of article fifty-one of the public health law.

§ 72. Section 4507 of the civil practice law and rules, as amended by chapter 913 of the laws of 1984, is amended to read as follows:

§ 4507. Psychologist. The confidential relations and communications between a psychologist registered under the provisions of [~~article one hundred fifty-three of the education law~~] title seventeen of article fifty-one of the public health law and his client are placed on the same basis as those provided by law between attorney and client, and nothing in such article shall be construed to require any such privileged communications to be disclosed.

A client who, for the purpose of obtaining insurance benefits, authorizes the disclosure of any such privileged communication to any person shall not be deemed to have waived the privilege created by this section. For purposes of this section:

1. "person" shall mean any individual, insurer or agent thereof, peer review committee, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever; and

2. "insurance benefits" shall include payments under a self-insured plan.

§ 73. The opening paragraph of subdivision (a) of section 4508 of the civil practice law and rules, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

Confidential information privileged. A person licensed as a licensed master social worker or a licensed clinical social worker under the provisions of [~~article one hundred fifty-four of the education law~~] title eighteen of article fifty-one of the public health law shall not be required to disclose a communication made by a client, or his or her advice given thereon, in the course of his or her professional employment, nor shall any clerk, stenographer or other person working for the same employer as such social worker or for such social worker be allowed to disclose any such communication or advice given thereon; except

§ 74. Paragraphs (g-1), (q), (r), (y), (z) and subparagraph (i) of paragraph (x) of subdivision 2 of section 365-a of the social services law, paragraph (g-1) as amended by section 9 of part D of chapter 57 of the laws of 2017, paragraph (q) as amended by section 35 of part B of chapter 58 of the laws of 2010, paragraph (r) as added by section 32 of part C of chapter 58 of the laws of 2008, paragraphs (y) and (z) as added by section 6 of part D of chapter 56 of the laws of 2012 and subparagraph (i) of paragraph (x) as amended by chapter 61 of the laws of 2020, are amended to read as follows:

(g-1) drugs provided on an in-patient basis, those drugs contained on the list established by regulation of the commissioner of health pursuant to subdivision four of this section, and those drugs which may not be dispensed without a prescription as required by section sixty-eight hundred ten of the [~~education~~] public health law and which the commissioner of health shall determine to be reimbursable based upon such factors as the availability of such drugs or alternatives at low cost if purchased by a medicaid recipient, or the essential nature of such drugs as described by such commissioner in regulations, provided, however, that such drugs, exclusive of long-term maintenance drugs, shall be dispensed in quantities no greater than a thirty day supply or one

1 hundred doses, whichever is greater; provided further that the commis-
2 sioner of health is authorized to require prior authorization for any
3 refill of a prescription when more than a ten day supply of the previ-
4 ously dispensed amount should remain were the product used as normally
5 indicated, or in the case of a controlled substance, as defined in
6 section thirty-three hundred two of the public health law, when more
7 than a seven day supply of the previously dispensed amount should remain
8 were the product used as normally indicated; provided further that the
9 commissioner of health is authorized to require prior authorization of
10 prescriptions of opioid analgesics in excess of four prescriptions in a
11 thirty-day period in accordance with section two hundred seventy-three
12 of the public health law; medical assistance shall not include any drug
13 provided on other than an in-patient basis for which a recipient is
14 charged or a claim is made in the case of a prescription drug, in excess
15 of the maximum reimbursable amounts to be established by department
16 regulations in accordance with standards established by the secretary of
17 the United States department of health and human services, or, in the
18 case of a drug not requiring a prescription, in excess of the maximum
19 reimbursable amount established by the commissioner of health pursuant
20 to paragraph (a) of subdivision four of this section;

21 (q) diabetes self-management training services for persons diagnosed
22 with diabetes when such services are ordered by a physician, registered
23 physician assistant, registered nurse practitioner, or licensed midwife
24 and provided by a licensed, registered, or certified health care profes-
25 sional, as determined by the commissioner of health, who is certified as
26 a diabetes educator by the National Certification Board for Diabetes
27 Educators, or a successor national certification board, or provided by
28 such a professional who is affiliated with a program certified by the
29 American Diabetes Association, the American Association of Diabetes
30 Educators, the Indian Health Services, or any other national accredi-
31 tation organization approved by the federal centers for medicare and
32 medicaid services; provided, however, that the provisions of this para-
33 graph shall not take effect unless all necessary approvals under federal
34 law and regulation have been obtained to receive federal financial
35 participation in the costs of health care services provided pursuant to
36 this paragraph. Nothing in this paragraph shall be construed to modify
37 any licensure, certification or scope of practice provision under [~~title~~
38 ~~eight of the education law~~] article fifty-one of the public health law.

39 (r) asthma self-management training services for persons diagnosed
40 with asthma when such services are ordered by a physician, registered
41 physician's assistant, registered nurse practitioner, or licensed
42 midwife and provided by a licensed, registered, or certified health care
43 professional, as determined by the commissioner of health, who is certi-
44 fied as an asthma educator by the National Asthma Educator Certification
45 Board, or a successor national certification board; provided, however,
46 that the provisions of this paragraph shall not take effect unless all
47 necessary approvals under federal law and regulation have been obtained
48 to receive federal financial participation in the costs of health care
49 services provided pursuant to this paragraph. Nothing in this paragraph
50 shall be construed to modify any licensure, certification or scope of
51 practice provision under [~~title eight of the education law~~] article
52 fifty-one of the public health law.

53 (i) lactation counseling services for pregnant and postpartum women
54 when such services are ordered by a physician, physician assistant,
55 nurse practitioner, or midwife and provided by a qualified lactation
56 care provider, as determined by the commissioner of health; provided,

1 however, that the provisions of this paragraph shall not take effect
2 unless all necessary approvals under federal law and regulation have
3 been obtained to receive federal financial participation in the costs of
4 health care services provided pursuant to this paragraph. Nothing in
5 this paragraph shall be construed to modify any licensure, certification
6 or scope of practice provision under [~~title eight of the education law~~]
7 article fifty-one of the public health law.

8 (y) harm reduction counseling and services to reduce or minimize the
9 adverse health consequences associated with drug use, provided by a
10 qualified drug treatment program or community-based organization, as
11 determined by the commissioner of health; provided, however, that the
12 provisions of this paragraph shall not take effect unless all necessary
13 approvals under federal law and regulation have been obtained to receive
14 federal financial participation in the costs of health care services
15 provided pursuant to this paragraph. Nothing in this paragraph shall be
16 construed to modify any licensure, certification or scope of practice
17 provision under [~~title eight of the education law~~] article fifty-one of
18 the public health law.

19 (z) hepatitis C wrap-around services to promote care coordination and
20 integration when ordered by a physician, registered physician assistant,
21 registered nurse practitioner, or licensed midwife, and provided by a
22 qualified professional, as determined by the commissioner of health.
23 Such services may include client outreach, identification and recruit-
24 ment, hepatitis C education and counseling, coordination of care and
25 adherence to treatment, assistance in obtaining appropriate entitlement
26 services, peer support and other supportive services; provided, however,
27 that the provisions of this paragraph shall not take effect unless all
28 necessary approvals under federal law and regulation have been obtained
29 to receive federal financial participation in the costs of health care
30 services provided pursuant to this paragraph. Nothing in this paragraph
31 shall be construed to modify any licensure, certification or scope of
32 practice provision under [~~title eight of the education law~~] article
33 fifty-one of the public health law.

34 § 75. Paragraph (e) of subdivision 6 of section 384-b of the social
35 services law, as amended by chapter 691 of the laws of 1991, is amended
36 to read as follows:

37 (e) In every proceeding upon a ground set forth in paragraph (c) of
38 subdivision four of this section the judge shall order the parent to be
39 examined by, and shall take the testimony of, a qualified psychiatrist
40 or a psychologist licensed pursuant to [~~article one hundred fifty-three~~
41 ~~of the education law~~] title seventeen of article fifty-one of the public
42 health law as defined in section 730.10 of the criminal procedure law in
43 the case of a parent alleged to be mentally ill or retarded, such
44 psychologist or psychiatrist to be appointed by the court pursuant to
45 section thirty-five of the judiciary law. The parent and the authorized
46 agency shall have the right to submit other psychiatric, psychological
47 or medical evidence. If the parent refuses to submit to such court-ord-
48 ered examination, or if the parent renders himself unavailable therefor
49 whether before or after the initiation of a proceeding under this
50 section, by departing from the state or by concealing himself therein,
51 the appointed psychologist or psychiatrist, upon the basis of other
52 available information, including, but not limited to, agency, hospital
53 or clinic records, may testify without an examination of such parent,
54 provided that such other information affords a reasonable basis for his
55 opinion.

1 § 76. Subdivision (c) of section 9.37 of the mental hygiene law, as
2 amended by chapter 230 of the laws of 2004, is amended to read as
3 follows:

4 (c) Notwithstanding the provisions of subdivision (b) of this section,
5 in counties with a population of less than two hundred thousand, a
6 director of community services who is a licensed psychologist pursuant
7 to [~~article one hundred fifty-three of the education law~~] title seven-
8 teen of article fifty-one of the public health law or a licensed clin-
9 ical social worker pursuant to [~~article one hundred fifty-four of the~~
10 ~~education law~~] title eighteen of article fifty-one of the public health
11 law but who is not a physician may apply for the admission of a patient
12 pursuant to this section without a medical examination by a designated
13 physician, if a hospital approved by the commissioner pursuant to
14 section 9.39 of this article is not located within thirty miles of the
15 patient, and the director of community services has made a reasonable
16 effort to locate a designated examining physician but such a designee is
17 not immediately available and the director of community services, after
18 personal observation of the person, reasonably believes that he may have
19 a mental illness which is likely to result in serious harm to himself or
20 others and inpatient care and treatment of such person in a hospital may
21 be appropriate. In the event of an application pursuant to this subdivi-
22 sion, a physician of the receiving hospital shall examine the patient
23 and shall not admit the patient unless he or she determines that the
24 patient has a mental illness for which immediate inpatient care and
25 treatment in a hospital is appropriate and which is likely to result in
26 serious harm to himself or others. If the patient is admitted, the need
27 for hospitalization shall be confirmed by another staff physician within
28 twenty-four hours. An application pursuant to this subdivision shall be
29 in writing and shall be filed with the director of such hospital at the
30 time of the patient's reception, together with a statement in a form
31 prescribed by the commissioner giving such information as he may deem
32 appropriate, including a statement of the efforts made by the director
33 of community services to locate a designated examining physician prior
34 to making an application pursuant to this subdivision.

35 § 77. Subdivision (h) of section 10.03 of the mental hygiene law, as
36 added by chapter 7 of the laws of 2007, is amended to read as follows:

37 (h) "Licensed psychologist" means a person who is registered as a
38 psychologist under [~~article one hundred fifty-three of the education~~
39 ~~law~~] title seventeen of article fifty-one of the public health law.

40 § 78. Paragraphs (b-4), (b-5), (b-7), (d) and (g) of section 1503 of
41 the business corporation law, paragraph (b-4) as added and paragraph (d)
42 as amended by chapter 550 of the laws of 2011, paragraph (b-5) as
43 amended by chapter 9 of the laws of 2013, the opening paragraph of para-
44 graph (b-5) as amended by chapter 475 of the laws of 2014, paragraph
45 (b-7) as added by chapter 260 of the laws of 2016, the opening paragraph
46 of subparagraph 1 of paragraph (b-7) as amended by chapter 302 of the
47 laws of 2018, and paragraph (g) as added by chapter 676 of the laws of
48 2002, are amended to read as follows:

49 (b-4) The certificate of incorporation of a design professional
50 service corporation shall also have attached thereto a certificate or
51 certificates issued by the licensing authority certifying that each of
52 the shareholders, officers, directors and owners have been deemed to
53 have been of good moral character as may be established by the regu-
54 lations of the commissioner of education or the commissioner of health.

