STATE OF NEW YORK

S. 4007 A. 3007

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

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

AN ACT to amend 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 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

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

LBD12571-01-3

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.

12 PART A

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

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

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

PART B

Section 1. Subdivision 1 of section 20 of 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, as amended by chapter 181 of the laws of 2021, is amended to read as follows:

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 sections four, eleven and thirteen of this act shall take effect immediately and shall expire and be deemed repealed June 30, [~~2023~~] **2025**;

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

6-a. section fifty-seven of this act shall expire and be deemed repealed [~~on March 31, 2023~~] **March 31, 2028**; provided that the amendments made by such section to subdivision 4 of section 366-c of the social services law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

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

§ 3. This act shall take effect on the thirtieth day after it shall have become a law and shall be of no further force and effect after [~~March 31, 2023~~] **March 31, 2028**, at which time the provisions of this 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 on April first, nineteen hundred ninety-eight and terminate on March thirty-first, two thousand three. An additional demonstration period shall commence on April first, two thousand three and terminate on March thirty-first, two thousand thirteen. An additional demonstration period

shall commence April first, two thousand thirteen and terminate on March thirty-first, two thousand eighteen. An additional demonstration period shall commence April first, two thousand eighteen and terminate on July first, two thousand [~~twenty-three~~] **thirty-three** provided, however, that the commissioner may prescribe requirements for the continuation of such demonstration program, including periodic reviews of such programs and submission of any reports and data necessary to permit such reviews. During these additional periods, the provisions of this subparagraph shall also apply to a physician committee of a county medical society.

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

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

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

(b) Notwithstanding any inconsistent provision of law or regulation to the contrary, for the state fiscal years beginning April first, two thousand ten and ending March thirty-first, two thousand [~~twenty-three~~] **twenty-seven**, the commissioner shall not be required to revise certified rates of payment established pursuant to this article for rate periods prior to April first, two thousand [~~twenty-three~~] **twenty-seven**, based on consideration of rate appeals filed by residential health care facilities or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of an application for construction under section twenty-eight hundred two of this article, in excess of an aggregate annual amount of eighty million dollars for each such state fiscal year provided, however, that for the period April first, two thousand eleven through March thirty-first, two thousand twelve such aggregate annual amount shall be fifty million dollars. In revising such rates within such fiscal limit, the commissioner shall, in prioritizing such rate appeals, include consideration of which facilities the commissioner determines are facing significant financial hardship as well as such other considerations as the commissioner deems appropriate and, further, the commissioner is authorized to enter into agreements with such facilities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department, including, but not limited to, amounts owed pursuant to section twenty-eight hundred seven-d of this article; provided, however, that the commissioner's authority to negotiate such agreements resolving multiple pending rate appeals as hereinbefore described shall continue on and after April first, two thousand [~~twenty-three~~] **twenty-seven**. Rate adjustments made pursuant to this paragraph remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision two of section twenty-eight hundred seven of this article.

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

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

§ 14. Section 4 of 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, as amended by section 2 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

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

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

(e-1) Notwithstanding any inconsistent provision of law or regulation, the commissioner shall provide, in addition to payments established pursuant to this article prior to application of this section, additional payments under the medical assistance program pursuant to title eleven of article five of the social services law for non-state operated public residential health care facilities, including public residential health care facilities located in the county of Nassau, the county of Westchester and the county of Erie, but excluding public residential health care facilities operated by a town or city within a county, in aggregate annual amounts of up to one hundred fifty million dollars in additional payments for the state fiscal year beginning April first, two thousand six and for the state fiscal year beginning April first, two thousand seven and for the state fiscal year beginning April first, two thousand eight and of up to three hundred million dollars in such aggregate annual additional payments for the state fiscal year beginning April first, two thousand nine, and for the state fiscal year beginning April first, two thousand ten and for the state fiscal year beginning April first, two thousand eleven, and for the state fiscal years beginning April first, two thousand twelve and April first, two thousand thirteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand fourteen, April first, two thousand fifteen and April first, two thousand sixteen and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand seventeen, April first, two thousand eighteen, and April first, two thousand nineteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand twenty, April first, two thousand twenty-one, and April first, two thousand twenty-two**, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand twenty-three, April first, two thousand**

twenty-four, and April first, two thousand twenty-five. The amount allocated to each eligible public residential health care facility for this period shall be computed in accordance with the provisions of paragraph (f) of this subdivision, provided, however, that patient days shall be utilized for such computation reflecting actual reported data for two thousand three and each representative succeeding year as applicable, and provided further, however, that, in consultation with impacted providers, of the funds allocated for distribution in the state fiscal year beginning April first, two thousand thirteen, up to thirty-two million dollars may be allocated in accordance with paragraph (f-1) of this subdivision.

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

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

§ 17. Section 4 of 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, as amended by section 5 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

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

§ 18. Subdivision (o) of section 111 of 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, as amended by section 6 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

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

§ 19. Section 32 of 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, as amended by section 7 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 32. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided however, that sections one, six-a, nineteen, twenty, twenty-four, and twenty-five of this act shall take effect July 1, 2008; provided however that sections sixteen, seventeen and eighteen of this act shall expire April 1, [~~2023~~] **2026**; provided, however, that the amendments made by section twenty-eight of this act shall take effect on the same date as section 1 of chapter 281 of the laws of 2007 takes effect; provided

further, that sections twenty-nine, thirty, and thirty-one of this act shall take effect October 1, 2008; provided further, that section twenty-seven of this act shall take effect January 1, 2009; and provided further, that section twenty-seven of this act shall expire and be deemed repealed March 31, [~~2023~~] **2026**; and provided, further, however, that the amendments to subdivision 1 of section 241 of the education law made by section twenty-nine of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith and provided that the amendments to section 272 of the public health law made by section thirty of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

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

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

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

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

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

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

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

(g) Target period. For purposes of this section, the 1996 target period shall mean August 1, 1996 through March 31, 1997, the 1997 target period shall mean January 1, 1997 through November 30, 1997, the 1998 target period shall mean January 1, 1998 through November 30, 1998, the 1999 target period shall mean January 1, 1999 through November 30, 1999, the 2000 target period shall mean January 1, 2000 through November 30, 2000, the 2001 target period shall mean January 1, 2001 through November 30, 2001, the 2002 target period shall mean January 1, 2002 through November 30, 2002, the 2003 target period shall mean January 1, 2003 through November 30, 2003, the 2004 target period shall mean January 1, 2004 through November 30, 2004, and the 2005 target period shall mean January 1, 2005 through November 30, 2005, the 2006 target period shall mean January 1, 2006 through November 30, 2006, and the 2007 target period shall mean January 1, 2007 through November 30, 2007 and the 2008 target period shall mean January 1, 2008 through November 30, 2008, and the 2009 target period shall mean January 1, 2009 through November 30, 2009 and the 2010 target period shall mean January 1, 2010 through November 30, 2010 and the 2011 target period shall mean January 1, 2011 through November 30, 2011 and the 2012 target period shall mean January 1, 2012 through November 30, 2012 and the 2013 target period shall mean

January 1, 2013 through November 30, 2013, and the 2014 target period shall mean January 1, 2014 through November 30, 2014 and the 2015 target period shall mean January 1, 2015 through November 30, 2015 and the 2016 target period shall mean January 1, 2016 through November 30, 2016 and the 2017 target period shall mean January 1, 2017 through November 30, 2017 and the 2018 target period shall mean January 1, 2018 through November 30, 2018 and the 2019 target period shall mean January 1, 2019 through November 30, 2019 and the 2020 target period shall mean January 1, 2020 through November 30, 2020[~~,~~] and the 2021 target period shall mean January 1, 2021 through November 30, 2021 and the 2022 target period shall mean January 1, 2022 through November 30, 2022 and the 2023 target period shall mean January 1, 2023 through November 30, 2023 **and the 2024 target period shall mean January 1, 2024 through November 30, 2024 and the 2025 target period shall mean January 1, 2025 through November 30, 2025 and the 2026 target period shall mean January 1, 2026 through November 30, 2026 and the 2027 target period shall mean January 1, 2027 through November 30, 2027**.

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

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

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

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

(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.

(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 respec-

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

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

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

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

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

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

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

(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 reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

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

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

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

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

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

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

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

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

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

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

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

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(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, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

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

(b) The provider specific state share reduction amount 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 respectively, shall be due to the state from each CHHA and LTHHCP and each year the amount due for such year may be recouped by the state by March 31 of the following year in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

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

10. On or about June 1, 1997, for each regional group the commissioner of health shall calculate for the period August 1, 1996 through March 31, 1997 a medicaid revenue percentage, a reduction factor, a state share reduction amount, and a provider specific state share reduction amount in accordance with the methodology provided in paragraph (a) of subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivision 6 and paragraph (a) of subdivision 7 of this section. The provider specific state share reduction amount calculated in accordance with this subdivision shall be compared to the 1996 provider specific state share reduction amount calculated in accordance with paragraph (a) of subdivision 7 of this section. Any amount in excess of the amount determined in accordance with paragraph (a) of subdivision 7 of this section shall be due to the state from each CHHA and LTHHCP and may be recouped in accordance with paragraph (a) of subdivision 8 of this section. If the amount is less than the amount determined in accordance with paragraph (a) of subdivision 7 of this section, the difference shall be refunded to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs and LTHHCPs shall submit data for the period August 1, 1996 through March 31, 1997 to the commissioner of health by April 15, 1997.

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

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

(b) the commissioner of health shall reduce the current rate paid to such CHHA and such LTHHCP by state governmental agencies pursuant to article 36 of the public health law by one percent for a period beginning on the first day of the calendar month following the applicable due date as established by the commissioner of health and continuing until the last day of the calendar month in which the required data and information are submitted.

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair of the assembly ways and means committee of the results of the calculations pursuant to this section.

§ 21. Paragraph (f) of subdivision 1 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 13 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(f) Prior to February 1, 2001, February 1, 2002, February 1, 2003, February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007, February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011, February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015, February 1, 2016, February 1, 2017, February 1, 2018, February 1, 2019, February 1, 2020, February 1, 2021, February 1, 2022 [~~and~~], February 1, 2023**, February 1, 2024, February 1, 2025 and February 1, 2026**, the commissioner of health shall calculate the result of the statewide total of residential health care facility days of care provided to beneficiaries of title XVIII of the federal social security act (medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to title 11 of article 5 of the social services law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, through November 30, of the prior year respectively, based on such data for such period. This value shall be called 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 target percentage respectively.