55 (b-5) On or after January first, two thousand twelve, the state educa-
56 tion department and the department of state shall allow an existing

1 professional service corporation organized under this article and prac-
2 ticing professional engineering, architecture, landscape architecture,
3 geology or land surveying, or practicing any combination of such
4 professions to become a design professional service corporation as
5 defined in this article, provided the professional service corporation
6 meets all of the requirements to become a design professional service
7 corporation, including that its name shall end with the words "design
8 professional corporation" or the abbreviation "D.P.C.", by amending its
9 certificate of incorporation so that it contains the following state-
10 ments:

11 (1) the names and residence addresses of all individuals or ESOPs who
12 will be the shareholders, directors and officers of the original design
13 professional service corporation; and

14 (2) the profession or professions of each shareholder, director and
15 officer who is a design professional of the original design professional
16 service corporation; and

17 (3) the ownership interest of each shareholder of the original design
18 professional service corporation; and

19 (4) the names of the officers and directors who will be the president,
20 the chairperson of the board of directors and the chief executive offi-
21 cer or officers of the original design professional service corporation.

22 (i) The certificate of amendment shall have attached thereto a certif-
23 icate or certificates issued by the licensing authority certifying that
24 each of the proposed shareholders, directors and officers who is listed
25 as a design professional is authorized by law to practice a profession
26 which the corporation is organized to practice and, if applicable, that
27 one or more of such individuals is authorized to practice each profes-
28 sion which the corporation will be authorized to practice. The attached
29 certificate or certificates shall also certify that the proposed presi-
30 dent, the chairperson of the board of directors and the chief executive
31 officer or officers are authorized by law to practice a profession which
32 the corporation is organized to practice.

33 (ii) The certificate of amendment shall also have attached thereto a
34 certificate or certificates issued by the licensing authority certifying
35 that each of the proposed shareholders, officers, directors and owners
36 listed have been deemed to have been of good moral character as may be
37 established by the regulations of the commissioner of education or the
38 commissioner of health.

39 (iii) The certificate of amendment shall also have attached thereto:
40 (A) a tax clearance issued by the department of taxation and finance
41 certifying that the existing professional service corporation is current
42 with respect to payment of its state tax liabilities and (B) a certif-
43 icate of good standing from the state education department or the
44 department of health certifying that the existing professional service
45 corporation is authorized to provide professional services without
46 restriction.

47 (b-7) (1) Prior to the first day of March, two thousand nineteen, the
48 state education department and the department of state shall allow an
49 existing business corporation organized under article four of this chap-
50 ter to become a design professional service corporation as defined in
51 this article for the purpose of practicing professional geology,
52 provided that the surviving corporation meet all of the requirements to
53 become a design professional service corporation, including that the
54 name shall end with the words "design professional service corporation"
55 or the abbreviation "D.P.C." by amending its certificate of incorpo-
56 ration so that it contains the following:

1 (i) the names and residence addresses of all individuals or ESOPs who
2 will be the original shareholders, directors and officers of the profes-
3 sional service corporation;

4 (ii) a statement that the design professional service corporation is
5 formed pursuant to this section;

6 (iii) the profession or professions of each shareholder, director and
7 officer who is a design professional of the original design professional
8 service corporation;

9 (iv) the names of the officers and directors who will be the presi-
10 dent, the chairperson of the board of directors and the chief executive
11 officer or officers of the original design professional service corpo-
12 ration;

13 (v) the ownership interest of each shareholder of the original design
14 professional service corporation; and

15 (vi) a statement that the amendment shall not effect a dissolution of
16 the corporation, but shall be deemed a continuation of its corporate
17 existence, without affecting its then existing property rights or
18 liabilities or the liabilities of its members or officers as such, but
19 thereafter it shall have only such rights, powers and privileges, and be
20 subject only to such other duties and liabilities, as a corporation
21 created for the same purposes under this article.

22 (2) The certificate of amendment shall have attached thereto a certif-
23 icate or certificates issued by the licensing authority certifying that
24 each of the proposed shareholders, directors and officers listed:

25 (i) is authorized by law to practice a profession which the corpo-
26 ration is organized to practice and, if applicable, that one or more of
27 such individuals is authorized to practice each profession which the
28 corporation will be authorized to practice; and

29 (ii) has been deemed to be of good moral character as may be estab-
30 lished by the regulations of the commissioner of education and the
31 commissioner of health.

32 (3) The certificate of amendment shall also have attached thereto a
33 tax clearance issued by the department of taxation and finance certifi-
34 cing that the existing business corporation is current with respect to
35 payment of its state tax liabilities.

36 (4) Notwithstanding any provision of law to the contrary, any corpo-
37 ration formed under this section shall be required to comply with all
38 applicable laws, rules, or regulations relating to the practice of a
39 profession under title eight of the education law or article fifty-one
40 of the public health law.

41 (d) A professional service corporation, including a design profes-
42 sional service corporation, other than a corporation authorized to prac-
43 tice law, shall be under the supervision of the regents of the universi-
44 ty of the state of New York or the department of health and be subject
45 to disciplinary proceedings and penalties, and its certificate of incor-
46 poration shall be subject to suspension, revocation or annulment for
47 cause, in the same manner and to the same extent as is provided with
48 respect to individuals and their licenses, certificates, and registra-
49 tions in title eight of the education law or article fifty-one of the
50 public health law relating to the applicable profession. Notwithstanding
51 the provisions of this paragraph, a professional service corporation
52 authorized to practice medicine shall be subject to the prehearing
53 procedures and hearing procedures as is provided with respect to indi-
54 vidual physicians and their licenses in title II-A of article two of the
55 public health law.

(g) The practices of creative arts therapy, marriage and family therapy, mental health counseling, and psychoanalysis shall not be deemed the same professional service for the purpose of paragraph (a) of this section, notwithstanding that such practices are all licensed under ~~[article one hundred sixty-three of the education law]~~ title twenty-five of article fifty-one of the public health law.

§ 79. Subparagraph 1 of paragraph (a) of subdivision 4 of section 1194 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2010, is amended to read as follows:

(1) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (i) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (ii) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to ~~[article one hundred sixty-five of the education law]~~ title twenty-seven of article fifty-one of the public health law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

§ 80. Subdivisions 11 and 12 of section 3501 of the public health law, as added by chapter 175 of the laws of 2006, are amended to read as follows:

11. "Licensed practitioner" means a person licensed or otherwise authorized under ~~[the education law]~~ this chapter to practice medicine, dentistry, podiatry, or chiropractic.

12. "Professional medical physicist" means a person licensed or otherwise authorized to practice medical physics in accordance with ~~[article one hundred sixty-six of the education law]~~ title twenty-eight of article fifty-one of this chapter.

§ 81. Subdivision a of section 17-199.15 of the administrative code of the city of New York, as added by local law number 30 of the city of New York for the year 2021, is amended to read as follows:

a. Definitions. For the purposes of this section, the following terms have the following meanings:

Covered health care services. The term "covered health care services" means professional medical services by primary care practitioners, including preventive, primary, diagnostic and specialty services; diagnostic and laboratory services, including therapeutic radiological services; prescription drugs, excluding drugs for uncovered services; and any other services determined by the department.

Direct care worker. The term "direct care worker" means any employee of a hospital that is responsible for patient handling or patient assessment as a regular or incident part of their employment, including any licensed or unlicensed health care worker.

Doctor. The term "doctor" means a practitioner of medicine licensed to practice medicine pursuant to ~~[article 131 of the education law]~~ title two of article fifty-one of the public health law.

Hospital. The term "hospital" means an institution or facility operating in New York city possessing a valid operating certificate issued

1 pursuant to [~~article 28 of the public health law~~] title twelve of arti-
2 cle fifty-one of the public health law.

3 Nurse. The term "nurse" means a practitioner of nursing licensed to
4 practice nursing pursuant to [~~article 139 of the education law~~] title
5 twelve of article fifty-one of the public health law.

6 Physician assistant. The term "physician assistant" means a person
7 licensed as a physician assistant pursuant to [~~article 131-b of the New~~
8 ~~York state education law~~] title two of article fifty-one of the public
9 health law.

10 § 82. Subdivision b of section 17-357 of the administrative code of
11 the city of New York, as added by local law number 12 of the city of New
12 York for the year 1997, is amended to read as follows:

13 b. The provisions of this subchapter shall not apply to a physician
14 licensed under [~~article one hundred thirty-one of the New York state~~
15 ~~education law~~] title two of article fifty-one of the public health law.

16 § 83. Subdivision e of section 20-815 of the administrative code of
17 the city of New York, as added by local law number 17 of the city of New
18 York for the year 2011, is amended to read as follows:

19 e. "Licensed medical provider" shall mean a person licensed or other-
20 wise authorized under the provisions of [~~articles one hundred thirty-~~
21 ~~one, one hundred thirty-one a, one hundred thirty-one b, one hundred~~
22 ~~thirty-nine or one hundred forty of the education law of New York~~] title
23 two, three, four, twelve, or thirteen of article fifty-one of the public
24 health law, to provide medical services.

25 § 84. Section 308-b of the military law, as amended by chapter 418 of
26 the laws of 2004, is amended to read as follows:

27 § 308-b. Extension of license, certificate or registration. Notwith-
28 standing any other provision of general, special or local law, code or
29 ordinance, or rule or regulation to the contrary, military personnel
30 serving on active duty, who were licensed, certified or registered to
31 engage in a profession or occupation prior to being called to active
32 duty, and whose license, certificate or registration shall expire during
33 such period of active duty, shall have such license, certificate or
34 registration automatically extended for the period of active duty and
35 for twelve months after such military personnel have been released from
36 active duty, provided that with regard to professions subject to title
37 VIII of the education law or article fifty-one of the public health law,
38 this section shall not apply to limited permits or other credentials
39 issued for a period of two months or less and shall not extend the term
40 of a limited permit that expires for reasons other than the passage of
41 time, including but not limited to failure on a licensure examination,
42 and further provided that this section shall not be construed to permit
43 any individual whose authority to engage in a profession or occupation
44 has been revoked or suspended to engage in such profession or occupa-
45 tion.

46 § 85. Subdivision 6 of section 2441 of the public health law, as added
47 by chapter 450 of the laws of 1975, is amended to read as follows:

48 6. "Researcher" means any person licensed under [~~title VIII of the~~
49 ~~education law~~] article fifty-one of this chapter to perform diagnosis,
50 treatment, medical services, prescription or therapeutic exercises with
51 regard to or upon human beings, or any other person deemed appropriately
52 competent and qualified by a human research review committee as provided
53 by section twenty-four hundred forty-four of this chapter.

54 § 86. Subdivision 1 of section 3000-a of the public health law, as
55 amended by chapter 69 of the laws of 1994, is amended to read as
56 follows:

1 1. Except as provided in subdivision six of section six thousand six
2 hundred eleven, subdivision two of section six thousand five hundred
3 twenty-seven, subdivision one of section six thousand nine hundred nine
4 and sections six thousand five hundred forty-seven and six thousand
5 seven hundred thirty-seven of ~~[the education law]~~ this chapter, any
6 person who voluntarily and without expectation of monetary compensation
7 renders first aid or emergency treatment at the scene of an accident or
8 other emergency outside a hospital, doctor's office or any other place
9 having proper and necessary medical equipment, to a person who is uncon-
10 scious, ill, or injured, shall not be liable for damages for injuries
11 alleged to have been sustained by such person or for damages for the
12 death of such person alleged to have occurred by reason of an act or
13 omission in the rendering of such emergency treatment unless it is
14 established that such injuries were or such death was caused by gross
15 negligence on the part of such person. Nothing in this section shall be
16 deemed or construed to relieve a licensed physician, dentist, nurse,
17 physical therapist or registered physician's assistant from liability
18 for damages for injuries or death caused by an act or omission on the
19 part of such person while rendering professional services in the normal
20 and ordinary course of his or her practice.

21 § 87. Paragraph (a) of subdivision 3 and paragraph (b) of subdivision
22 4 of section 3000-b of the public health law, paragraph (a) of subdivi-
23 sion 3 as amended by chapter 243 of the laws of 2010, and paragraph (b)
24 of subdivision 4 as added by chapter 552 of the laws of 1998, are
25 amended to read as follows:

26 (a) No person may operate an automated external defibrillator unless
27 the person has successfully completed a training course in the operation
28 of an automated external defibrillator approved by a nationally-recog-
29 nized organization or the state emergency medical services council.
30 However, this section shall not prohibit operation of an automated
31 external defibrillator, (i) by a health care practitioner licensed or
32 certified under ~~[title VIII of the education law]~~ article fifty-one of
33 this chapter or a person certified under this article acting within his
34 or her lawful scope of practice; (ii) by a person acting pursuant to a
35 lawful prescription; or (iii) by a person who operates the automated
36 external defibrillator other than as part of or incidental to his or her
37 employment or regular duties, who is acting in good faith, with reason-
38 able care, and without expectation of monetary compensation, to provide
39 first aid that includes operation of an automated external defibrilla-
40 tor; nor shall this section limit any good samaritan protections
41 provided in section three thousand-a of this article.

42 (b) Operation of an automated external defibrillator pursuant to this
43 section shall not constitute the unlawful practice of a profession under
44 ~~[title VIII of the education law]~~ article fifty-one of this chapter.

45 § 88. Paragraph (c) of subdivision 2 of section 369-bb of the social
46 services law, as amended by section 2 of part D of chapter 57 of the
47 laws of 2017, is amended to read as follows:

48 (c) Two persons with expertise in drug utilization review who are
49 health care professionals licensed under ~~[Title VIII of the education~~
50 ~~law]~~ article fifty-one of the public health law at least one of whom is
51 a pharmacologist.

52 § 89. Paragraph (x) of subdivision 2 of section 496 of the social
53 services law, as added by section 1 of part B of chapter 501 of the laws
54 of 2012, is amended to read as follows:

55 (x) officers and employees of the education department and, where
56 applicable, the department of health, for the purpose of investigating

1 charges and maintaining professional discipline proceedings against the
2 professional license of the subject of the report pursuant to [~~Title~~
3 ~~VIII of the education law~~] article fifty-one of the public health law,
4 and to employees of the education department for the purpose of investi-
5 gating charges and maintaining good moral character proceedings against
6 the teaching, school administrator or school leader certificate or
7 license of the subject of the report; and

8 § 90. Paragraph 2 of subdivision (a) of section 1212-a of the tax law,
9 as amended by chapter 200 of the laws of 2009, is amended to read as
10 follows:

11 (2) a tax, at the same uniform rate, but at a rate not to exceed four
12 and one-half per centum, in multiples of one-half of one per centum, on
13 the receipts from every sale of the following services: beauty, barber-
14 ing, hair restoring, manicuring, pedicuring, electrolysis, massage
15 services and similar services, and every sale of services by weight
16 control salons, health salons, gymnasiums, turkish and sauna bath and
17 similar establishments and every charge for the use of such facilities,
18 whether or not any tangible personal property is transferred in conjunc-
19 tion therewith; but excluding services rendered by a physician, osteo-
20 path, dentist, nurse, physiotherapist, chiropractor, podiatrist, optome-
21 trist, ophthalmic dispenser or a person performing similar services
22 licensed under [~~title VIII of the education law~~] article fifty-one of
23 the public health law, as amended, and excluding such services when
24 performed on pets and other animals.

25 § 91. Transfer of employees. All employees of the state education
26 department deemed necessary to implement this act by the division of the
27 budget, in consultation with the commissioner of health, shall be trans-
28 ferred to the department of health. This transfer of employees shall be
29 deemed to be a transfer of function pursuant to subdivision 2 of section
30 70 of the civil service law. Such officers and employees of the state
31 education department shall be transferred without further examination or
32 qualification, and shall retain their respective civil service classi-
33 fication, status and bargaining unit representation.

34 § 92. This act shall take effect on January 1, 2024; provided however
35 that:

36 (a) effective immediately, the department of health and the state
37 education department are authorized to adopt, repeal, or amend any rule
38 or regulation necessary to effectuate the provisions of this act prior
39 to its effective date;

40 (b) the amendments to paragraph (y) of subdivision 2 of section 2999-
41 cc of the public health law made by section twenty-six of this act shall
42 not affect the expiration of such paragraph and shall expire and be
43 deemed repealed therewith;

44 (c) the amendments to section 3368 of the public health law made by
45 section forty-six-a of this act shall not affect the expiration of such
46 subdivision and shall be deemed repealed therewith;

47 (d) that if chapter 815 of the laws of 2022 shall not have taken
48 effect on or before such date then section fifty-six of this act shall
49 take effect on the same date and in the same manner as such chapter of
50 the laws of 2022, takes effect;

51 (e) the amendments to subparagraph (vi) of paragraph 1 of subdivision
52 (e) of section 9.60 of the mental hygiene law made by section fifty-
53 eight of this act shall not affect the repeal of such section and shall
54 be deemed repealed therewith; and

55 (f) the amendments to clause (E) of subparagraph (iii) of paragraph
56 (a) of subdivision 4 of section 364-j of the social services law made by

1 section sixty-eight of this act shall not affect the repeal of such
2 section and shall be deemed repealed therewith.

3 PART DD

4 Section 1. 1. Subject to available appropriations and approval of the
5 director of the budget, the commissioners of the office of mental
6 health, office for people with developmental disabilities, office of
7 addiction services and supports, office of temporary and disability
8 assistance, office of children and family services, and the state office
9 for the aging shall establish a state fiscal year 2023-24 cost of living
10 adjustment (COLA), effective April 1, 2023, for projecting for the
11 effects of inflation upon rates of payments, contracts, or any other
12 form of reimbursement for the programs and services listed in paragraphs
13 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this
14 section. The COLA established herein shall be applied to the appropri-
15 ate portion of reimbursable costs or contract amounts. Where appropri-
16 ate, transfers to the department of health (DOH) shall be made as
17 reimbursement for the state share of medical assistance.

18 2. Notwithstanding any inconsistent provision of law, subject to the
19 approval of the director of the budget and available appropriations
20 therefore, for the period of April 1, 2023 through March 31, 2024, the
21 commissioners shall provide funding to support a two and five-tenths
22 percent (2.5%) cost of living adjustment under this section for all
23 eligible programs and services as determined pursuant to subdivision
24 four of this section.

25 3. Notwithstanding any inconsistent provision of law, and as approved
26 by the director of the budget, the 2.5 percent cost of living adjustment
27 (COLA) established herein shall be inclusive of all other cost of living
28 type increases, inflation factors, or trend factors that are newly
29 applied effective April 1, 2023. Except for the 2.5 percent cost of
30 living adjustment (COLA) established herein, for the period commencing
31 on April 1, 2023 and ending March 31, 2024 the commissioners shall not
32 apply any other new cost of living adjustments for the purpose of estab-
33 lishing rates of payments, contracts or any other form of reimbursement.
34 The phrase "all other cost of living type increases, inflation factors,
35 or trend factors" as defined in this subdivision shall not include
36 payments made pursuant to the American Rescue Plan Act or other federal
37 relief programs related to the Coronavirus Disease 2019 (COVID-19)
38 pandemic Public Health Emergency. This subdivision shall not prevent
39 the office of children and family services from applying additional
40 trend factors or staff retention factors to eligible programs and
41 services under paragraph (v) of subdivision four of this section.

42 4. Eligible programs and services. (i) Programs and services funded,
43 licensed, or certified by the office of mental health (OMH) eligible for
44 the cost of living adjustment established herein, pending federal
45 approval where applicable, include: office of mental health licensed
46 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
47 the office of mental health regulations including clinic, continuing day
48 treatment, day treatment, intensive outpatient programs and partial
49 hospitalization; outreach; crisis residence; crisis stabilization,
50 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
51 emergency program services; crisis intervention; home based crisis
52 intervention; family care; supported single room occupancy; supported
53 housing; supported housing community services; treatment congregate;
54 supported congregate; community residence - children and youth;

1 treatment/apartment; supported apartment; community residence single
2 room occupancy; on-site rehabilitation; employment programs; recreation;
3 respite care; transportation; psychosocial club; assertive community
4 treatment; case management; care coordination, including health home
5 plus services; local government unit administration; monitoring and
6 evaluation; children and youth vocational services; single point of
7 access; school-based mental health program; family support children and
8 youth; advocacy/support services; drop in centers; recovery centers;
9 transition management services; bridger; home and community based waiver
10 services; behavioral health waiver services authorized pursuant to the
11 section 1115 MRT waiver; self-help programs; consumer service dollars;
12 conference of local mental hygiene directors; multicultural initiative;
13 ongoing integrated supported employment services; supported education;
14 mentally ill/chemical abuse (MICA) network; personalized recovery
15 oriented services; children and family treatment and support services;
16 residential treatment facilities operating pursuant to part 584 of title
17 14-NYCRR; geriatric demonstration programs; community-based mental
18 health family treatment and support; coordinated children's service
19 initiative; homeless services; and promises zone.

20 (ii) Programs and services funded, licensed, or certified by the
21 office for people with developmental disabilities (OPWDD) eligible for
22 the cost of living adjustment established herein, pending federal
23 approval where applicable, include: local/unified services; chapter 620
24 services; voluntary operated community residential services; article 16
25 clinics; day treatment services; family support services; 100% day
26 training; epilepsy services; traumatic brain injury services; hepatitis
27 B services; independent practitioner services for individuals with
28 intellectual and/or developmental disabilities; crisis services for
29 individuals with intellectual and/or developmental disabilities; family
30 care residential habilitation; supervised residential habilitation;
31 supportive residential habilitation; respite; day habilitation; prevoca-
32 tional services; supported employment; community habilitation; interme-
33 diate care facility day and residential services; specialty hospital;
34 pathways to employment; intensive behavioral services; basic home and
35 community based services (HCBS) plan support; health home services
36 provided by care coordination organizations; community transition
37 services; family education and training; fiscal intermediary; support
38 broker; and personal resource accounts.

39 (iii) Programs and services funded, licensed, or certified by the
40 office of addiction services and supports (OASAS) eligible for the cost
41 of living adjustment established herein, pending federal approval where
42 applicable, include: medically supervised withdrawal services - residen-
43 tial; medically supervised withdrawal services - outpatient; medically
44 managed detoxification; medically monitored withdrawal; inpatient reha-
45 bilitation services; outpatient opioid treatment; residential opioid
46 treatment; KEEP units outpatient; residential opioid treatment to absti-
47 nence; problem gambling treatment; medically supervised outpatient;
48 outpatient rehabilitation; specialized services substance abuse
49 programs; home and community based waiver services pursuant to subdivi-
50 sion 9 of section 366 of the social services law; children and family
51 treatment and support services; continuum of care rental assistance case
52 management; NY/NY III post-treatment housing; NY/NY III housing for
53 persons at risk for homelessness; permanent supported housing; youth
54 clubhouse; recovery community centers; recovery community organizing
55 initiative; residential rehabilitation services for youth (RRSY); inten-
56 sive residential; community residential; supportive living; residential

1 services; job placement initiative; case management; family support
2 navigator; local government unit administration; peer engagement; voca-
3 tional rehabilitation; support services; HIV early intervention
4 services; dual diagnosis coordinator; problem gambling resource centers;
5 problem gambling prevention; prevention resource centers; primary
6 prevention services; other prevention services; and community services.

7 (iv) Programs and services funded, licensed, or certified by the
8 office of temporary and disability assistance (OTDA) eligible for the
9 cost of living adjustment established herein, pending federal approval
10 where applicable, include: nutrition outreach and education program
11 (NOEP).

12 (v) Programs and services funded, licensed, or certified by the office
13 of children and family services (OCFS) eligible for the cost of living
14 adjustment established herein, pending federal approval where applica-
15 ble, include: programs for which the office of children and family
16 services establishes maximum state aid rates pursuant to section 398-a
17 of the social services law and section 4003 of the education law; emer-
18 gency foster homes; foster family boarding homes and therapeutic foster
19 homes; supervised settings as defined by subdivision twenty-two of
20 section 371 of the social services law; adoptive parents receiving
21 adoption subsidy pursuant to section 453 of the social services law; and
22 congregate and scattered supportive housing programs and supportive
23 services provided under the NY/NY III supportive housing agreement to
24 young adults leaving or having recently left foster care.