§ 22. Subparagraph (ii) of paragraph (b) of subdivision 3 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 14 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

(ii) 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 percentages are not for each year at least three percentage points higher than the statewide base percentage, the commissioner of health shall determine the percentage by which the statewide target percentage for each year is not at least three percentage points higher than the statewide base percentage. The percentage calculated pursuant to this paragraph shall be called 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 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. section one of this act shall expire and be deemed repealed March 31, [~~2026~~] **2029**;

§ 26. Section 8 of 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, 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, 2020, provided, further that sections [~~three~~] **four** through [~~nine~~] **seven** of this act shall expire and be deemed repealed March 31, [~~2023~~] **2026**; provided further, however, that the director of the budget may, in consultation with the commissioner of health, delay the effective dates prescribed herein for a period of time which shall not exceed ninety days following the conclusion or termination of an executive order issued pursuant to section 28 of the executive law declaring a state disaster emergency for the entire state of New York, upon such delay the director of budget shall notify the chairs of the assembly ways and means committee and senate finance committee and the chairs of the assembly and senate health committee; provided further, however, that the director of the budget shall notify the legislative bill drafting commission upon the occurrence of a delay in the effective date of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

§ 27. Subdivision 4-a of section 71 of 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, as amended by section 7 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

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

§ 28. Section 4 of 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, as amended by section 1 of item PP of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

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

§ 29. Section 11 of 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, as amended by section 1 of part S of chapter 57 of the laws of 2021, is amended to read as follows:

§ 11. This act shall take effect immediately and:

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

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

(c) provided that the amendment to section 2807-b of the public health law by section two of this act shall not affect the expiration of such section 2807-b as otherwise provided by law and shall be deemed to expire therewith.

§ 30. Subdivision 5-a 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 3 of part S of chapter 57 of the laws of 2021, is amended to read as follows:

5-a. Section sixty-four-a 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, 2007, and on and after April 1, 2007 through March 31, 2009, and on and after April 1, 2009 through March 31, 2011, and on and after April 1, 2011 through March 31, 2013, and on and after April 1, 2013 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, 2027**;

§ 31. Section 64-b 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 4 of part S of chapter 57 of the laws of 2021, is amended to read as follows:

§ 64-b. Notwithstanding any inconsistent provision of law, the provisions of subdivision 7 of section 3614 of the public health law, as amended, shall remain and be in full force and effect on April 1, 1995 through March 31, 1999 and on 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, 2007, and on and after April 1, 2007 through March 31, 2009, and on and after April 1, 2009 through March 31, 2011, and on and after April 1, 2011 through March 31, 2013, and on and after April 1, 2013 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, 2027**.

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

§ 4-a. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, section 21 of chapter 1 of the laws of 1999, or any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after January 1, 2017 through March 31, [~~2023~~] **2024**, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities or units of such facilities providing services primarily to children under twenty-one years of age, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply no greater than zero trend factors attributable to the 2017, 2018, 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 thousand thirteen such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand thirteen through March thirty-first, two thousand fifteen such assessment shall be six percent, and further provided that for all such

gross receipts received on or after April first, two thousand fifteen through March thirty-first, two thousand seventeen such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand seventeen through March thirty-first, two thousand nineteen such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand nineteen through March thirty-first, two thousand twenty-one such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand twenty-one through March thirty-first, two thousand twenty-three such assessment shall be six percent**, and further provided that for all such gross receipts received on or after April first, two thousand twenty-three through March thirty-first, two thousand twenty-five such assessment shall be six percent**.

§ 35. Section 3 of 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 is amended to read as follows:

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

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

PART C

Section 1. Section 34 of 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, as amended by section 1 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

§ 34. (1) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2023~~] **2026**, the commissioner of health is authorized to transfer and the state comptroller is authorized and directed to receive for deposit to the credit of the department of health's special revenue fund - other, health care reform act (HCRA) resources fund - 061, provider collection monitoring account, within amounts appropriated each year, those funds collected and accumulated pursuant to section 2807-v of the public health law, including income from invested funds, for the purpose of payment for administrative costs of the department of health related to adminis-

tration of statutory duties for the collections and distributions authorized by section 2807-v of the public health law.

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

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

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

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

(7) Notwithstanding any inconsistent provision of law, rule or regulation and effective April 1, 2008 through March 31, [~~2023~~] 2026, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated each year, those funds authorized for distribution in accordance with the provisions of subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c of the public health law from monies accumulated and interest earned in

the bad debt and charity care and capital statewide pools through an assessment charged to general hospitals pursuant to the provisions of subdivision 18 of section 2807-c of the public health law and those funds authorized for distribution in accordance with the provisions of section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to programs funded under section 2807-l of the public health law into the special revenue funds - other, health care reform act (HCRA) resources fund - 061, primary care initiatives account, established within the department of health.

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

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

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

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

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

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

5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health law, as amended or as added by this act, shall expire on December 31, [~~2023~~] **2026**, and shall be thereafter effective only in respect to any act done on or before such date or action or proceeding arising out of such act including continued collections of funds from assessments and allowances and surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and 2807-t of the public health law, and administration

and distributions of funds from pools established pursuant to sections 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public health law related to patient services provided before December 31, [~~2023~~] **2026**, and continued expenditure of funds authorized for programs and grants until the exhaustion of funds therefor;

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

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

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

§ 2807-l. Health care initiatives pool distributions. 1. Funds accumulated in the health care initiatives pools pursuant to paragraph (b) of subdivision nine of section twenty-eight hundred seven-j of this article, or 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 reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions to programs to provide health care coverage for uninsured or underinsured children pursuant to sections twenty-five hundred ten and twenty-five hundred eleven of this chapter from the respective health care initiatives pools established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions for health insurance programs under the individual subsidy programs established pursuant to the expanded health care coverage act of nineteen hundred eighty-eight as amended, and for evaluation of such programs from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, 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 dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand through December thirty-first, two thousand, up to eighty-five million dollars shall be reserved and accumulated from year to year from the pools for the period

January first, two thousand one through December thirty-first, two thousand one, up to eighty-six million dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand two through December thirty-first, two thousand two, up to eighty-six million one hundred fifty thousand dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand three through December thirty-first, two thousand three, up to fifty-eight million seven hundred eighty thousand dollars shall be reserved and accumulated from year to year from the pools for the period January first, two thousand four through December thirty-first, two thousand four, up to sixty-eight million seven hundred thirty thousand dollars shall be reserved and accumulated from year to year from the pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand five, up to ninety-four million three hundred fifty thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, up to seventy million nine hundred thirty-nine thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand seven through December thirty-first, two thousand seven, up to fifty-five million six hundred eighty-nine thousand dollars annually shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand eight through December thirty-first, two thousand ten, up to thirteen million nine hundred twenty-two thousand dollars shall be reserved and accumulated from year to year from the health care reform act (HCRA) resources fund for the period January first, two thousand eleven through March thirty-first, two thousand eleven, and for periods on and after April first, two thousand eleven, up to funding amounts specified below and shall be available, including income from invested funds, for:

(i) 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, hospital based grants program account or the health care reform act (HCRA) resources fund, whichever is applicable, for purposes of services and expenses related to general hospital based grant programs, up to twenty-two million dollars annually from the nineteen hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen hundred ninety-nine pool, two thousand pool, two thousand one pool and two thousand two pool, respectively, up to twenty-two million dollars from the two thousand three pool, up to ten million dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to eleven million dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to twenty-two million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to twenty-two million ninety-seven thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to five million five hundred twenty-four thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to thirteen million four hundred forty-five thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve, and up to thir-

teen million three hundred seventy-five thousand dollars each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand fourteen;

(ii) 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 emergency medical services training account established in section ninety-seven-q of the state finance law or the health care reform act (HCRA) resources fund, whichever is applicable, up to sixteen 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 twenty million dollars for the period January first, two thousand through December thirty-first, two thousand, up to twenty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one, up to twenty-two million dollars for the period January first, two thousand two through December thirty-first, two thousand two, up to twenty-two million five hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to nine million six hundred eighty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to twelve million one hundred thirty thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to twenty-four million two hundred fifty thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to twenty million four hundred ninety-two thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand ten, up to five million one hundred twenty-three thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to eighteen million three hundred fifty thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve, up to eighteen million nine hundred fifty thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen, up to nineteen million four hundred nineteen thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen, and up to nineteen million six hundred fifty-nine thousand seven hundred dollars each state fiscal year for the period of April first, two thousand fourteen through March thirty-first, two thousand [~~twenty-three~~] **twenty-six**;

(iii) priority distributions by the commissioner up to thirty-two million dollars on an annualized basis for the period January first, two thousand through December thirty-first, two thousand four, up to thirty-eight million dollars on an annualized basis for the period January first, two thousand five through December thirty-first, two thousand six, up to eighteen million two hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to three million dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, up to seven hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, and up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand

[~~twenty-three~~] twenty-six to be allocated (A) for the purposes established pursuant to subparagraph (ii) of paragraph (f) of subdivision nineteen of section twenty-eight hundred seven-c of this article as in effect on December thirty-first, nineteen hundred ninety-six and as may thereafter be amended, up to fifteen million dollars annually for the periods January first, two thousand through December thirty-first, two thousand four, up to twenty-one million dollars annually for the period January first, two thousand five through December thirty-first, two thousand six, and up to seven million five hundred thousand dollars for the period January first, two thousand seven through March thirty-first, two thousand seven;

(B) pursuant to a memorandum of understanding entered into by the commissioner, the majority leader of the senate and the speaker of the assembly, for the purposes outlined in such memorandum upon the recommendation of the majority leader of the senate, up to eight million five hundred thousand dollars annually for the period January first, two thousand through December thirty-first, two thousand six, and up to four million two hundred fifty thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven, and for the purposes outlined in such memorandum upon the recommendation of the speaker of the assembly, up to eight million five hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand six, and up to four million two hundred fifty thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven; and