25 (vi) Programs and services funded, licensed, or certified by the state
26 office for the aging (SOFA) eligible for the cost of living adjustment
27 established herein, pending federal approval where applicable, include:
28 community services for the elderly; expanded in-home services for the
29 elderly; and supplemental nutrition assistance program.

30 5. Each local government unit or direct contract provider receiving
31 funding for the cost of living adjustment established herein shall
32 submit a written certification, in such form and at such time as each
33 commissioner shall prescribe, attesting how such funding will be or was
34 used to first promote the recruitment and retention of non-executive
35 direct care staff, non-executive direct support professionals, non-exe-
36 cutive clinical staff, or respond to other critical non-personal service
37 costs prior to supporting any salary increases or other compensation for
38 executive level job titles.

39 6. Notwithstanding any inconsistent provision of law to the contrary,
40 agency commissioners shall be authorized to recoup funding from a local
41 governmental unit or direct contract provider for the cost of living
42 adjustment established herein determined to have been used in a manner
43 inconsistent with the appropriation, or any other provision of this
44 section. Such agency commissioners shall be authorized to employ any
45 legal mechanism to recoup such funds, including an offset of other funds
46 that are owed to such local governmental unit or direct contract provid-
47 er.

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, 2023.

50 PART EE

51 Section 1. Subdivision 1-a of section 84 of part A of chapter 56 of
52 the laws of 2013, amending the social services law and other laws relat-
53 ing to enacting the major components of legislation necessary to imple-
54 ment the health and mental hygiene budget for the 2013-2014 state fiscal

1 year, as amended by section 9 of part Z of chapter 57 of the laws of
2 2018, is amended to read as follows:

3 1-a. sections seventy-three through eighty-a shall expire and be
4 deemed repealed September 30, [2023] 2028;

5 § 2. This act shall take effect immediately.

6 PART FF

7 Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of
8 section 6908 of the education law is renumbered subparagraph (vi) and a
9 new subparagraph (v) is added to read as follows:

10 (v) tasks provided by a direct support staff in non-facility based
11 programs certified, authorized or approved by the office for people with
12 developmental disabilities, so long as such staff do not hold himself or
13 herself out as one who accepts employment solely for performing such
14 care, and where nursing services are under the instruction of a service
15 recipient or family or household member determined by a registered
16 professional nurse to be capable of providing such instruction. In the
17 event that the registered nurse determines that the service recipient,
18 family, or household member is not capable of providing such instruc-
19 tion, nursing tasks may be performed by direct support staff pursuant to
20 subparagraph (vi) of this paragraph subject to the requirements set
21 forth therein; or

22 § 2. This act shall take effect immediately.

23 PART GG

24 Section 1. Section 7.07 of the mental hygiene law is amended by adding
25 a new subdivision (i) to read as follows:

26 (i) The office shall foster programs for the training and development
27 of persons capable of providing the following services, including but
28 not limited to a process of issuing, either directly or through
29 contract, credentials for qualified mental health associates in accord-
30 ance with the following:

31 (1) The office shall establish minimum qualifications for qualified
32 mental health associates in all phases of delivery of services to
33 persons who are suffering from mental health issues, as well as their
34 families, that shall include, but not be limited to, completion of
35 approved courses of study or equivalent on-the-job experience in working
36 with individuals who suffer from mental illness. Such approved courses
37 of study or equivalent on-the-job experience shall include, but not be
38 limited to, providing trauma-informed, patient-centered care; referring
39 individuals to appropriate treatments for co-occurring disorders;
40 implicit bias training, and best practice approaches to serving margi-
41 nalized and minority populations. Such courses shall be updated as need-
42 ed to reflect evolving best practices in treatment and long-term recov-
43 ery. For the purposes of this subdivision, the term "implicit bias
44 training" shall mean a form of training with the goal of making people
45 more aware of their own biases, for the purpose of ensuring equity in
46 care delivery.

47 (2) The office shall establish procedures for issuing, directly or
48 through contract, credentials to associates who meet minimum qualifica-
49 tions, including the establishment of appropriate fees, and shall
50 further establish procedures to suspend, revoke, or annul such creden-
51 tials for good cause. Such procedures shall be promulgated by the
52 commissioner by rule or regulation.

(3) The commissioner shall establish a credentialing board which shall provide advice concerning the credentialing process under this subdivision.

(4) No person shall use the title qualified mental health associate unless authorized pursuant to this subdivision.

(5) Failure to comply with the requirements of this subdivision shall constitute a violation as defined in the penal law.

§ 2. Section 7.03 of the mental hygiene law is amended by adding a new subdivision 3 to read as follows:

3. "Qualified mental health associate" or "QMHA" means an official designation identifying an individual as one who holds a currently registered and valid credential issued by the office pursuant to section 7.07 of this article which documents an individual's qualifications to provide counseling and supportive assistance to those with mental illness.

§ 3. Paragraph (a) of subdivision 5 of section 7706 of the education law, as added by chapter 420 of the laws of 2002, is amended to read as follows:

(a) any individual who is credentialed under any law, including attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors, and qualified mental health associates as defined by section 7.03 of the mental hygiene law whose scope of practice includes the practices defined in section seventy-seven hundred one of this article from performing or claiming to perform work authorized by applicable provisions of this chapter and the mental hygiene law;

§ 4. Subdivision 2 of section 8410 of the education law, as added by chapter 676 of the laws of 2002, is amended to read as follows:

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors ~~and~~, certified substance abuse counselors, and qualified mental health associates as defined by section 7.03 of the mental hygiene law from providing mental health services within their respective established authorities.

§ 5. This act shall take effect immediately.

PART HH

Section 1. Sections 36.01, 36.02 and 36.03 of the mental hygiene law are renumbered sections 36.02, 36.03 and 36.04 and a new section 36.01 is added to read as follows:

§ 36.01 General applicability.

The office of mental health and the office of addiction services and supports shall be authorized to receive from the division of criminal justice services criminal history information, as such term is defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law, concerning each applicant to be a provider of services or operator of such provider of services, and shall securely exchange information with confidentiality between the office of mental health and the office of addiction services and supports to facilitate a single criminal history information process for providers of services licensed, certified, or otherwise authorized jointly or by both of the offices pursuant to this article or articles thirty-one and thirty-two of this title.

§ 2. The mental hygiene law is amended by adding two new sections 36.05 and 36.06 to read as follows:

§ 36.05 Certified community behavioral health clinics.

1 (a) The commissioners are authorized to jointly certify community
2 behavioral health clinics, subject to the availability of state and
3 federal funding.

4 (b) Certified community behavioral health clinics shall provide coor-
5 ordinated, comprehensive behavioral health care, including mental health
6 and addiction services, primary care screening, and case management
7 services, in accordance with certified community behavioral health clin-
8 ic standards established by the United States department of health and
9 human services substance abuse and mental health services administration
10 and the commissioners of the office of mental health and the office of
11 addiction services and supports.

12 (c) The commissioners shall require each proposed certified community
13 behavioral health clinic to submit a plan, which shall be approved by
14 the commissioners prior to the issuance of an operating certificate
15 pursuant to this article. Such plan shall include:

16 (1) a description of the clinic's character and competency to provide
17 certified community behavioral health clinic services across the lifes-
18 pan, including how the clinic will ensure access to crisis services at
19 all times and accept all patients regardless of ability to pay;

20 (2) a description of the clinic's catchment area;

21 (3) a statement indicating that the clinic has been included in an
22 approved local services plan developed pursuant to article forty-one of
23 this chapter for each local government located within the clinic's
24 catchment area;

25 (4) where executed, agreements establishing formal relationships with
26 designated collaborating organizations to provide certain certified
27 community behavioral health clinic services, consistent with guidance
28 issued by the United States department of health and human services
29 substance abuse and mental health services administration and the office
30 of mental health and the office of addiction services and supports;

31 (5) a staffing plan driven by local needs assessment, licensing, and
32 training to support service delivery;

33 (6) a description of the clinic's data-driven approach to quality
34 improvement;

35 (7) a description of how consumers are represented in governance of
36 the clinic;

37 (8) all financial information in the form and format required by the
38 office of mental health and the office of addiction services and
39 supports; and

40 (9) any other information or agreements required by the commissioners.

41 (d) Where a certified community behavioral health clinic has been
42 established and is participating on the effective date of this section
43 in the federal certified community behavioral health clinic demon-
44 stration awarded to the state by the United States department of health
45 and human services substance abuse and mental health services adminis-
46 tration, the previously established clinic may be certified where the
47 clinic demonstrates compliance with the certification standards estab-
48 lished pursuant to this article.

49 (e) The commissioners shall promulgate any rule or regulation neces-
50 sary to effectuate this section.

51 § 36.06 Certified community behavioral health clinics indigent care
52 program.

53 (a) (1) For periods on and after July first, two thousand twenty-
54 three, the commissioners are authorized to make payment to eligible
55 certified community behavioral health clinics, to the extent of funds
56 appropriated therefor to assist in meeting losses resulting from uncom-

1 pensated care. In the event federal financial participation is not
2 available for such payments to eligible certified community behavioral
3 health clinics, payments shall be made solely on the basis of available
4 state general fund appropriations for this purpose in amounts to be
5 determined by the director of the division of the budget.

6 (2) For purposes of this section, "eligible certified community behav-
7 ioral health clinics" shall mean voluntary non-profit certified communi-
8 ty behavioral health clinics participating in the federal certified
9 community behavioral health clinic demonstration awarded to the state by
10 the United States department of health and human services substance
11 abuse and mental health services administration and other certified
12 community behavioral health clinics certified pursuant to section 36.05
13 of this article, which demonstrate that a minimum of three percent of
14 total visits reported during the applicable base year period, as deter-
15 mined by the commissioners, were to uninsured individuals.

16 (3) For purposes of this section, "losses resulting from uncompensated
17 care" shall mean losses from reported self-pay and free visits multi-
18 plied by the clinic's medical assistance payment rate for the applicable
19 distribution year, offset by payments received from such patients during
20 the reporting period.

21 (b) A certified community behavioral health clinic qualifying for a
22 distribution pursuant to this section shall provide assurances satisfac-
23 tory to the commissioners that it shall undertake reasonable efforts to
24 maintain financial support from community and public funding sources and
25 reasonable efforts to collect payments for services from third-party
26 insurance payors, governmental payors and self-paying patients.

27 (c) (1) Funding pursuant to this section shall be allocated to eligi-
28 ble certified community behavioral health clinics based on actual,
29 reported losses resulting from uncompensated care in a given base year
30 period and shall not exceed one hundred percent of an eligible clinic's
31 losses in the same period.

32 (2) If the sum of actual, reported losses resulting from uncompensated
33 care for all certified community behavioral health clinics exceeds the
34 amount appropriated therefor in a given base year period, allocations of
35 funds for each eligible certified community behavioral health clinic
36 shall be assessed proportionately based upon the percentage of the total
37 number of uncompensated care visits for all clinics that each clinic
38 provided during the base year and shall not exceed amounts appropriated
39 in the aggregate.

40 (d) Except as provided in subdivision (e) of this section, for periods
41 on and after July first, two thousand twenty-three through June thirti-
42 eth, two thousand twenty-six, funds shall be made available for payments
43 pursuant to this section for eligible certified community behavioral
44 health clinics for the following periods in the following aggregate
45 amounts:

46 (1) For the period of July first, two thousand twenty-three through
47 June thirtieth, two thousand twenty-four, up to twenty-two million five
48 hundred thousand dollars;

49 (2) For the period of July first, two thousand twenty-four through
50 June thirtieth, two thousand twenty-five, up to forty-one million two
51 hundred fifty thousand dollars; and

52 (3) For the period of July first, two thousand twenty-five through
53 June thirtieth, two thousand twenty-six, up to forty-five million
54 dollars.

55 (e) In the event that federal financial participation is not available
56 for rate adjustments pursuant to this section, funds available for

1 payments pursuant to this section for each eligible certified community
2 behavioral health clinic shall be limited to the non-federal share
3 equivalent of the amounts specified in subdivision (d) of this section.

4 (f) Eligible certified community behavioral health clinics receiving
5 funding under this section shall not be eligible for comprehensive diag-
6 nostic and treatment centers indigent care program funding pursuant to
7 section two thousand eight hundred seven-p of the public health law.

8 (g) The commissioners may require facilities receiving distributions
9 pursuant to this section as a condition of participating in such
10 distributions, to provide reports and data to the office of mental
11 health and the office of addiction services and supports as the commis-
12 sioners deem necessary to adequately implement the provisions of this
13 section.

14 § 3. This act shall take effect immediately.

15 PART II

16 Section 1. This Part enacts into law major components of legislation
17 relating to improving access to behavioral health services. Each compo-
18 nent is wholly contained within a Subpart identified as Subparts A
19 through F. The effective date for each particular provision contained
20 within such Subpart is set forth in the last section of such Subpart.
21 Any provision in any section contained within a Subpart, including the
22 effective date of the Subpart, which makes reference to a section "of
23 this act", when used in connection with that particular component, shall
24 be deemed to mean and refer to the corresponding section of the Subpart
25 in which it is found. Section three of this act sets forth the general
26 effective date of this Part.

27 SUBPART A

28 Section 1. Item (i) of subparagraph (A) of paragraph 35 of subsection
29 (i) of section 3216 of the insurance law, as amended by chapter 818 of
30 the laws of 2022, is amended to read as follows:

31 (i) where the policy provides coverage for inpatient hospital care,
32 such policy shall include benefits: for inpatient care in a hospital as
33 defined by subdivision ten of section 1.03 of the mental hygiene law
34 ~~[and benefits for];~~ sub-acute care in a medically-monitored residential
35 facility licensed, operated, or otherwise authorized by the office of
36 mental health; outpatient care provided ~~[in]~~ by a facility issued an
37 operating certificate by the commissioner of mental health pursuant to
38 the provisions of article thirty-one of the mental hygiene law~~[,]~~ or
39 ~~[in]~~ by a facility operated by the office of mental health~~[, or in];~~
40 outpatient care provided by a crisis stabilization center licensed
41 pursuant to section 36.01 of the mental hygiene law~~[,];~~ outpatient care
42 provided by a mobile crisis intervention services provider licensed,
43 certified, or authorized by the office of mental health, office of
44 addiction services and supports, office of children and family services,
45 or department of health; outpatient care for care coordination services,
46 critical time intervention services, and assertive community treatment
47 services, provided by facilities licensed, operated, or otherwise
48 authorized by the office of mental health, following discharge from a
49 hospital as defined by subdivision ten of section 1.03 of the mental
50 hygiene law or the emergency department of a hospital licensed pursuant
51 to article twenty-eight of the public health law; or, for care provided

1 in other states, to similarly licensed or certified hospitals ~~[ex]~~,
2 facilities, or providers; and

3 § 2. Items (iii) and (iv) of subparagraph (E) of paragraph 35 of
4 subsection (i) of section 3216 of the insurance law, as added by section
5 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended
6 and two new items (v) and (vi) are added to read as follows:

7 (iii) "treatment limitation" means limits on the frequency of treat-
8 ment, number of visits, days of coverage, or other similar limits on the
9 scope or duration of treatment and includes nonquantitative treatment
10 limitations such as: medical management standards limiting or excluding
11 benefits based on medical necessity, or based on whether the treatment
12 is experimental or investigational; formulary design for prescription
13 drugs; network tier design; standards for provider admission to partic-
14 ipate in a network, including reimbursement rates; methods for determin-
15 ing usual, customary, and reasonable charges; fail-first or step therapy
16 protocols; exclusions based on failure to complete a course of treat-
17 ment; and restrictions based on geographic location, facility type,
18 provider specialty, and other criteria that limit the scope or duration
19 of benefits for services provided under the policy; ~~[and]~~

20 (iv) "mental health condition" means any mental health disorder as
21 defined in the most recent edition of the diagnostic and statistical
22 manual of mental disorders or the most recent edition of another gener-
23 ally recognized independent standard of current medical practice such as
24 the international classification of diseases~~[-]~~;

25 (v) "assertive community treatment" means an evidence-based, mobile,
26 psychiatric treatment intervention, designed for an individual with a
27 serious mental health condition who is at risk for hospitalization, that
28 includes psychotherapy, medication therapy, crisis intervention, psychi-
29 atric rehabilitation, care coordination, and peer support services,
30 provided assertively in the community; and

31 (vi) "critical time intervention services" means evidence-based, time-
32 limited, therapeutic interventions that begin before an individual is
33 discharged from an inpatient setting, that include intensive outreach,
34 engagement, and care coordination services to stabilize the individual
35 in the community.

36 § 3. Paragraph 35 of subsection (i) of section 3216 of the insurance
37 law is amended by adding a new subparagraph (I) to read as follows:

38 (I) This subparagraph shall apply to mobile crisis intervention
39 services providers licensed, certified, or authorized by the office of
40 mental health, office of addiction services and supports, office of
41 children and family services, or department of health. For purposes of
42 this subparagraph, "mobile crisis intervention services" means mental
43 health and substance use disorder services, including assessment and
44 treatment services and peer support services, provided to an individual
45 experiencing an acute psychological crisis or acute emotional distress
46 in relation to a mental health condition or substance use disorder,
47 intended to ameliorate the crisis and stabilize the individual and
48 ensure ongoing stabilization after the initial crisis response.

49 (i) Benefits for covered services provided by a mobile crisis inter-
50 vention services provider shall not be subject to preauthorization.

51 (ii) Benefits for covered services provided by a mobile crisis inter-
52 vention services provider shall be covered regardless of whether the
53 mobile crisis intervention services provider is a participating provid-
54 er.

55 (iii) If the covered services are provided by a non-participating
56 mobile crisis intervention services provider, an insurer shall not

1 impose any administrative requirement or limitation on coverage that is
2 more restrictive than the requirements or limitations that apply to
3 covered services received from a participating mobile crisis inter-
4 vention services provider.

5 (iv) If the covered services are provided by a non-participating
6 mobile crisis intervention services provider, the insured's copayment,
7 coinsurance, and deductible shall be the same as would apply if such
8 covered services were provided by a participating mobile crisis inter-
9 vention services provider.

10 § 4. Paragraph 35 of subsection (i) of section 3216 of the insurance
11 law is amended by adding a new subparagraph (J) to read as follows:

12 (J) This subparagraph shall apply to school-based mental health clin-
13 ics that are licensed pursuant to article thirty-one of the mental
14 hygiene law and provide outpatient care in pre-school, elementary, or
15 secondary schools. An insurer shall provide reimbursement for covered
16 outpatient care when provided by such school-based mental health clinics
17 at a pre-school, elementary, or secondary school, regardless of whether
18 the school-based mental health clinic furnishing such services is a
19 participating provider with respect to such services. Reimbursement for
20 such covered services shall be at the rate negotiated between the insur-
21 er and school-based mental health clinic or, in the absence of a negoti-
22 ated rate, an amount no less than the rate that would be paid for such
23 services pursuant to the medical assistance program under title eleven
24 of article five of the social services law. Payment by an insurer pursu-
25 ant to this section shall be payment in full for the services provided.
26 The school-based mental health clinic reimbursed pursuant to this
27 section shall not charge or seek any reimbursement from, or have any
28 recourse against, an insured for the services provided pursuant to this
29 subparagraph, except for the collection of in-network copayments, coin-
30 surance, or deductibles for which the insured is responsible for under
31 the terms of the policy.

32 § 5. Item (i) of subparagraph (A) of paragraph 5 of subsection (1) of
33 section 3221 of the insurance law, as amended by section 14 of part AA
34 of chapter 57 of the laws of 2021, is amended to read as follows:

35 (i) where the policy provides coverage for inpatient hospital care,
36 benefits for: inpatient care in a hospital as defined by subdivision ten
37 of section 1.03 of the mental hygiene law [~~and benefits for~~]; sub-acute
38 care in a medically-monitored residential facility licensed, operated,
39 or otherwise authorized by the office of mental health; outpatient care
40 provided [~~in~~] by a facility issued an operating certificate by the
41 commissioner of mental health pursuant to the provisions of article
42 thirty-one of the mental hygiene law, or [~~in~~] by a facility operated by
43 the office of mental health [~~or in~~]; outpatient care provided by a
44 crisis stabilization center licensed pursuant to section 36.01 of the
45 mental hygiene law; outpatient care provided by a mobile crisis inter-
46 vention services provider licensed, certified, or authorized by the
47 office of mental health, office of addiction services and supports,
48 office of children and family services, or department of health; outpa-
49 tient care for care coordination services, critical time intervention
50 services, and assertive community treatment services, provided by facil-
51 ities licensed, operated, or otherwise authorized by the office of
52 mental health or the department of health, following discharge from a
53 hospital as defined by subdivision ten of section 1.03 of the mental
54 hygiene law or the emergency department of a hospital licensed pursuant
55 to article twenty-eight of the public health law; or, for care provided

1 in other states, to similarly licensed or certified hospitals ~~[or]~~,
2 facilities, or providers; and

3 § 6. Items (iii) and (iv) of subparagraph (E) of paragraph 5 of
4 subsection (1) of section 3221 of the insurance law, as added by section
5 14 of subpart A of part BB of chapter 57 of the laws of 2019, are
6 amended and two new items (v) and (vi) are added to read as follows:

7 (iii) "treatment limitation" means limits on the frequency of treat-
8 ment, number of visits, days of coverage, or other similar limits on the
9 scope or duration of treatment and includes nonquantitative treatment
10 limitations such as: medical management standards limiting or excluding
11 benefits based on medical necessity, or based on whether the treatment
12 is experimental or investigational; formulary design for prescription
13 drugs; network tier design; standards for provider admission to partic-
14 ipate in a network, including reimbursement rates; methods for determin-
15 ing usual, customary, and reasonable charges; fail-first or step therapy
16 protocols; exclusions based on failure to complete a course of treat-
17 ment; and restrictions based on geographic location, facility type,
18 provider specialty, and other criteria that limit the scope or duration
19 of benefits for services provided under the policy; ~~[and]~~

20 (iv) "mental health condition" means any mental health disorder as
21 defined in the most recent edition of the diagnostic and statistical
22 manual of mental disorders or the most recent edition of another gener-
23 ally recognized independent standard of current medical practice such as
24 the international classification of diseases~~[-]~~;

25 (v) "assertive community treatment" means an evidence-based, mobile,
26 psychiatric treatment intervention, designed for people with a serious
27 mental health condition who are at risk for hospitalization, that
28 includes psychotherapy, medication therapy, crisis intervention, psychi-
29 atric rehabilitation, care coordination, and peer support services,
30 provided assertively in the community; and

31 (vi) "critical time intervention services" means evidence-based, time-
32 limited, therapeutic interventions that begin before an individual is
33 discharged from an inpatient setting, that include intensive outreach,
34 engagement, and care coordination services to stabilize individuals in
35 the community.

36 § 7. Paragraph 5 of subsection (1) of section 3221 of the insurance
37 law is amended by adding a new subparagraph (I) to read as follows:

38 (I) This subparagraph shall apply to mobile crisis intervention
39 services providers licensed, certified, or authorized by the office of
40 mental health, office of addiction services and supports, office of
41 children and family services, or department of health. For purposes of
42 this subparagraph, "mobile crisis intervention services" means mental
43 health and substance use disorder services, including assessment and
44 treatment services and peer support services, provided to an individual
45 experiencing an acute psychological crisis or acute emotional distress
46 in relation to a mental health condition or substance use disorder,
47 intended to ameliorate the crisis and stabilize the individual and
48 ensure ongoing stabilization after the initial crisis response.

49 (i) Benefits for covered services provided by a mobile crisis inter-
50 vention services provider shall not be subject to preauthorization.

51 (ii) Benefits for covered services provided by a mobile crisis inter-
52 vention services provider shall be covered regardless of whether the
53 mobile crisis intervention services provider is a participating provid-
54 er.

55 (iii) If the covered services are provided by a non-participating
56 mobile crisis intervention services provider, an insurer shall not

impose any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to covered services received from a participating mobile crisis intervention services provider.

(iv) If the covered services are provided by a non-participating mobile crisis intervention services provider, the insured's copayment, coinsurance, and deductible shall be the same as would apply if such covered services were provided by a participating mobile crisis intervention services provider.