(C) for services and expenses, including grants, related to emergency assistance distributions as designated by the commissioner. Notwithstanding section one hundred twelve or one hundred sixty-three of the state finance law or any other contrary provision of law, such distributions shall be limited to providers or programs where, as determined by the commissioner, emergency assistance is vital to protect the life or safety of patients, to ensure the retention of facility caregivers or other staff, or in instances where health facility operations are jeopardized, or where the public health is jeopardized or other emergency situations exist, up to three million dollars annually for the period April first, two thousand seven through March thirty-first, two thousand eleven, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to two million nine hundred 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 two million nine hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six. Upon any distribution of such funds, the commissioner shall immediately notify the chair and ranking minority member of the senate finance committee, the assembly 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 fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen;

(d) (i) An amount of up to twenty million dollars annually for the period January first, two thousand through December thirty-first, two thousand six, up to ten million dollars for the period January first,

two thousand seven through June thirtieth, two thousand seven, up to twenty million dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, up to five million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to nineteen million six hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to nineteen million six hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to nineteen million six hundred thousand dollars each state fiscal year for the period of April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to nineteen million six hundred thousand dollars each state fiscal year for the period of April first, two thousand twenty through March thirty-first, two thousand twenty-three**, and up to nineteen million six hundred thousand dollars each state fiscal year for the period of April first, two thousand twenty-three through March thirty-first, two thousand twenty-six**, shall be transferred to the health facility restructuring pool established pursuant to section twenty-eight hundred fifteen of this article;

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

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

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

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

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

(iv) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand through December thirty-first, two thousand four, eighty-two million dollars annually, and for the period January first, two thousand five through December thirty-first, two thousand five, eighty-two million dollars, and for the period January first, two thousand six through December thirty-first, two thousand six, eighty-two million dollars, and for the period January first, two thousand seven through December thirty-first, two thousand seven, eighty-two million dollars, and for the period January first, two thousand eight through December thirty-first, two thousand eight, ninety million seven hundred thousand dollars shall be deposited by the commissioner, and the state comp-

troller 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;

(v) from the health care reform act (HCRA) resources fund for the period January first, two thousand nine through December thirty-first, two thousand nine, one hundred eight million nine hundred seventy-five thousand dollars, and for the period January first, two thousand ten through December thirty-first, two thousand ten, one hundred twenty-six million one hundred thousand dollars, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, twenty million five hundred thousand dollars, and for each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, one hundred forty-six million four hundred thousand dollars, shall be deposited by the commissioner, 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.

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

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

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

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

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

(i) funds shall be reserved and accumulated:

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

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

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

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

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

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

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

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

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

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

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

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

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, seventeen million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to fifteen million eight hundred fifty thousand dollars;

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand four through December thirty-first, two thousand four, up to fifteen million eight hundred fifty thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five, up to nineteen million two hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six, up to nineteen million two hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to eighteen million one hundred fifty thousand dollars annually, for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to four million five hundred thirty-eight thousand dollars, for each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to sixteen million two hundred thousand dollars, up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to sixteen million two hundred 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 sixteen million two hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six**.

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

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

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

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

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

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

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

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

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

(v) (A) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period July first, two thousand three through December thirty-first, two thousand three, up to six million dollars, for the period January first, two thousand four through December thirty-first, two thousand six, up to twelve million dollars annually, for the period January first, two thousand seven through December thirty-first, two thousand thirteen, up to forty-eight million dollars annually, for the period January first, two thousand fourteen through March thirty-first, two thousand fourteen, up to twelve million dollars for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to forty-eight million dollars

annually, for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, up to forty-eight million dollars annually, [~~and~~] for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, up to forty-eight million dollars annually**, and for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six, up to forty-eight million dollars annually**;

(B) from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, an additional seven million five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand thirteen, an additional seven million five hundred thousand dollars annually, for the period January first, two thousand fourteen through March thirty-first, two thousand fourteen, an additional one million eight hundred seventy-five thousand dollars, for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, an additional seven million five hundred thousand dollars annually, for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, an additional seven million five hundred thousand dollars annually, [~~and~~] for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, an additional seven million five hundred thousand dollars annually**, and for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six, an additional seven million five hundred thousand dollars annually** for voluntary non-profit diagnostic and treatment center uncompensated care in accordance with subdivision four-c of section twenty-eight hundred seven-p of this article; and

(vi) funds reserved and accumulated pursuant to this paragraph for periods on and after July first, two thousand three, 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, for purposes of funding the state share of rate adjustments made pursuant to section twenty-eight hundred seven-p of this article, provided, however, that in the event federal financial participation is not available for rate adjustments made pursuant to paragraph (b) of subdivision one of section twenty-eight hundred seven-p of this article, funds shall be distributed pursuant to paragraph (a) of subdivision one of section twenty-eight hundred seven-p of this article from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable.

(l) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for transfer to and allocation for services and expenses for the payment of benefits to recipients of drugs under the AIDS drug assistance program (ADAP) - HIV uninsured care program as administered by Health Research Incorporated from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

(vi) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thou-

sand five through December thirty-first, two thousand six, up to ten million fifty thousand dollars on an annual basis, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to nineteen million dollars annually, and for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to four million seven hundred fifty thousand dollars.

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

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

3. Revenue from distributions pursuant to this section shall not be included in gross revenue received for purposes of the assessments pursuant to subdivision eighteen of section twenty-eight hundred seven-c of this article, subject to the provisions of paragraph (e) of subdivision eighteen of section twenty-eight hundred seven-c of this article, and shall not be included in gross revenue received for purposes of the assessments pursuant to section twenty-eight hundred seven-d of this article, subject to the provisions of subdivision twelve of section twenty-eight hundred seven-d of this article.

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

5-a. Graduate medical education innovations pool. (a) Supplemental distributions. (i) Thirty-one million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, 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 distributions pursuant to subdivision five of this section and in accordance with section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York as in effect on January first, two thousand eight; provided, however, for purposes of funding the empire clinical research investigation program (ECRIP) in accordance with paragraph eight of subdivision (e) and paragraph two of subdivision (f) of section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York, distributions shall be made using two regions defined as New York city and the rest of the state and the dollar amount set forth in subparagraph (i) of paragraph two of subdivision (f) of section 86-1.89 of title 10 of the codes, rules and regulations of the state of New York shall be increased from sixty thousand dollars to seventy-five thousand dollars.

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

(b) Empire clinical research investigator program (ECRIP). Nine million one hundred twenty thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, and two million two hundred eighty thousand dollars for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, nine million one hundred twenty thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to eight million six hundred twelve thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to eight million six hundred twelve 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 eight million six hundred twelve 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 to be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be available for distribution as follows:

Distributions shall first be made to consortia and teaching general hospitals for the empire clinical research investigator program (ECRIP) to help secure federal funding for biomedical research, train clinical researchers, recruit national leaders as faculty to act as mentors, and train residents and fellows in biomedical research skills based on hospital-specific data submitted to the commissioner by consortia and teaching general hospitals in accordance with clause (G) of this subparagraph. Such distributions shall be made in accordance with the following methodology:

(A) The greatest number of clinical research positions for which a consortium or teaching general hospital may be funded pursuant to this subparagraph shall be one percent of the total number of residents training at the consortium or teaching general hospital on July first,

two thousand eight for the period January first, two thousand nine through December thirty-first, two thousand nine rounded up to the nearest one position.

(B) Distributions made to a consortium or teaching general hospital shall equal the product of the total number of clinical research positions submitted by a consortium or teaching general hospital and accepted by the commissioner as meeting the criteria set forth in paragraph (b) of subdivision one of this section, subject to the reduction calculation set forth in clause (C) of this subparagraph, times one hundred ten thousand dollars.

(C) If the dollar amount for the total number of clinical research positions in the region calculated pursuant to clause (B) of this subparagraph exceeds the total amount appropriated for purposes of this paragraph, including clinical research positions that continue from and were funded in prior distribution periods, the commissioner shall eliminate one-half of the clinical research positions submitted by each consortium or teaching general hospital rounded down to the nearest one position. Such reduction shall be repeated until the dollar amount for the total number of clinical research positions in the region does not exceed the total amount appropriated for purposes of this paragraph. If the repeated reduction of the total number of clinical research positions in the region by one-half does not render a total funding amount that is equal to or less than the total amount reserved for that region within the appropriation, the funding for each clinical research position in that region shall be reduced proportionally in one thousand dollar increments until the total dollar amount for the total number of clinical research positions in that region does not exceed the total amount reserved for that region within the appropriation. Any reduction in funding will be effective for the duration of the award. No clinical research positions that continue from and were funded in prior distribution periods shall be eliminated or reduced by such methodology.

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

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

(II) Each consortium or teaching general hospital with a two-year ECRIP award shall receive its first annual distribution amount in full upon completion of the requirements set forth in items (I) and (II) of clause (G) of this subparagraph. Each consortium or teaching general hospital will receive its second annual distribution amount in full upon completion of the requirements set forth in item (III) of clause (G) of this subparagraph. The requirements set forth in items (IV) and (V) of clause (G) of this subparagraph must be completed by the consortium or teaching general hospital in order for the consortium or teaching general hospital to be eligible to apply for ECRIP funding in any subsequent funding cycle.

(E) Each consortium or teaching general hospital receiving distributions pursuant to this subparagraph shall reserve seventy-five thousand dollars to primarily fund salary and fringe benefits of the clinical research position with the remainder going to fund the development of

faculty who are involved in biomedical research, training and clinical care.

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

(G) In order to be eligible for distributions pursuant to this subparagraph, each consortium and teaching general hospital shall provide to the commissioner by July first of each distribution period, the following data and information on a hospital-specific basis. Such data and information shall be certified as to accuracy and completeness by the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital and shall be maintained by each consortium and teaching general hospital for five years from the date of submission:

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

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

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

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

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

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

(H) Notwithstanding any inconsistent provision of this subdivision, for periods on and after April first, two thousand thirteen, ECRIP grant awards shall be made in accordance with rules and regulations promulgated 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 collab-

oration 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 seventeen through March thirty-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 but not limited to physicians working in general hospitals, or other health care facilities.

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

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

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

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

(d) Physician practice support. Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, one million two hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, four million three hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four million three hundred sixty thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to four million three hundred sixty thousand dollars for each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to four million three hundred sixty thousand dollars for each fiscal year for the period April first, two thousand twenty through March thirty-first, two thousand twenty-three, **and up to four million three hundred sixty thousand dollars for each 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 practice support. 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) Preference in funding shall first be accorded to teaching general hospitals for up to twenty-five awards, to support costs incurred by physicians trained in primary or specialty tracks who thereafter establish or join 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 physicians to support the cost of establishing or joining practices in underserved communities, as determined by the commissioner, and to hospitals and other health care providers to recruit new physicians to provide services in underserved communities, as determined by the commissioner.

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

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

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

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

(f) Study on physician workforce. Five hundred ninety thousand dollars annually for the period January first, two thousand eight through December thirty-first, two thousand ten, one hundred forty-eight thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, five hundred sixteen thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to four hundred eighty-seven thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to four hundred eighty-seven thousand dollars for each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to four hundred eighty-seven 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 four hundred eighty-seven 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 to fund a study of physician workforce needs and solutions including, but not limited to, an analysis of residency programs and projected physician workforce and community needs. The commissioner shall enter into agreements with one or more organizations to conduct such study based on a request for proposal process.

(g) Diversity in medicine/post-baccalaureate program. Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, one million nine hundred sixty thousand dollars annually for the period January first, two thousand eight 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 six 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 six hundred five thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to one million six 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 six 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 distributions to the Associated Medical Schools of New York to fund its diversity program including existing and new post-baccalaureate programs for minority and economically disadvantaged students and encourage participation from all medical schools in New York. The associated medical schools of New York shall report to the commissioner on an annual basis regarding the use of funds for such purpose in such form and manner as specified by the commissioner.

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

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

4-c. Notwithstanding any provision of law to the contrary, the commissioner shall make additional payments for uncompensated care to voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, in the amount of seven million five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven, seven million five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight, seven million five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine, fifteen million five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten, seven million five hundred thousand dollars, for the period January first, two thousand eleven though December thirty-first, two thousand eleven, seven million five hundred thousand dollars, for the period January first, two thousand twelve through December thirty-first, two thousand twelve, seven million five hundred thousand dollars, for the period January first, two thousand thirteen through December thirty-first, two thousand thirteen, seven million five hundred thousand dollars, for the period January first, two thousand fourteen through December thirty-first, two thousand fourteen, seven million five hundred thousand dollars, for the period January first, two thousand fifteen through December thirty-first, two thousand fifteen, seven million five hundred thousand dollars, for the period January first two thousand sixteen through December thirty-first, two thousand sixteen, seven million five hundred thousand dollars, for the period January first, two thousand seventeen through December thirty-first, two thousand seventeen, seven million five hundred thousand dollars, for the period January first, two thousand eighteen through December thirty-first, two thousand eighteen, seven million five hundred thousand dollars, for the period January first, two thousand nineteen through December thirty-first, two thousand nineteen, seven million five hundred thousand dollars, for the period

January first, two thousand twenty through December thirty-first, two thousand twenty, seven million five hundred thousand dollars, for the period January first, two thousand twenty-one through December thirty-first, two thousand twenty-one, seven million five hundred thousand dollars, for the period January first, two thousand twenty-two through December thirty-first, two thousand twenty-two, seven million five hundred thousand dollars, **for the period January first, two thousand twenty-three through December thirty-first, two thousand twenty-three, seven million five hundred thousand dollars, for the period January first, two thousand twenty-four through December thirty-first, two thousand twenty-four, seven million five hundred thousand dollars, for the period January first, two thousand twenty-five through December thirty-first, two thousand twenty-five, seven million five hundred thousand dollars,** and for the period January first, two thousand [~~twenty-three~~] **twenty-six** through March thirty-first, two thousand [~~twenty-three~~] **twenty-six**, in the amount of one million six hundred thousand dollars, provided, however, that for periods on and after January first, two thousand eight, such additional payments shall be distributed to voluntary, non-profit diagnostic and treatment centers and to public diagnostic and treatment centers in accordance with paragraph (g) of subdivision four of this section. In the event that federal financial participation is available for rate adjustments pursuant to this section, the commissioner shall make such payments as additional adjustments to rates of payment for voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four-a of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, fifteen million dollars in the aggregate, and for the period January first, two thousand seven through June thirtieth, two thousand seven, seven million five hundred thousand dollars in the aggregate. The amounts allocated pursuant to this paragraph shall be aggregated with and distributed pursuant to the same methodology applicable to the amounts allocated to such diagnostic and treatment centers for such periods pursuant to subdivision four of this section if federal financial participation is not available, or pursuant to subdivision four-a of this section if federal financial participation is available. Notwithstanding section three hundred sixty-eight-a of the social services law, there shall be no local share in a medical assistance payment adjustment under this subdivision.

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

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

(xvi) A gross annual statewide amount for the period January first, two thousand twenty-three to December thirty-first, two thousand twenty-six shall be one billion eighty-five million dollars, forty million dollars annually of which shall be allocated under section twenty-eight hundred seven-o of this article among the municipalities of and the 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 to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to five million 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 seven million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and up to eight million three hundred twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to eight million five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to eight million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to two million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to fourteen 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 eleven million one hundred thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to eleven 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~~] up to eleven 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 up to eleven million one hundred thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six**.

(c) 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, enhanced community services account, or any successor fund or account, for mental health services programs for case management services for adults and children; supported housing; home and community based waiver services; family based treatment; family support services; mobile mental health teams; transitional housing; and community oversight, established pursuant to articles seven and forty-one of the mental hygiene law and subdivision nine of section three hundred sixty-six of the social services law; and for comprehensive care centers for eating disorders pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the enhanced community services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law; from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

(iii) eighty-seven million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand two,

for the period January first, two thousand two through December thirty-first, two thousand two;

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

(v) eighty-eight million dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand four, and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) eighty-eight million dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand five, and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand five through December thirty-first, two thousand five;

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

(viii) eighty-six million four hundred thousand dollars, plus five hundred thousand dollars, to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand seven and pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, for the period January first, two thousand seven through December thirty-first, two thousand seven; and

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

(d) 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 services and expenses related to the family health plus program including up to two and one-half million dollars annually for the period January first, two thousand through December thirty-first, two thousand two, for administration and marketing costs associated with such program established pursuant to clause (A) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law 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 through December thirty-first, two thousand;

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

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

(e) 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 services and expenses related to the family health plus program including up to two and one-half million dollars annually for the period January first, two thousand through December thirty-first, two thousand two for administration and marketing costs associated with such program established pursuant to clause (B) of subparagraph (v) of paragraph (a) of subdivision two of section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

(f) 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 payment of administrative expenses of the department related to the family health plus program established pursuant to section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: five hundred thousand dollars on an annual basis for the periods January first, two thousand through December thirty-first, two thousand six, five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, one hundred twenty-five 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this subdivision, the commissioner shall reserve and accumulate up to two million five hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, one million four hundred thousand dollars for the period January

first, two thousand seven through December thirty-first, two thousand seven, two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, from funds otherwise available for distribution under such paragraphs for the services and expenses related to the pilot program for entertainment industry employees included in subsection (b) of section one thousand one hundred twenty-two of the insurance law, and an additional seven hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, an additional three hundred thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven for services and expenses related to the pilot program for displaced workers included in subsection (c) of section one thousand one hundred twenty-two of the insurance law.

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) up to fifty-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;

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

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

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

(k) 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, health care services account, or any successor fund or account, for purposes of services and expenses related to public health programs, including comprehensive care centers for eating disorders pursuant to the former section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the health care services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law for periods prior to March thirty-first, two thousand eleven, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

(vii) one hundred fifty-six million six hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January 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;

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

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

(m) 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 services and expenses related to home care workers insurance pilot demonstration programs established pursuant to subdivision two 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) three million eight hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) Funds shall be reserved and accumulated and shall be transferred to the Roswell Park Cancer Institute Corporation, from the tobacco control and insurance initiatives pool established for the following 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;

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

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

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

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

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

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

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

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

(q) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing distributions to eligible school based health centers established pursuant to section eighty-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:

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

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

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

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

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

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

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

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

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

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

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

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

(r) 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 providing distributions for supplementary medical insurance for Medicare part B premiums, physicians services, outpatient services, medical equipment, supplies and other health services, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) 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 providing distributions pursuant to paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven 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) eighteen million dollars for the period January first, two thousand through December thirty-first, two thousand;

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

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

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

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

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

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

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

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

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

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

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

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

(u) 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 services and expenses related to the nursing home quality improvement demonstration program established pursuant to section twenty-eight hundred eight-d of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

(v) Funds shall be transferred by the commissioner and shall be deposited to the credit of the hospital excess liability pool created pursuant to section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six, or any successor fund or account, for purposes of expenses related to the purchase of excess medical malpractice insurance and the cost of administrating the pool, including costs associated with the risk management program established pursuant to section forty-two of part A of chapter one of the laws of two thousand two required by paragraph (a) of subdivision one of section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six as may be amended from time to time, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

(xi) up to one hundred twenty-seven million four 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 one hundred twenty-seven million four 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 one hundred twenty-seven million four 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 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

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

(x) 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 non-public general hospital rates increases for recruitment and retention of health care workers from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

(y) 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 general hospitals for recruitment and retention of health care workers pursuant to paragraph (b) 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) eighteen 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) thirty-seven 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) fifty-two 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) fifty-two million two hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

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

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

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

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

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

(z) 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 non-public residential health care facility rate increases for recruitment and retention of health care workers pursuant to paragraph (a) 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) twenty-one 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) thirty-three million three hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

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

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

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

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

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

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

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

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

vision 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cc) 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 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 shall not include a city with a population of over one million persons for the purpose of supporting the personal care services worker recruitment and retention program as established pursuant to section three hundred sixty-seven-q of the social services law, from the tobacco control and insurance initiatives pool established for the following periods and the following amounts:

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

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

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

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

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

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

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

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

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

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

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

(dd) 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 physician services from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

(ee) 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 the free-standing diagnostic and treatment center rate increases for recruitment and retention of health care workers pursuant to subdivision seventeen of section twenty-eight hundred seven of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) 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 the purpose of supporting the state share of Medicaid expenditures for disabled persons as authorized by sections 1619 (a) and (b) of the federal social security act pursuant to the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, and for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of two million two hundred thousand dollars, and for the period April first, two thousand eleven through March thirty-first, two thousand twelve up to one million one hundred thousand dollars.