§ 8. Paragraph 5 of subsection (1) of section 3221 of the insurance law is amended by adding a new subparagraph (J) to read as follows:

(J) This subparagraph shall apply to school-based mental health clinics that are licensed pursuant to article thirty-one of the mental hygiene law and provide outpatient care in pre-school, elementary, or secondary schools. An insurer shall provide reimbursement for covered outpatient care when provided by such school-based mental health clinics at a pre-school, elementary, or secondary school, regardless of whether the school-based mental health clinic furnishing such services is a participating provider with respect to such services. Reimbursement for such covered services shall be at the rate negotiated between the insurer and school-based mental health clinic or, in the absence of a negotiated rate, an amount no less than the rate that would be paid for such services pursuant to the medical assistance program under title eleven of article five of the social services law. Payment by an insurer pursuant to this section shall be payment in full for the services provided. The school-based mental health clinic reimbursed pursuant to this section shall not charge or seek any reimbursement from or have any recourse against, an insured for the services provided pursuant to this subparagraph, except for the collection of in-network copayments, coinsurance, or deductibles for which the insured is responsible for under the terms of the policy.

§ 9. Paragraph 1 of subsection (g) of section 4303 of the insurance law, as amended by section 18 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(1) where the contract provides coverage for inpatient hospital care, benefits for: in-patient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law ~~[or for inpatient care provided in other states, to similarly licensed hospitals, and benefits for];~~ sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; ~~[out-patient]~~ outpatient care provided ~~[in]~~ by a facility issued an operating certificate by the commissioner of mental health pursuant to the provisions of article thirty-one of the mental hygiene law or ~~[in]~~ by a facility operated by the office of mental health ~~[or in];~~ outpatient care provided by a crisis stabilization center licensed pursuant to section 36.01 of the mental hygiene law; outpatient care provided by a mobile crisis intervention services provider licensed, certified, or authorized by the office of mental health, office of addiction services and supports, office of children and family services, or department of health; outpatient care for care coordination services, critical time intervention services, and assertive community treatment services, provided by facilities licensed, operated, or otherwise authorized by the office of mental health or the department of health, following discharge from a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law or the emergency department of a hospital licensed pursuant to article twenty-eight of the public health

1 law; or for [~~out-patient~~] care provided in other states, to similarly
2 licensed or certified hospitals, facilities, or providers; and

3 § 10. Subparagraphs (C) and (D) of paragraph 6 of subsection (g) of
4 section 4303 of the insurance law, as added by section 23 of subpart A
5 of part BB of chapter 57 of the laws of 2019, are amended and two new
6 subparagraphs (E) and (F) are added to read as follows:

7 (C) "treatment limitation" means limits on the frequency of treatment,
8 number of visits, days of coverage, or other similar limits on the scope
9 or duration of treatment and includes nonquantitative treatment limita-
10 tions such as: medical management standards limiting or excluding bene-
11 fits based on medical necessity, or based on whether the treatment is
12 experimental or investigational; formulary design for prescription
13 drugs; network tier design; standards for provider admission to partic-
14 ipate in a network, including reimbursement rates; methods for determin-
15 ing usual, customary, and reasonable charges; fail-first or step therapy
16 protocols; exclusions based on failure to complete a course of treat-
17 ment; and restrictions based on geographic location, facility type,
18 provider specialty, and other criteria that limit the scope or duration
19 of benefits for services provided under the contract; [~~and~~]

20 (D) "mental health condition" means any mental health disorder as
21 defined in the most recent edition of the diagnostic and statistical
22 manual of mental disorders or the most recent edition of another gener-
23 ally recognized independent standard of current medical practice such as
24 the international classification of diseases[~~-~~];

25 (E) "assertive community treatment" means an evidence-based, mobile,
26 psychiatric treatment intervention, designed for an individual with a
27 serious mental health condition who is at risk for hospitalization, that
28 includes psychotherapy, medication therapy, crisis intervention, psychi-
29 atric rehabilitation, care coordination, and peer support services,
30 provided assertively in the community; and

31 (F) "critical time intervention services" means evidence-based, time-
32 limited, therapeutic interventions that begin before an individual is
33 discharged from an inpatient setting, that include intensive outreach,
34 engagement, and care coordination services to stabilize individuals in
35 the community.

36 § 11. Subsection (g) of section 4303 of the insurance law is amended
37 by adding a new paragraph 10 to read as follows:

38 (10) This paragraph shall apply to mobile crisis intervention services
39 providers licensed, certified, or authorized by the office of mental
40 health, office of addiction services and supports, office of children
41 and family services, or department of health. For purposes of this para-
42 graph, "mobile crisis intervention services" means mental health and
43 substance use disorder services, including assessment and treatment
44 services and peer support services, provided to an individual experienc-
45 ing an acute psychological crisis or acute emotional distress in
46 relation to a mental health condition or substance use disorder,
47 intended to ameliorate the crisis and stabilize the individual and
48 ensure ongoing stabilization after the initial crisis response.

49 (A) Benefits for covered services provided by a mobile crisis inter-
50 vention services provider shall not be subject to preauthorization.

51 (B) Benefits for covered services provided by a mobile crisis inter-
52 vention services provider shall be covered regardless of whether the
53 mobile crisis intervention services provider is a participating provid-
54 er.

55 (C) If the covered services are provided by a non-participating
56 mobile crisis intervention services provider, a corporation shall not

1 impose any administrative requirement or limitation on coverage that is
2 more restrictive than the requirements or limitations that apply to
3 covered services received from a participating mobile crisis inter-
4 vention services provider.

5 (D) If the covered services are provided by a non-participating
6 mobile crisis intervention services provider, the insured's copayment,
7 coinsurance, and deductible shall be the same as would apply if such
8 covered services were provided by a participating mobile crisis inter-
9 vention services provider.

10 § 12. Subsection (g) of section 4303 of the insurance law is amended
11 by adding a new paragraph 11 to read as follows:

12 (11) This paragraph shall apply to school-based mental health clinics
13 that are licensed pursuant to article thirty-one of the mental hygiene
14 law and provide outpatient care in pre-school, elementary, or secondary
15 schools. A corporation shall provide reimbursement for covered outpa-
16 tient care when provided by such school-based mental health clinics at a
17 pre-school, elementary, or secondary school, regardless of whether the
18 school-based mental health clinic furnishing such services is a partic-
19 ipating provider with respect to such services. Reimbursement for such
20 covered services shall be at the rate negotiated between the corporation
21 and school-based mental health clinic or, in the absence of a negotiated
22 rate, an amount no less than the rate that would be paid for such
23 services pursuant to the medical assistance program under title eleven
24 of article five of the social services law. Payment by a corporation
25 pursuant to this section shall be payment in full for the services
26 provided. The school-based mental health clinic reimbursed pursuant to
27 this section shall not charge or seek any reimbursement from, or have
28 any recourse against, a corporation for the services provided pursuant
29 to this paragraph, except for the collection of in-network copayments,
30 coinsurance, or deductibles for which the insured is responsible for
31 under the terms of the contract.

32 § 13. Paragraphs 1 and 2 of subsection (a) of section 605 of the
33 financial services law, as amended by section 5 of subpart A of part AA
34 of chapter 57 of the laws of 2022, are amended to read as follows:

35 (1) When a health care plan receives a bill for emergency services
36 from a non-participating provider, including a bill for inpatient
37 services which follow an emergency room visit, or a bill for services
38 from a mobile crisis intervention services provider licensed, certified,
39 or authorized by the office of mental health, office of addiction
40 services and supports, office of children and family services, or
41 department of health, the health care plan shall pay an amount that it
42 determines is reasonable for the emergency services, including inpatient
43 services which follow an emergency room visit or for the mobile crisis
44 intervention services, rendered by the non-participating provider, in
45 accordance with section three thousand two hundred twenty-four-a of the
46 insurance law, except for the insured's co-payment, coinsurance or
47 deductible, if any, and shall ensure that the insured shall incur no
48 greater out-of-pocket costs for the emergency services, including inpa-
49 tient services which follow an emergency room visit or for the mobile
50 crisis intervention services, than the insured would have incurred with
51 a participating provider. The non-participating provider may bill the
52 health care plan for the services rendered. Upon receipt of the bill,
53 the health care plan shall pay the non-participating provider the amount
54 prescribed by this section and any subsequent amount determined to be
55 owed to the provider in relation to the emergency services provided,

1 including inpatient services which follow an emergency room visit or
2 for the mobile crisis intervention services.

3 (2) A non-participating provider or a health care plan may submit a
4 dispute regarding a fee or payment for emergency services, including
5 inpatient services which follow an emergency room visit, or for
6 services rendered by a mobile crisis intervention services provider
7 licensed, certified, or authorized by the office of mental health,
8 office of addiction services and supports, office of children and family
9 services, or department of health, for review to an independent dispute
10 resolution entity.

11 § 14. Subsection (b) of section 606 of the financial services law, as
12 amended by section 7 of subpart A of part AA of chapter 57 of the laws
13 of 2022, is amended to read as follows:

14 (b) A non-participating provider shall not bill an insured for emer-
15 gency services, including inpatient services which follow an emergency
16 room visit, or for services rendered by a mobile crisis intervention
17 services provider licensed, certified, or authorized by the office of
18 mental health, office of addiction services and supports, office of
19 children and family services, or department of health, except for any
20 applicable copayment, coinsurance or deductible that would be owed if
21 the insured utilized a participating provider.

22 § 15. This act shall take effect January 1, 2024; provided, however,
23 that sections one through twelve of this act shall apply to policies and
24 contracts issued, renewed, amended, modified or altered on or after such
25 date.

26 SUBPART B

27 Section 1. Subparagraphs (G) and (H) of paragraph 35 of subsection (i)
28 of section 3216 of the insurance law, subparagraph (G) as added by
29 section 8 of subpart A of part BB of chapter 57 of the laws of 2019 and
30 subparagraph (H) as added by section 13 of part AA of chapter 57 of the
31 laws of 2021, are amended to read as follows:

32 (G) This subparagraph shall apply to hospitals and medically-monitored
33 crisis residential facilities in this state that are licensed, operated,
34 or otherwise authorized by the office of mental health that are partic-
35 ipating in the insurer's provider network. Where the policy provides
36 coverage for inpatient hospital care, benefits for inpatient hospital
37 care in a hospital as defined by subdivision ten of section 1.03 of the
38 mental hygiene law [~~provided to individuals who have not attained the~~
39 ~~age of eighteen~~] and benefits for sub-acute care in a medically-moni-
40 tored crisis residential facility licensed, operated, or otherwise
41 authorized by the office of mental health shall not be subject to preau-
42 thorization. Coverage provided under this subparagraph shall also not be
43 subject to concurrent utilization review for individuals who have not
44 attained the age of eighteen during the first fourteen days of the inpa-
45 tient admission, provided the facility notifies the insurer of both the
46 admission and the initial treatment plan within two business days of the
47 admission, performs daily clinical review of the [~~patient~~] insured, and
48 participates in periodic consultation with the insurer to ensure that
49 the facility is using the evidence-based and peer reviewed clinical
50 review criteria utilized by the insurer which is approved by the office
51 of mental health and appropriate to the age of the [~~patient~~] insured, to
52 ensure that the inpatient care is medically necessary for the [~~patient~~]
53 insured. For individuals who have attained age eighteen, coverage
54 provided under this subparagraph shall also not be subject to concurrent

1 review during the first thirty days of the inpatient or residential
2 admission, provided the facility notifies the insurer of both the admis-
3 sion and the initial treatment plan within two business days of the
4 admission, performs daily clinical review of the insured, and partic-
5 ipates in periodic consultation with the insurer to ensure that the
6 facility is using the evidence-based and peer reviewed clinical review
7 criteria utilized by the insurer which is approved by the office of
8 mental health and appropriate to the age of the insured, to ensure that
9 the inpatient or residential care is medically necessary for the
10 insured. However, concurrent review may be performed during the first
11 thirty days if an insured meets clinical criteria designated by the
12 office of mental health or where the insured is admitted to a hospital
13 or facility which has been designated by the office of mental health for
14 concurrent review, in consultation with the commissioner of health and
15 the superintendent. All treatment provided under this subparagraph may
16 be reviewed retrospectively. Where care is denied retrospectively, an
17 insured shall not have any financial obligation to the facility for any
18 treatment under this subparagraph other than any copayment, coinsurance,
19 or deductible otherwise required under the policy.