(kk) 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 Medical Assistance Program expenditures from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

(ll) 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 Medicaid expenditures related to the city of New York from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

(mm) 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 specified percentages of the state share of services and expenses related to the family health plus program in accordance with the following schedule:

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

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

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

(ii) Funding for the family health plus program will include up to five million dollars annually for the period January first, two thousand three through December thirty-first, two thousand six, up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to seven million two hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to seven million two hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to seven million two hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, up to one million eight hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to six million forty-nine thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve, up to six million two hundred eighty-nine thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen, and up to six million four hundred sixty-one thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen, for administration and marketing costs associated with such program established pursuant to clauses (A) and (B) of subparagraph (v) of paragraph (a) of subdivision two of **the former** section three hundred sixty-nine-ee of the social services law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

(nn) 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, health care services account, or any successor fund or account, for purposes related to adult home initiatives for medicaid eligible residents of residential facilities licensed pursuant to section four hundred sixty-b 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 million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

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

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

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

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

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

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

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

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

(oo) 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 (e) of subdivision twenty-five 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 five million dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

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

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

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

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

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

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

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

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

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

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

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

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

(qq) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the long-term care insurance education and outreach program established pursuant to section two hundred seventeen-a of the elder law for the following periods in the following amounts:

(i) up to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach

program and three million fifty thousand dollars shall be deposited by the commissioner, within amounts appropriated, and the comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue funds - other, HCRA transfer fund, long term care insurance resource center account of the state office for the aging or any future account designated for the purpose of implementing the long term care insurance education and outreach program and providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(ii) up to five million dollars for the period January first, two thousand five through December thirty-first, two thousand five; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be deposited by the commissioner, within amounts appropriated, and the comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue funds - other, HCRA transfer fund, long term care insurance resource center account of the state office for the aging or any future account designated for the purpose of implementing the long term care insurance education and outreach program and providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(iii) up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(iv) up to five million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(v) up to five million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long term care insurance education and outreach program and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long term care insurance resource centers with the necessary resources to carry out their operations;

(vi) up to five million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine; of such funds one million nine hundred fifty thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and three million fifty thousand dollars shall be made available

to the office for the aging for the purpose of providing the long-term care insurance resource centers with the necessary resources to carry out their operations;

(vii) up to four hundred eighty-eight thousand dollars for the period January first, two thousand ten through March thirty-first, two thousand ten; of such funds four hundred eighty-eight thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program.

(rr) Funds shall be reserved and accumulated from the tobacco control and insurance initiatives pool and shall be available, including income from invested funds, for the purpose of supporting expenses related to implementation of the provisions of title three of article twenty-nine-D of this chapter, for the following periods and in the following amounts:

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

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

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

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

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

(vi) up to two million five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(ss) Funds shall be reserved and accumulated from the tobacco control and insurance initiatives pool and used for a health care stabilization program established by the commissioner for the purposes of stabilizing critical health care providers and health care programs whose ability to continue to provide appropriate services are threatened by financial or other challenges, in the amount of up to twenty-eight million dollars for the period July first, two thousand four through June thirtieth, two thousand five. Notwithstanding the provisions of section one hundred twelve of the state finance law or any other inconsistent provision of the state finance law or any other law, funds available for distribution pursuant to this paragraph may be allocated and distributed by the commissioner, or the state comptroller as applicable without a competitive bid or request for proposal process. Considerations relied upon by the commissioner in determining the allocation and distribution of these funds shall include, but not be limited to, the following: (i) the importance of the provider or program in meeting critical health care needs in the community in which it operates; (ii) the provider or program provision of care to under-served populations; (iii) the quality of the care or services the provider or program delivers; (iv) the ability of the provider or program to continue to deliver an appropriate level of care or services if additional funding is made available; (v) the ability of the provider or program to access, in a timely manner, alternative sources of funding, including other sources of government funding; (vi) the ability of other providers or programs in the community to meet the community health care needs; (vii) whether the provider or program has an appropriate plan to improve its financial condition; and (viii) whether additional funding would permit the provider or program to consolidate, relocate, or close programs or services where

such actions would result in greater stability and efficiency in the delivery of needed health care services or programs.

(tt) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing grants for two long term care demonstration projects designed to test new models for the delivery of long term care services established pursuant to section twenty-eight hundred seven-x of this chapter, for the following periods and in the following amounts:

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

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

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

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

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

(uu) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting disease management and telemedicine demonstration programs authorized pursuant to section twenty-one hundred eleven of this chapter for the following periods in the following amounts:

(i) five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(ii) five million dollars for the period January first, two thousand five through December thirty-first, two thousand five, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iii) nine million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iv) nine million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and one million dollars shall be available for telemedicine demonstration programs;

(v) nine million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and two million 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 demon-

stration 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 exceed five million dollars to be made by the commissioner without a competitive bid or request for proposal process, in support of the delivery of critically needed health care services, to health care providers located in the counties of Erie and Niagara which executed a memorandum of closing and conducted a merger closing in escrow on November twenty-fourth, nineteen hundred ninety-seven and which entered into

a settlement dated December thirtieth, two thousand four for a loss on disposal of assets under the provisions of title XVIII of the federal social security act applicable to mergers occurring prior to December first, nineteen hundred ninety-seven.

(zz) Funds shall be reserved and accumulated from year to year and shall be available, within amounts appropriated, for the purpose of supporting expenditures authorized pursuant to section twenty-eight hundred eighteen of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

(ii) one hundred eight million three hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, provided, however, that within amounts appropriated in the two thousand six through two thousand seven state fiscal year, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to fund capital costs;

(iii) one hundred seventy-one million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, provided, however, that within amounts appropriated in the two thousand six through two thousand seven state fiscal year, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to fund capital costs;

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

(v) one hundred twenty-eight million seven hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

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

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

(viii) four hundred thirty-three million three hundred sixty-six thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve;

(ix) one hundred fifty million eight hundred six thousand dollars for the period April first, two thousand twelve through March thirty-first, two thousand thirteen;

(x) seventy-eight million seventy-one thousand dollars for the period April first, two thousand thirteen through March thirty-first, two thousand fourteen.

(aaa) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for services and expenses related to school based health centers, in an amount up to three million five hundred thousand dollars for the period April first, two thousand six through March thirty-first, two thousand seven, up to three million five hundred thousand dollars for the period April first, two thousand seven through March thirty-first, two thousand eight, up to three million five hundred thousand dollars for the period April first, two thousand eight through March thirty-first, two thousand nine, up to three million five hundred thousand dollars for the period April first,

two thousand nine through March thirty-first, two thousand ten, up to three million five hundred thousand dollars for the period April first, two thousand ten through March thirty-first, two thousand eleven, up to two million eight hundred thousand dollars each state fiscal year for the period April first, two thousand eleven through March thirty-first, two thousand fourteen, up to two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand fourteen through March thirty-first, two thousand seventeen, up to two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand seventeen through March thirty-first, two thousand twenty, [~~and~~] up to two million six hundred forty-four 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 two million six hundred forty-four thousand dollars each state fiscal year for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-six**. The total amount of funds provided herein shall be distributed as grants based on the ratio of each provider's total enrollment for all sites to the total enrollment of all providers. This formula shall be applied to the total amount provided herein.

(bbb) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of awarding grants to operators of adult homes, enriched housing programs and residences through the enhancing abilities and life experience (EnAbLe) program to provide for the installation, operation and maintenance of air conditioning in resident rooms, consistent with this paragraph, in an amount up to two million dollars for the period April first, two thousand six through March thirty-first, two thousand seven, up to three million eight hundred thousand dollars for the period April first, two thousand seven through March thirty-first, two thousand eight, up to three million eight hundred thousand dollars for the period April first, two thousand eight through March thirty-first, two thousand nine, up to three million eight hundred thousand dollars for the period April first, two thousand nine through March thirty-first, two thousand ten, and up to three million eight hundred thousand dollars for the period April first, two thousand ten through March thirty-first, two thousand eleven. Residents shall not be charged utility cost for the use of air conditioners supplied under the EnAbLe program. All such air conditioners must be operated in occupied resident rooms consistent with requirements applicable to common areas.

(ccc) 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 rates for certified home health agencies, long term home health care programs, AIDS home care programs, hospice programs and managed long term care plans and approved managed long term care operating demonstrations as defined in section forty-four hundred 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 within amounts appropriated up to fifty million dollars annually and shall not exceed five hundred million dollars in total.

(ggg) 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 the purpose of supporting the state

share of Medicaid expenditures for hospital translation services as authorized pursuant to paragraph (k) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) sixteen million dollars for the period July first, two thousand eight through December thirty-first, two thousand eight; and

(ii) fourteen million seven hundred thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(hhh) 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 the purpose of supporting the state share of Medicaid expenditures for adjustments to inpatient rates of payment for general hospitals located in the counties of Nassau and Suffolk as authorized pursuant to paragraph (l) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

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

(ii) two million two hundred ninety-two thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(iii) Funds shall be reserved and set aside and accumulated from year to year and shall be made available, including income from investment funds, for the purpose of supporting the New York state medical indemnity fund as authorized pursuant to title four of article twenty-nine-D of this chapter, for the following periods and in the following amounts, provided, however, that the commissioner is authorized to seek waiver authority from the federal centers for medicare and Medicaid for the purpose of securing Medicaid federal financial participation for such program, in which case the funding authorized pursuant to this paragraph shall be utilized as the non-federal share for such payments:

Thirty million dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve.

2. (a) For periods prior to January first, two thousand five, the commissioner is authorized to contract with the article forty-three insurance law plans, or such other contractors as the commissioner shall designate, to receive and distribute funds from the tobacco control and insurance initiatives pool established pursuant to this section. In the event contracts with the article forty-three insurance law plans or other commissioner's designees are effectuated, the commissioner shall conduct annual audits of the receipt and distribution of such funds. The reasonable costs and expenses of an administrator as approved by the commissioner, not to exceed for personnel services on an annual basis five hundred thousand dollars, for collection and distribution of funds pursuant to this section shall be paid from such funds.

(b) Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, at the discretion of the commissioner without a competitive bid or request for proposal process, contracts in effect for administration of pools established pursuant to sections twenty-eight hundred seven-k,

twenty-eight hundred seven-l and twenty-eight hundred seven-m of this article for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine may be extended to provide for administration pursuant to this section and may be amended as may be necessary.

§ 13. Paragraph (a) of subdivision 12 of section 367-b of the social services law, as amended by section 15 of part Y of chapter 56 of the laws of 2020, is amended to read as follows:

(a) For the purpose of regulating cash flow for general hospitals, the department shall develop and implement a payment methodology to provide for timely payments for inpatient hospital services eligible for case based payments per discharge based on diagnosis-related groups provided during the period January first, nineteen hundred eighty-eight through March thirty-first two thousand [~~twenty-three~~] **twenty-six**, by such hospitals which elect to participate in the system.

§ 14. Paragraph (r) of subdivision 9 of section 3614 of the public health law, as added by section 16 of part Y of chapter 56 of the laws of 2020, is amended and three new paragraphs (s), (t) and (u) are added to read as follows:

(r) for the period April first, two thousand twenty-two through March thirty-first, two thousand twenty-three, up to one hundred million dollars[~~.~~]**;**

(s) for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-four, up to one hundred million dollars;

(t) for the period April first, two thousand twenty-four through March thirty-first, two thousand twenty-five, up to one hundred million dollars;

(u) for the period April first, two thousand twenty-five through March thirty-first, two thousand twenty-six, up to one hundred million dollars.

§ 15. Paragraph (v) of subdivision 1 of section 367-q of the social services law, as added by section 17 of part Y of chapter 56 of the laws of 2020, is amended and three new paragraphs (w), (x) and (y) are added to read as follows:

(v) for the period April first, two thousand twenty-two through March thirty-first, two thousand twenty-three, up to twenty-eight million five hundred thousand dollars[~~.~~]**;**

(w) for the period April first, two thousand twenty-three through March thirty-first, two thousand twenty-four, up to twenty-eight million five hundred thousand dollars;

(x) for the period April first, two thousand twenty-four through March thirty-first, two thousand twenty-five, up to twenty-eight million five hundred thousand dollars;

(y) for the period April first, two thousand twenty-five through March thirty-first, two thousand twenty-six, up to twenty-eight million five hundred thousand dollars.

§ 16. This act shall take effect April 1, 2023; provided, however, if this act shall become a law after such date it shall take effect immediately 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~~] **twenty-six**, all funds available for distribution pursuant to this section, except for funds distributed pursuant to [~~subparagraph (v) of~~] paragraph (b) of subdivision five-b of this section, and all funds available for distribution pursuant to section twenty-eight hundred

seven-w of this article, shall be reserved and set aside and distributed in accordance with the provisions of this subdivision.

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

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

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

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

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

For the calendar years two thousand twenty through two thousand twenty-two, the total distributions to eligible general hospitals, other than major public general hospitals, shall be subject to an aggregate reduction of one hundred fifty million dollars annually, provided that eligible general hospitals, other than major public general hospitals, that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article shall not be subject to such reduction.

For the calendar years two thousand twenty-three through two thousand twenty-five, the total distributions to eligible general hospitals, other than major public general hospitals, shall be subject to an aggregate reduction of two hundred thirty-five million four hundred thousand dollars annually, provided that eligible general hospitals, other than major public general hospitals that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article as of April first, two thousand twenty, shall not be subject to such reduction.

Such [~~reduction~~] **reductions** shall be determined by a methodology to be established by the commissioner. Such [~~methodology~~] **methodologies** may take into account the payor mix of each non-public general hospital, including the percentage of inpatient days paid by Medicaid.

(iii) For calendar years two thousand twenty through two thousand [~~twenty-two~~] **twenty-five**, sixty-four million six hundred thousand dollars shall be distributed to eligible general hospitals, other than major public general hospitals, that experience a reduction in indigent care pool payments pursuant to this subdivision, and that qualify as enhanced safety net hospitals under section two thousand eight hundred seven-c of this article as of April first, two thousand twenty. Such distribution shall be established pursuant to regulations promulgated by the commissioner and shall be proportional to the reduction experienced by the facility.

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

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

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

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

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

§ 2. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of part Z of chapter 57 of the laws of 2019, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, **a rural emergency hospital under 42 USC 1395x(kkk), or successor provisions,** dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health, substance use disorder services or developmental disability services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health, the commissioner of the office of alcoholism and substance abuse services and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-

five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve; (b) require a provider licensed pursuant to article thirty-one of the mental hygiene law or certified pursuant to article sixteen or article thirty-two of the mental hygiene law to obtain an operating certificate from the department if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health, the commissioner of the office of alcoholism and substance abuse services and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

§ 3. Section 2801-g of the public health law is amended by adding a new subdivision 4 to read as follows:

4. At least thirty days prior to a general hospital applying to the federal centers for medicare and medicaid services to convert from a general hospital with inpatients to a rural emergency hospital under 42 USC 1395x(kkk), or successor provisions, such hospital shall hold a public community forum for the purpose of obtaining public input concerning the anticipated impact of the hospital's closure of inpatient units, including but not limited to, the impact on recipients of medical assistance for needy persons, the uninsured, and medically underserved populations, and options and proposals to ameliorate such anticipated impact. The hospital shall afford all public participants a reasonable opportunity to speak about relevant matters at such community forum. Prior to any community forum and as soon as practicable, the hospital shall be required to:

(a) notify the office of mental health and the local director of community services in the event such general hospital has psychiatric inpatient beds licensed under article thirty-one of the mental hygiene law or designated pursuant to section 9.39 of the mental hygiene law, and

(b) notify the office of addiction services and supports in the event such general hospital has inpatient substance use disorder treatment programs or inpatient chemical dependence treatment programs licensed under article thirty-two of the mental hygiene law.

§ 4. The opening paragraph of subdivision (g) of section 2826 of the public health law, as amended by section 3 of part M of chapter 57 of the laws of 2022, is amended to read as follows:

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

§ 5. Subparagraph (F) of paragraph (i) of subdivision (g) of section 2826 of the public health law, as added by section 3 of part M of chapter 57 of the laws of 2022, is amended to read as follows:

(F) an independent practice association or accountable care organization authorized under applicable regulations that participate in managed care provider network arrangements with any of the provider types in subparagraphs (A) through (F) of this paragraph**; or an entity that was formed as a preferred provider system pursuant to the delivery system reform incentive payment (DSRIP) program and collaborated with an independent practice association that received VBP innovator status from the department for purposes of meeting DSRIP goals, and which preferred provider system remains operational as an integrated care system**.

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

Eligible applicants must demonstrate that without such award, they will be in severe financial distress [~~**through March thirty-first, two thousand sixteen**~~], as evidenced by:

§ 7. Subparagraph (A), the opening paragraph of subparagraph (E) and subparagraph (F) of paragraph (iii) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, are amended to read as follows:

(A) [~~**Applications under this subdivision**~~] **Eligible applicants** shall [~~**include a multi-year transformation plan that is aligned with the delivery system reform incentive payment ("DSRIP") program goals and objectives. Such plan shall be approved by**~~] **submit a completed application to** the department [~~**and shall demonstrate a path towards long term sustainability and improved patient care**~~].

The department shall review all applications under this subdivision, and [~~**a**~~] determine:

(F) After review of all applications under this subdivision, and a determination of the aggregate amount of requested funds, the department [~~**shall**~~] **may** make awards to eligible applicants; provided, however, that such awards may be in an amount lower than such requested funding, on a per applicant or aggregate basis.

§ 8. Paragraph (v) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, is amended to read as follows:

(v) Payments made to awardees pursuant to this subdivision [~~**shall be**~~] **that are** made on a monthly basis[~~**. Such payments**~~] will be based on the applicant's actual monthly financial performance during such period and the reasonable cash amount necessary to sustain operations for the following month. The applicant's monthly financial performance shall be measured by such applicant's monthly financial and activity reports, which shall include, but not be limited to, actual revenue and expenses for the prior month, projected cash need for the current month, and projected cash need for the following month.

§ 9. Part I of chapter 57 of the laws of 2022 relating to providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, is amended by adding a new section 1-a 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 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~~] between July 1, 2022 and June 30, 2023**, 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 medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June

30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016 and June 30, 2017, 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~~] between July 1, 2022 and June 30, 2023**, and between July 1, 2023 and June 30, 2024** for physicians or dentists certified as eligible for each such period or periods pursuant to subdivision 2 of this section by a general hospital licensed pursuant to article 28 of the public health law; provided that no single insurer shall write more than fifty percent of the total excess premium for a given policy year; and provided, however, that such eligible physicians or dentists must have in force an individual policy, from an insurer licensed in this state of primary malpractice insurance coverage in amounts of no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand dollars for all claimants under that policy during the period of such excess coverage for such occurrences or be endorsed as additional insureds under a hospital professional liability policy which is offered through a voluntary attending physician ("channeling") program previously permitted by the superintendent of financial services during the period of such excess coverage for such occurrences. During such period, such policy for excess coverage or such equivalent excess coverage shall, when combined with the physician's or dentist's primary malpractice insurance coverage or coverage provided through a voluntary attending physician ("channeling") program, total an aggregate level of two million three hundred thousand dollars for each claimant and six million nine hundred thousand dollars for all claimants from all such policies with respect to occurrences in each of such years provided, however, if the cost of primary malpractice insurance coverage in excess of one million dollars, but below the excess medical malpractice insurance coverage provided pursuant to this act, exceeds the rate of nine percent per annum, then the required level of primary malpractice insurance coverage in excess of one million dollars for each claimant shall be in an amount of not less than the dollar amount of such coverage available at nine percent per annum; the required level of such coverage for all claimants under that policy shall be in an amount not less than three times the dollar amount of coverage for each claimant; and excess coverage, when combined with such primary malpractice insurance coverage, shall increase the aggregate level for each claimant by one million dollars and three million dollars for all claimants; and provided further, that, with respect to policies of primary medical malpractice coverage that include occurrences between April 1, 2002 and June 30, 2002, such requirement that coverage be in amounts no less than one million three hundred thousand dollars for each claimant and three million nine hundred thousand

dollars for all claimants for such occurrences shall be effective April 1, 2002.