20 (H) This subparagraph shall apply to crisis stabilization centers in
21 this state that are licensed pursuant to section 36.01 of the mental
22 hygiene law and participate in the insurer's provider network. Benefits
23 for care ~~[in]~~ by a crisis stabilization center shall not be subject to
24 preauthorization. All treatment provided under this subparagraph may be
25 reviewed retrospectively. Where care is denied retrospectively, an
26 insured shall not have any financial obligation to the facility for any
27 treatment under this subparagraph other than any copayment, coinsurance,
28 or deductible otherwise required under the policy.

29 § 2. Subparagraphs (G) and (H) of paragraph 5 of subsection (1) of
30 section 3221 of the insurance law, subparagraph (G) as added by section
31 14 of subpart A of part BB of chapter 57 of the laws of 2019 and subpar-
32 agraph (H) as added by section 15 of part AA of chapter 57 of the laws
33 of 2021, are amended to read as follows:

34 (G) This subparagraph shall apply to hospitals and medically-monitored
35 crisis residential facilities in this state that are licensed, operated,
36 or otherwise authorized by the office of mental health that are partic-
37 ipating in the insurer's provider network. Where the policy provides
38 coverage for inpatient hospital care, benefits for inpatient hospital
39 care in a hospital as defined by subdivision ten of section 1.03 of the
40 mental hygiene law ~~[provided to individuals who have not attained the~~
41 ~~age of eighteen]~~ and benefits for sub-acute care in a medically-moni-
42 tored crisis residential facility, operated or otherwise authorized by
43 the office of mental health shall not be subject to preauthorization.
44 Coverage provided under this subparagraph shall also not be subject to
45 concurrent utilization review for individuals who have not attained the
46 age of eighteen during the first fourteen days of the inpatient admis-
47 sion, provided the facility notifies the insurer of both the admission
48 and the initial treatment plan within two business days of the admis-
49 sion, performs daily clinical review of the ~~[patient]~~ insured, and
50 participates in periodic consultation with the insurer to ensure that
51 the facility is using the evidence-based and peer reviewed clinical
52 review criteria utilized by the insurer which is approved by the office
53 of mental health and appropriate to the age of the ~~[patient]~~ insured to
54 ensure that the inpatient care is medically necessary for the ~~[patient]~~
55 insured. For individuals who have attained age eighteen, coverage
56 provided under this subparagraph shall also not be subject to concurrent

1 review during the first thirty days of the inpatient or residential
2 admission, provided the facility notifies the insurer of both the admis-
3 sion and the initial treatment plan within two business days of the
4 admission, performs daily clinical review of the insured, and partic-
5 ipates in periodic consultation with the insurer to ensure that the
6 facility is using the evidence-based and peer reviewed clinical review
7 criteria utilized by the insurer which is approved by the office of
8 mental health and appropriate to the age of the insured, to ensure that
9 the inpatient or residential care is medically necessary for the
10 insured. However, concurrent review may be performed during the first
11 thirty days if an insured meets clinical criteria designated by the
12 office of mental health or where the insured is admitted to a hospital
13 or facility which has been designated by the office of mental health for
14 concurrent review, in consultation with the commissioner of health and
15 the superintendent. All treatment provided under this subparagraph may
16 be reviewed retrospectively. Where care is denied retrospectively, an
17 insured shall not have any financial obligation to the facility for any
18 treatment under this subparagraph other than any copayment, coinsurance,
19 or deductible otherwise required under the policy.

20 (H) This subparagraph shall apply to crisis stabilization centers in
21 this state that are licensed pursuant to section 36.01 of the mental
22 hygiene law and participate in the insurer's provider network. Benefits
23 for care ~~[in]~~ by a crisis stabilization center shall not be subject to
24 preauthorization. All treatment provided under this subparagraph may be
25 reviewed retrospectively. Where care is denied retrospectively, an
26 insured shall not have any financial obligation to the facility for any
27 treatment under this subparagraph other than any copayment, coinsurance,
28 or deductible otherwise required under the policy.

29 § 3. Paragraphs 8 and 9 of subsection (g) of section 4303 of the
30 insurance law, paragraph 8 as added by section 23 of subpart A of part
31 BB of chapter 57 of the laws of 2019 and paragraph 9 as added by section
32 19 of part AA of chapter 57 of the laws of 2021, are amended to read as
33 follows:

34 (8) This paragraph shall apply to hospitals and medically-monitored
35 crisis residential facilities in this state that are licensed, operated
36 or otherwise authorized by the office of mental health that are partic-
37 ipating in the corporation's provider network. Where the contract
38 provides coverage for inpatient hospital care, benefits for inpatient
39 hospital care in a hospital as defined by subdivision ten of section
40 1.03 of the mental hygiene law ~~[provided to individuals who have not~~
41 ~~attained the age of eighteen]~~ and benefits for sub-acute care in a medi-
42 cally-monitored crisis residential facility licensed, operated, or
43 otherwise authorized by the office of mental health shall not be subject
44 to preauthorization. Coverage provided under this paragraph shall also
45 not be subject to concurrent utilization review for individuals who have
46 not attained the age of eighteen during the first fourteen days of the
47 inpatient admission, provided the facility notifies the corporation of
48 both the admission and the initial treatment plan within two business
49 days of the admission, performs daily clinical review of the ~~[patient]~~
50 insured, and participates in periodic consultation with the corporation
51 to ensure that the facility is using the evidence-based and peer
52 reviewed clinical review criteria utilized by the corporation which is
53 approved by the office of mental health and appropriate to the age of
54 the ~~[patient]~~ insured, to ensure that the inpatient care is medically
55 necessary for the ~~[patient]~~ insured. For individuals who have attained
56 age eighteen, coverage provided under this paragraph shall also not be

1 subject to concurrent review during the first thirty days of the inpa-
2 tient or residential admission, provided the facility notifies the
3 corporation of both the admission and the initial treatment plan within
4 two business days of the admission, performs daily clinical review of
5 the insured, and participates in periodic consultation with the corpo-
6 ration to ensure that the facility is using the evidence-based and peer
7 reviewed clinical review criteria utilized by the corporation which is
8 approved by the office of mental health and appropriate to the age of
9 the insured, to ensure that the inpatient or residential care is
10 medically necessary for the insured. However, concurrent review may be
11 performed during the first thirty days if an insured meets clinical
12 criteria designated by the office of mental health or where the insured
13 is admitted to a hospital or facility which has been designated by the
14 office of mental health for concurrent review, in consultation with the
15 commissioner of health and the superintendent. All treatment provided
16 under this paragraph may be reviewed retrospectively. Where care is
17 denied retrospectively, an insured shall not have any financial obli-
18 gation to the facility for any treatment under this paragraph other than
19 any copayment, coinsurance, or deductible otherwise required under the
20 contract.

21 (9) This paragraph shall apply to crisis stabilization centers in this
22 state that are licensed pursuant to section 36.01 of the mental hygiene
23 law and participate in the corporation's provider network. Benefits for
24 care ~~in~~ by a crisis stabilization center shall not be subject to
25 preauthorization. All treatment provided under this paragraph may be
26 reviewed retrospectively. Where care is denied retrospectively, an
27 insured shall not have any financial obligation to the facility for any
28 treatment under this paragraph other than any copayment, coinsurance, or
29 deductible otherwise required under the contract.

30 § 4. Paragraph 12 of subsection (a) of section 4902 of the insurance
31 law, as added by section 38 of subpart A of part BB of chapter 57 of the
32 laws of 2019, is amended to read as follows:

33 (12) When conducting utilization review for purposes of determining
34 health care coverage for a mental health condition, a utilization review
35 agent shall utilize evidence-based and peer reviewed clinical review
36 criteria that is appropriate to the age of the patient. The utilization
37 review agent shall use clinical review criteria designated by the
38 commissioner of the office of mental health for level of care determi-
39 nations, in consultation with the superintendent and commissioner of
40 health. For coverage determinations outside the scope of the criteria
41 designated for level of care determinations, the utilization review
42 agent shall use clinical review criteria deemed appropriate and approved
43 for such use by the commissioner of the office of mental health, in
44 consultation with the commissioner of health and the superintendent.
45 Approved clinical review criteria shall have inter rater reliability
46 testing completed ~~[by December thirty-first, two thousand nineteen]~~
47 prior to implementation.

48 § 5. Paragraph (j) of subdivision 1 of section 4902 of the public
49 health law, as added by section 43 of subpart A of part BB of chapter 57
50 of the laws of 2019, is amended to read as follows:

51 (j) When conducting utilization review for purposes of determining
52 health care coverage for a mental health condition, a utilization review
53 agent shall utilize evidence-based and peer reviewed clinical review
54 criteria that is appropriate to the age of the patient. The utilization
55 review agent shall use clinical review criteria designated by the
56 commissioner of the office of mental health for level of care determi-

1 nations, in consultation with the commissioner and the superintendent of
2 financial services. For coverage determinations outside the scope of
3 the criteria designated for level of care determinations, the utiliza-
4 tion review agent shall use clinical review criteria deemed appropriate
5 and approved for such use by the commissioner of the office of mental
6 health, in consultation with the commissioner and the superintendent of
7 financial services. Approved clinical review criteria shall have inter
8 rater reliability testing completed [~~by December thirty-first, two thou-~~
9 ~~sand nineteen~~] prior to implementation.

10 § 6. This act shall take effect one year after it shall have become a
11 law. Effective immediately, the addition, amendment and/or repeal of any
12 rule or regulation necessary for the implementation of this act on its
13 effective date are authorized to be made and completed on or before such
14 effective date.

15 SUBPART C

16 Section 1. Paragraph 2 of subsection (a) of section 3217-h of the
17 insurance law, as added by section 3 of part V of chapter 57 of the laws
18 of 2022, is amended to read as follows:

19 (2) An insurer that provides comprehensive coverage for hospital,
20 medical or surgical care shall reimburse covered services delivered by
21 means of telehealth on the same basis, at the same rate, and to the same
22 extent that such services are reimbursed when delivered in person;
23 provided that reimbursement of covered services delivered via telehealth
24 shall not require reimbursement of costs not actually incurred in the
25 provision of the telehealth services, including charges related to the
26 use of a clinic or other facility when neither the originating site nor
27 distant site occur within the clinic or other facility. Notwithstanding
28 the provisions of this paragraph, services provided by facilities
29 licensed, certified or otherwise authorized pursuant to article sixteen,
30 thirty-one, thirty-two or thirty-six of the mental hygiene law, and
31 deemed appropriate to be provided by telehealth by the commissioner of
32 the office for people with developmental disabilities, the office of
33 mental health, or the office of addiction services and supports, as
34 applicable, shall be reimbursed at the same rate as is reimbursed when
35 delivered in person.

36 § 2. Paragraph 2 of subsection (a) of section 4306-g of the insurance
37 law, as added by section 4 of part V of chapter 57 of the laws of 2022,
38 is amended to read as follows:

39 (2) A corporation that provides comprehensive coverage for hospital,
40 medical or surgical care shall reimburse covered services delivered by
41 means of telehealth on the same basis, at the same rate, and to the same
42 extent that such services are reimbursed when delivered in person;
43 provided that reimbursement of covered services delivered via telehealth
44 shall not require reimbursement of costs not actually incurred in the
45 provision of the telehealth services, including charges related to the
46 use of a clinic or other facility when neither the originating site nor
47 the distant site occur within the clinic or other facility. The super-
48 intendent may promulgate regulations to implement the provisions of this
49 section. Notwithstanding the provisions of this paragraph, services
50 provided by facilities licensed, certified or otherwise authorized
51 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the
52 mental hygiene law, and deemed appropriate to be provided by telehealth
53 by the commissioner of the office for people with developmental disabil-
54 ities, the office of mental health, or the office of addiction services

1 and supports, as applicable, shall be reimbursed at the same rate as is
2 reimbursed when delivered in person.