§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 2 of part Z of chapter 57 of the laws of 2022, is amended to read as follows:

(3)(a) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, 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~~] between July 1, 2022 and June 30, 2023**, and between July 1, 2023 and June 30, 2024** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, 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~~] between July 1, 2022 and June 30, 2023**, and between July 1, 2023 and June 30, 2024** allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary. The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the ratable share of such cost allocable to the period July 1, 1987 to December 31, 1987, to the period January 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June 30, 2019, to the period July 1, 2019 to June 30, 2020, to the period July 1, 2020 to June 30, 2021, to the period July 1, 2021 to June 30, 2022, [~~and~~] to the period July 1, 2022 to June 30, 2023**, and to the period July 1, 2023 to June 30, 2024**.

§ 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 3 of part Z of chapter 57 of the laws of 2022, are amended to read as follows:

(a) To the extent funds available to the hospital excess liability pool pursuant to subdivision 5 of this section as amended, and pursuant to section 6 of part J of chapter 63 of the laws of 2001, as may from time to time be amended, which amended this subdivision, are insufficient to meet the costs of excess insurance coverage or equivalent excess coverage for coverage periods during the period July 1, 1992 to

June 30, 1993, during the period July 1, 1993 to June 30, 1994, during the period July 1, 1994 to June 30, 1995, during the period July 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30, 1997, during the period July 1, 1997 to June 30, 1998, during the period July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30, 2000, during the period July 1, 2000 to June 30, 2001, during the period July 1, 2001 to October 29, 2001, during the period April 1, 2002 to June 30, 2002, during the period July 1, 2002 to June 30, 2003, during the period July 1, 2003 to June 30, 2004, during the period July 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30, 2006, during the period July 1, 2006 to June 30, 2007, during the period July 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30, 2009, during the period July 1, 2009 to June 30, 2010, during the period July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June 30, 2012, during the period July 1, 2012 to June 30, 2013, during the period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to June 30, 2015, during the period July 1, 2015 to June 30, 2016, during the period July 1, 2016 to June 30, 2017, during the period July 1, 2017 to June 30, 2018, during the period July 1, 2018 to June 30, 2019, during the period July 1, 2019 to June 30, 2020, during the period July 1, 2020 to June 30, 2021, during the period July 1, 2021 to June 30, 2022, [~~and~~] during the period July 1, 2022 to June 30, 2023**, and during the period July 1, 2023 to June 30, 2024** allocated or reallocated in accordance with paragraph (a) of subdivision 4-a of this section to rates of payment applicable to state governmental agencies, each physician or dentist for whom a policy for excess insurance coverage or equivalent excess coverage is purchased for such period shall be responsible for payment to the provider of excess insurance coverage or equivalent excess coverage of an allocable share of such insufficiency, based on the ratio of the total cost of such coverage for such physician to the sum of the total cost of such coverage for all physicians applied to such insufficiency.

(b) Each provider of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or covering the peri-

od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30, 2023**, or covering the period July 1, 2023 to June 30, 2024** shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or covering the period July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30, 2023**, or covering the period July 1, 2023 to June 30, 2024** determined in accordance with paragraph (a) of this subdivision fails, refuses or neglects to make payment to the provider of excess insurance coverage or equivalent excess coverage in such time and manner as determined by the superintendent of financial services pursuant to paragraph (b) of this subdivision, excess insurance coverage or equivalent excess coverage purchased for such physician or dentist in accordance with this section for such coverage period shall be cancelled and shall be null and void as of the first day on or after the commencement of a policy period where the liability for payment pursuant to this subdivision has not been met.

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

the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or covering the period July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to June [~~1~~] **30**, 2023**, or covering the period July 1, 2023 to June 30, 2024** that has made payment to such provider of excess insurance coverage or equivalent excess coverage in accordance with paragraph (b) of this subdivision and of each physician and dentist who has failed, refused or neglected to make such payment.

(e) A provider of excess insurance coverage or equivalent excess coverage shall refund to the hospital excess liability pool any amount allocable to the period July 1, 1992 to June 30, 1993, and to the period July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001, and to the period April 1, 2002 to June 30, 2002, and to the period July 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30, 2004, and to the period July 1, 2004 to June 30, 2005, and to the period July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and to the period July 1, 2014 to June 30, 2015, and to the period July 1, 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and to the period July 1, 2017 to June 30, 2018, and to the period July 1, 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020, and to the period July 1, 2020 to June 30, 2021, and to the period July 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30, 2023**, and to the period July 1, 2023 to June 30, 2024** received from the hospital excess liability pool for purchase of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30, 1999, and cover-

ing the period July 1, 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to October 29, 2001, and covering the period April 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30, 2009, and covering the period July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to June 30, 2013, and covering the period July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30, 2018, and covering the period July 1, 2018 to June 30, 2019, and covering the period July 1, 2019 to June 30, 2020, and covering the period July 1, 2020 to June 30, 2021, and covering the period July 1, 2021 to June 30, 2022, and covering the period July 1, 2022 to June 30, 2023 for**, and covering the period July 1, 2023 to June 30, 2024** a physician or dentist where such excess insurance coverage or equivalent excess coverage is cancelled in accordance with paragraph (c) of this subdivision.

§ 4. Section 40 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 4 of part Z of chapter 57 of the laws of 2022, is amended to read as follows:

§ 40. The superintendent of financial services shall establish rates for policies providing coverage for physicians and surgeons medical malpractice for the periods commencing July 1, 1985 and ending June 30, [~~2023~~] **2024**; provided, however, that notwithstanding any other provision of law, the superintendent shall not establish or approve any increase in rates for the period commencing July 1, 2009 and ending June 30, 2010. The superintendent shall direct insurers to establish segregated accounts for premiums, payments, reserves and investment income attributable to such premium periods and shall require periodic reports by the insurers regarding claims and expenses attributable to such periods to monitor whether such accounts will be sufficient to meet incurred claims and expenses. On or after July 1, 1989, the superintendent shall impose a surcharge on premiums to satisfy a projected deficiency that is attributable to the premium levels established pursuant to this section for such periods; provided, however, that such annual surcharge shall not exceed eight percent of the established rate until July 1, [~~2023~~] **2024**, at which time and thereafter such surcharge shall not exceed twenty-five percent of the approved adequate rate, and that such annual surcharges shall continue for such period of time as shall be sufficient to satisfy such deficiency. The superintendent shall not impose such surcharge during the period commencing July 1, 2009 and ending June 30, 2010. On and after July 1, 1989, the surcharge prescribed by this section shall be retained by insurers to the extent that they insured physicians and surgeons during the July 1, 1985 through June 30, [~~2023~~] **2024** policy periods; in the event and to the extent physicians and surgeons were insured by another insurer during such periods, all or a pro rata share of the surcharge, as the case may be, shall be remitted to such other insurer in accordance with rules and regulations to be promulgated by the superintendent. Surcharges collected from physicians

and surgeons who were not insured during such policy periods shall be apportioned among all insurers in proportion to the premium written by each insurer during such policy periods; if a physician or surgeon was insured by an insurer subject to rates established by the superintendent during such policy periods, and at any time thereafter a hospital, health maintenance organization, employer or institution is responsible for responding in damages for liability arising out of such physician's or surgeon's practice of medicine, such responsible entity shall also remit to such prior insurer the equivalent amount that would then be collected as a surcharge if the physician or surgeon had continued to remain insured by such prior insurer. In the event any insurer that provided coverage during such policy periods is in liquidation, the property/casualty insurance security fund shall receive the portion of surcharges to which the insurer in liquidation would have been entitled. The surcharges authorized herein shall be deemed to be income earned for the purposes of section 2303 of the insurance law. The superintendent, in establishing adequate rates and in determining any projected deficiency pursuant to the requirements of this section and the insurance law, shall give substantial weight, determined in his discretion and judgment, to the prospective anticipated effect of any regulations promulgated and laws enacted and the public benefit of stabilizing malpractice rates and minimizing rate level fluctuation during the period of time necessary for the development of more reliable statistical experience as to the efficacy of such laws and regulations affecting medical, dental or podiatric malpractice enacted or promulgated in 1985, 1986, by this act and at any other time. Notwithstanding any provision of the insurance law, rates already established and to be established by the superintendent pursuant to this section are deemed adequate if such rates would be adequate when taken together with the maximum authorized annual surcharges to be imposed for a reasonable period of time whether or not any such annual surcharge has been actually imposed as of the establishment of such rates.

§ 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of chapter 63 of the laws of 2001, amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 5 of part Z of chapter 57 of the laws of 2022, are amended to read as follows:

§ 5. The superintendent of financial services and the commissioner of health shall determine, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, June 15, 2022, [~~and~~] June 15, 2023**, and June 15, 2024** the amount of funds available in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, and whether such funds are sufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,

2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023**, or July 1, 2023 to June 30, 2024** as applicable.

(a) This section shall be effective only upon a determination, pursuant to section five of this act, by the superintendent of financial services and the commissioner of health, and a certification of such determination to the state director of the budget, the chair of the senate committee on finance and the chair of the assembly committee on ways and means, that the amount of funds in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, is insufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023**, or July 1, 2023 to June 30, 2024** as applicable.

(e) The commissioner of health shall transfer for deposit to the hospital excess liability pool created pursuant to section 18 of chapter 266 of the laws of 1986 such amounts as directed by the superintendent of financial services for the purchase of excess liability insurance coverage for eligible participating physicians and dentists for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and the cost of administering the hospital excess liability pool for such applicable policy year, pursuant to the program established in chapter 266 of the laws of 1986, as amended, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, June 15, 2022, [~~and~~] June 15, 2023**, and June 15, 2024** as applicable.