3 § 3. Subdivision 3 of section 4406-g of the public health law, as
4 added by section 5 of part V of chapter 57 of the laws of 2022, is
5 amended to read as follows:

6 3. A health maintenance organization that provides comprehensive
7 coverage for hospital, medical or surgical care shall reimburse covered
8 services delivered via telehealth on the same basis, at the same rate,
9 and to the extent that such services are reimbursed when delivered in
10 person; provided that reimbursement of covered services delivered by
11 means of telehealth shall not require reimbursement of costs not actual-
12 ly incurred in the provision of the telehealth services, including
13 charges related to the use of a clinic or other facility when neither
14 the originating site nor the distant site occur within the clinic or
15 other facility. The commissioner, in consultation with the superinten-
16 dent, may promulgate regulations to implement the provisions of this
17 section. Notwithstanding the provisions of this subdivision, services
18 provided by facilities licensed, certified or otherwise authorized
19 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the
20 mental hygiene law, and deemed appropriate to be provided by telehealth
21 by the commissioner of the office for people with developmental disabil-
22 ities, the office of mental health, or the office of addiction services
23 and supports, as applicable, shall be reimbursed at the same rate as is
24 reimbursed when delivered in person.

25 § 4. This act shall take effect immediately, and shall apply to claims
26 submitted on or after such date; provided that:

27 (a) the amendments made to subsection (a) of section 3217-h of the
28 insurance law made by section one of this act shall not affect the expi-
29 ration and reversion of such subsection and shall be deemed to expire
30 therewith;

31 (b) the amendments made to subsection (a) of section 4306-g of the
32 insurance law made by section two of this act shall not affect the expi-
33 ration and reversion of such subsection and shall be deemed to expire
34 therewith; and

35 (c) the amendments made to subdivision 3 of section 4406-g of the
36 public health law made by section three of this act shall not affect the
37 repeal of such subdivision and shall be deemed repealed therewith.

38 SUBPART D

39 Section 1. Section 109 of the insurance law is amended by adding a new
40 subsection (e) to read as follows:

41 (e) In addition to any right of action granted to the superintendent
42 pursuant to this section, any person who has been injured by reason of a
43 violation of paragraph thirty, thirty-one, thirty-one-a or thirty-five
44 of subsection (i) of section thirty-two hundred sixteen, paragraph five,
45 six, seven, seven-a or seven-b of subsection (l) of section thirty-two
46 hundred twenty-one, or subsection (g), (k), (l), (l-1) or (l-2) of
47 section forty-three hundred three of this chapter by an insurer, corpo-
48 ration, or health maintenance organization subject to article thirty-two
49 or forty-three of this chapter may bring an action in the person's own
50 name to recover the person's actual damages or one thousand dollars,
51 whichever is greater; provided, however, that the provisions of this
52 subsection shall not apply to any health plan that exclusively serves
53 individuals enrolled pursuant to a federal or state insurance afford-
54 ability program as defined in section two hundred sixty-eight-a of the

1 public health law, the medical assistance program under title eleven of
2 article five of the social services law, child health plus under title
3 one-A of article twenty-five of the public health law, the basic health
4 program under section three hundred sixty-nine-gg of the social services
5 law, or a plan providing services under title XVIII of the federal
6 Social Security Act. The court may, in its discretion, award the
7 prevailing plaintiff in such action an additional award not to exceed
8 five thousand dollars if the court finds a willful violation pursuant to
9 this subsection. The court may award reasonable attorneys' fees to a
10 prevailing plaintiff.

11 § 2. This act shall take effect immediately.

12 SUBPART E

13 Section 1. Subparagraph (A) of paragraph 31-a of subsection (i) of
14 section 3216 of the insurance law, as added by chapter 748 of the laws
15 of 2019, is amended to read as follows:

16 (A) No policy that provides medical, major medical or similar compre-
17 hensive-type coverage and provides coverage for prescription drugs for
18 medication for the treatment of a substance use disorder shall require
19 prior authorization for an initial or renewal prescription for the
20 detoxification or maintenance treatment of a substance use disorder,
21 including all buprenorphine products, methadone [ex], long acting
22 injectable naltrexone [for detoxification or maintenance treatment of a
23 substance use disorder], or medication for opioid overdose reversal
24 prescribed or dispensed to an individual covered under the policy,
25 including federal food and drug administration-approved over-the-counter
26 opioid overdose reversal medication as prescribed, dispensed or as
27 otherwise authorized under state or federal law, except where otherwise
28 prohibited by law.

29 § 2. Subparagraph (A) of paragraph 7-a of subsection (l) of section
30 3221 of the insurance law, as added by chapter 748 of the laws of 2019,
31 is amended to read as follows:

32 (A) No policy that provides medical, major medical or similar compre-
33 hensive-type small group coverage and provides coverage for prescription
34 drugs for medication for the treatment of a substance use disorder shall
35 require prior authorization for an initial or renewal prescription for
36 the detoxification or maintenance treatment of a substance use disorder,
37 including all buprenorphine products, methadone, long acting injectable
38 naltrexone, or medication for opioid overdose reversal prescribed or
39 dispensed to an individual covered under the policy, including federal
40 food and drug administration-approved over-the-counter opioid overdose
41 reversal medication as prescribed, dispensed or as otherwise authorized
42 under state or federal law, except where otherwise prohibited by law.
43 Every policy that provides medical, major medical or similar comprehen-
44 sive-type large group coverage shall provide coverage for prescription
45 drugs for medication for the treatment of a substance use disorder and
46 shall provide immediate coverage for all buprenorphine products, metha-
47 done [ex], long acting injectable naltrexone, or medication for opioid
48 overdose reversal prescribed or dispensed to an individual covered under
49 the policy, including federal food and drug administration-approved
50 over-the-counter opioid overdose reversal medication as prescribed,
51 dispensed or as otherwise authorized under state or federal law, without
52 prior authorization for the detoxification or maintenance treatment of a
53 substance use disorder, except where otherwise prohibited by law.

§ 3. Paragraph (A) of subsection (1-1) of section 4303 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No contract that provides medical, major medical or similar comprehensive-type individual or small group coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for the detoxification or maintenance treatment of a substance use disorder, including all buprenorphine products, methadone, long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the contract, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, except where otherwise prohibited by law. Every contract that provides medical, major medical, or similar comprehensive-type large group coverage shall provide coverage for prescription drugs for medication for the treatment of a substance use disorder and shall provide immediate coverage for all buprenorphine products, methadone [✗], long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the contract, including federal food and drug administration-approved over-the-counter opioid overdose reversal medication as prescribed, dispensed or as otherwise authorized under state or federal law, without prior authorization for the detoxification or maintenance treatment of a substance use disorder, except where otherwise prohibited by law.

SUBPART F

Section 1. Subsection (a) of 3241 of the insurance law, as added by section 6 of part H of chapter 60 of the laws of 2014, is amended to read as follows:

(a) (1) An insurer, a corporation organized pursuant to article forty-three of this chapter, a municipal cooperative health benefit plan certified pursuant to article forty-seven of this chapter, or a student health plan established or maintained pursuant to section one thousand one hundred twenty-four of this chapter, that issues a health insurance policy or contract with a network of health care providers shall ensure that the network is adequate to meet the health needs of insureds and provide an appropriate choice of providers sufficient to render the services covered under the policy or contract. The superintendent shall review the network of health care providers for adequacy at the time of the superintendent's initial approval of a health insurance policy or contract; at least every three years thereafter; and upon application for expansion of any service area associated with the policy or contract in conformance with the standards set forth in subdivision five of section four thousand four hundred three of the public health law. To the extent that the network has been determined by the commissioner of health to meet the standards set forth in subdivision five of section four thousand four hundred three of the public health law, such network shall be deemed adequate by the superintendent.

(2) The superintendent, in consultation with the commissioner of health, the commissioner of the office of mental health, and the commissioner of the office of addiction services and supports, shall promulgate regulations setting forth standards for network adequacy for mental

1 health and substance use disorder treatment. Such standards shall
2 include:

3 (A) requirements that ensure that insureds have timely and proximate
4 access to treatment for mental health conditions and substance use
5 disorders;

6 (B) appointment availability standards that include timeframes for
7 initial provider visits, follow-up provider visits, and provider visits
8 following discharge from a hospital as defined by subdivision ten of
9 section 1.03 of the mental hygiene law or the emergency department of a
10 hospital licensed pursuant to article twenty-eight of the public health
11 law;

12 (C) time and distance standards that take into consideration reason-
13 able proximity to the insured's residence, established service delivery
14 patterns for the area, the geographic area, and the availability of
15 telehealth services; and

16 (D) responsibilities of an insurer to provide an out-of-network refer-
17 ral at the in-network cost-sharing when there is no participating
18 provider able to provide the requested health care service within the
19 timely and proximate access standards established by regulation and a
20 non-participating provider is able to meet such standards; and, where
21 the non-participating provider is a facility licensed, operated, or
22 otherwise authorized by the office of mental health or the office of
23 addiction services and supports, the insurer shall reimburse the facili-
24 ty at a rate negotiated between the insurer and facility, or in the
25 absence of a negotiated rate, an amount no less than the rate that would
26 be paid for such services pursuant to the medical assistance program
27 under title eleven of article five of the social services law.

28 § 2. Subdivision 5 of section 4403 of the public health law is amended
29 by adding a new paragraph (d) to read as follows:

30 (d) The commissioner, in consultation with the superintendent of
31 financial services, the commissioner of the office of mental health, and
32 the commissioner of the office of addiction services and supports, shall
33 promulgate regulations setting forth standards for network adequacy for
34 mental health and substance use disorder treatment. Such standards
35 shall include:

36 (i) requirements that ensure that enrollees have timely and proximate
37 access to treatment for mental health conditions and substance use
38 disorders;

39 (ii) appointment availability standards that include timeframes for
40 initial provider visits, follow-up provider visits, and provider visits
41 following discharge from a hospital as defined by subdivision ten of
42 section 1.03 of the mental hygiene law or the emergency department of a
43 hospital licensed pursuant to article twenty-eight of the public health
44 law;

45 (iii) time and distance standards that take into consideration reason-
46 able proximity to the enrollee's residence, established service delivery
47 patterns for the area, the geographic area, and the availability of
48 telehealth services; and

49 (iv) responsibilities of an organization to provide an out-of-network
50 referral at the in-network cost-sharing when there is no participating
51 provider able to provide the requested health care service within the
52 timely and proximate access standards established by regulation and a
53 non-participating provider is able to meet such standards; and, where
54 the non-participating provider is a facility licensed, operated, or
55 otherwise authorized by the office of mental health or the office of
56 addiction services and supports, the organization shall reimburse the

1 facility at a rate negotiated between the organization and facility or,
2 in the absence of a negotiated rate, an amount no less than the rate
3 that would be paid for such services pursuant to the medical assistance
4 program under title eleven of article five of the social services law.

5 § 3. This act shall take effect immediately.

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

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

18 PART JJ

19 Section 1. Subdivision (g) of section 31.16 of the mental hygiene law,
20 as amended by chapter 351 of the laws of 1994, is amended to read as
21 follows:

22 (g) The commissioner may impose [~~a fine~~] sanctions upon a finding that
23 the holder of the certificate has failed to comply with the terms of the
24 operating certificate or with the provisions of any applicable statute,
25 rule or regulation. The commissioner shall be authorized to develop a
26 schedule for the purpose of imposing such sanctions. The maximum amount
27 of [~~such~~] any fine imposed thereunder shall not exceed [~~one~~] two thou-
28 sand dollars per day [~~or fifteen thousand dollars~~], per violation.
29 Penalties may be considered at the individual bed level for beds closed
30 without authorization at inpatient settings.

31 Such penalty may be recovered by an action brought by the commissioner
32 in any court of competent jurisdiction.

33 Such penalty may be released or compromised by the commissioner before
34 the matter has been referred to the attorney general. Any such penalty
35 may be released or compromised and any action commenced to recover the
36 same may be settled or discontinued by the attorney general with the
37 consent of the commissioner.

38 § 2. This act shall take effect immediately.

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

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