§ 6. Section 20 of part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions thereto, as amended by section 6 of part Z of chapter 57 of the laws of 2022, is amended to read as follows:

§ 20. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage period ending the thirtieth of June, two thousand [~~twenty-two~~] **twenty-three**, shall be eligible to apply for such coverage for the coverage period beginning the first of July, two thousand [~~twenty-two~~] **twenty-three**; provided, however, if the total

number of physicians or dentists for whom such excess coverage or equivalent excess coverage was purchased for the policy year ending the thirtieth of June, two thousand [~~twenty-two~~] **twenty-three** exceeds the total number of physicians or dentists certified as eligible for the coverage period beginning the first of July, two thousand [~~twenty-two~~] **twenty-three**, then the general hospitals may certify additional eligible physicians or dentists in a number equal to such general hospital's proportional share of the total number of physicians or dentists for whom excess coverage or equivalent excess coverage was purchased with funds available in the hospital excess liability pool as of the thirtieth of June, two thousand [~~twenty-two~~] **twenty-three**, as applied to the difference between the number of eligible physicians or dentists for whom a policy for excess coverage or equivalent excess coverage was purchased for the coverage period ending the thirtieth of June, two thousand [~~twenty-two~~] **twenty-three** and the number of such eligible physicians or dentists who have applied for excess coverage or equivalent excess coverage for the coverage period beginning the first of July, two thousand [~~twenty-two~~] **twenty-three**.

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

PART G

Section 1. Paragraph (a) of subdivision 12 of section 203 of the elder law, as added by section 1 of part U of chapter 57 of the laws of 2019, is amended to read as follows:

(a) The director is hereby authorized to implement private pay protocols for programs and services administered by the office. These protocols may be implemented by area agencies on aging at their option and such protocols shall not be applied to services for a participant when being paid for with federal funds or funds designated as federal match, or for individuals with an income below [~~four~~] **two** hundred **and fifty** percent of the federal poverty level. All private payments received directly by an area agency on aging or indirectly by one of its contractors shall be used to supplement, not supplant, funds by state, federal, or county appropriations. Such private pay payments shall be set at a cost to the participant of not more than twenty percent above either the unit cost to the area agency on aging to provide the program or service directly, or the amount that the area agency on aging pays to its contractor to provide the program or service. Private pay payments received under this subdivision shall be used by the area agency on aging to first reduce any unmet need for programs and services, and then to support and enhance services or programs provided by the area agency on aging. No participant, regardless of income, shall be required to pay for any program or service that they are receiving at the time these protocols are implemented by the area agency on aging. This subdivision shall not prevent cost sharing for the programs and services established pursuant to section two hundred fourteen of this title [~~for individuals below four hundred percent of the federal poverty level~~]. Consistent with federal and state statute and regulations, when providing programs and services, area agencies on aging and their contractors shall continue to give priority for programs and services to individuals with the greatest economic or social needs. In the event that the capacity to provide programs and services is limited, such programs and services shall be provided to individuals with incomes below [~~four~~] **two** hundred **and fifty** percent of the federal poverty level before such programs and

services are provided to those participating in the private pay protocol pursuant to this subdivision.

§ 2. This act shall take effect immediately.

PART H

Section 1. 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, is amended to read as follows:

§ 5. This act shall take effect January 1, 2023, subject to federal financial participation for sections one, three, and four of this act; provided, however that [~~the~~] **section two of this act shall take effect January 1, 2024. The** commissioner of health shall notify the legislative bill drafting commission upon the occurrence of federal financial participation in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

§ 2. Short title. This act shall be known and may be cited as the "1332 state innovation program".

§ 3. The social services law is amended by adding a new section 369-ii to read as follows:

§ 369-ii. 1332 state innovation program. 1. Authorization. Notwithstanding section three hundred sixty-nine-gg of this title, subject to federal approval, if it is in the financial interest of the state to do so, the commissioner of health is authorized, with the approval of the director of the budget, to establish a 1332 state innovation program pursuant to section 1332 of the patient protection and affordable care act (P.L. 111-148) and subdivision twenty-five of section two hundred sixty-eight-c of the public health law. The commissioner of health's authority pursuant to this section is contingent upon obtaining and maintaining all necessary approvals from the secretary of health and human services and the secretary of the treasury based on an application for a waiver for state innovation. The commissioner of health may take all actions necessary to obtain such approvals.

2. Definitions. For the purposes of this section:

(a) "Eligible organization" means an insurer licensed pursuant to article thirty-two or forty-two of the insurance law, a corporation or an organization under article forty-three of the insurance law, or an organization certified under article forty-four of the public health law, including providers certified under section forty-four hundred three-e of the public health law.

(b) "Approved organization" means an eligible organization approved by the commissioner of health to underwrite a 1332 state innovation health insurance plan pursuant to this section.

(c) "Health care services" means:

(i) the services and supplies as defined by the commissioner of health in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner of health for the purposes of defining such benefits, and shall include coverage of and access to the services of any national cancer institute-designated cancer center licensed by the department of health

within the service area of the approved organization that is willing to agree to provide cancer-related inpatient, outpatient and medical services to all enrollees in approved organizations' plans in such cancer center's service area under the prevailing terms and conditions that the approved organization requires of other similar providers to be included in the approved organization's network, provided that such terms shall include reimbursement of such center at no less than the fee-for-service medicaid payment rate and methodology applicable to the center's inpatient and outpatient services;

(ii) dental and vision services as defined by the commissioner of health, and

(iii) as defined by the commissioner of health and subject to federal approval, certain services and supports provided to enrollees who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting.

(d) "Qualified health plan" means a health plan that meets the criteria for certification described in § 1311(c) of the patient protection and affordable care act (P.L. 111-148), and is offered to individuals through the NY State of Health, the official health Marketplace, or Marketplace, as defined in subdivision two of section two hundred sixty-eight-a of the public health law.

(e) "Basic health insurance plan" means a health plan providing health care services, separate and apart from qualified health plans, that is issued by an approved organization and certified in accordance with section three hundred sixty-nine-gg of this title.

(f) "1332 state innovation plan" means a standard health plan providing health care services, separate and apart from a qualified health plan and a basic health insurance plan, that is issued by an approved organization and certified in accordance with this section.

3. State innovation plan eligible individual. (a) A person is eligible to receive coverage for health care under this section if they:

(i) reside in New York state and are under sixty-five years of age;

(ii) are not eligible for medical assistance under title eleven of this article or for the child health insurance plan described in title one-A of article twenty-five of the public health law;

(iii) are not eligible for minimum essential coverage, as defined in section 5000A(f) of the Internal Revenue Service Code of 1986, or is eligible for an employer-sponsored plan that is not affordable, in accordance with section 5000A(f) of such code; and

(iv) have household income at or below two hundred fifty percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size; and has household income that exceeds one hundred thirty-three percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size; however, MAGI eligible noncitizens lawfully present in the United States with household incomes at or below one hundred thirty-three percent of the federal poverty line shall be eligible to receive coverage for health care services pursuant to the provisions of this section if such noncitizen would be ineligible for medical assistance under title eleven of this article due to their immigration status.

(b) Subject to federal approval, a child born to an individual eligible for and receiving coverage for health care services pursuant to this

section who but for their eligibility under this section would be eligible for coverage pursuant to subparagraphs two or four of paragraph (b) of subdivision one of section three hundred sixty-six of this article, shall be administratively enrolled, as defined by the commissioner of health, in medical assistance and to have been found eligible for such assistance on the date of such birth and to remain eligible for such assistance for a period of one year.

(c) Subject to federal approval, an individual who is eligible for and receiving coverage for health care services pursuant to this section is eligible to continue to receive health care services pursuant to this section during the individual's pregnancy and for a period of one year following the end of the pregnancy without regard to any change in the income of the household that includes the pregnant individual, even if such change would render the pregnant individual ineligible to receive health care services pursuant to this section.

(d) For the purposes of this section, 1332 state innovation program eligible individuals are prohibited from being treated as qualified individuals under section 1312 of the Affordable Care Act and as eligible individuals under section 1331 of the ACA and enrolling in qualified health plan through the Marketplace or standard health plan through the Basic Health Program.

4. Enrollment. (a) Subject to federal approval, the commissioner of health is authorized to establish an application and enrollment procedure for prospective enrollees. Such procedure will include a verification system for applicants, which must be consistent with 42 USC § 1320b-7.

(b) Such procedure shall allow for continuous enrollment for enrollees to the 1332 state innovation program where an individual may apply and enroll for coverage at any point.

(c) Upon an applicant's enrollment in a 1332 state innovation plan, coverage for health care services pursuant to the provisions of this section shall be retroactive to the first day of the month in which the individual was determined eligible, except in the case of program transitions within the Marketplace.

(d) A person who has enrolled for coverage pursuant to this section, and who loses eligibility to enroll in the 1332 state innovation program for a reason other than citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage pursuant to this section, or failure to make an applicable premium payment, before the end of a twelve month period beginning on the effective date of the person's initial eligibility for coverage, or before the end of a twelve month period beginning on the date of any subsequent determination of eligibility, shall have their eligibility for coverage continued until the end of such twelve month period, provided that the state receives federal approval for using funds under an approved 1332 waiver.

5. Premiums. Subject to federal approval, the commissioner of health shall establish premium payments enrollees in a 1332 state innovation plan shall pay to approved organizations for coverage of health care services pursuant to this section. Such premium payments shall be established in the following manner:

(a) up to fifteen dollars monthly for an individual with a household income above two hundred percent of the federal poverty line but at or below two hundred fifty percent of the federal poverty line defined and

annually revised by the United States department of health and human services for a household of the same size; and

(b) no payment is required for individuals with a household income at or below two hundred percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size.

6. Cost-sharing. The commissioner of health shall establish cost-sharing obligations for enrollees, subject to federal approval, including childbirth and newborn care consistent with the medical assistance program under title eleven of this article. There shall be no cost-sharing obligations for enrollees for:

(a) dental and vision services as defined in subparagraph (ii) of paragraph (c) of subdivision two of this section; and

(b) services and supports as defined in subparagraph (iii) of paragraph (c) of subdivision two of this section.

7. Rates of payment. (a) The commissioner of health shall select the contract with an independent actuary to study and recommend appropriate reimbursement methodologies for the cost of health care service coverage pursuant to this section. Such independent actuary shall review and make recommendations concerning appropriate actuarial assumptions relevant to the establishment of reimbursement methodologies, including but not limited to; the adequacy of rates of payment in relation to the population to be served adjusted for case mix, the scope of health care services approved organizations must provide, the utilization of such services and the network of providers required to meet state standards.

(b) Upon consultation with the independent actuary and entities representing approved organizations, the commissioner of health shall develop reimbursement methodologies and fee schedules for determining rates of payment, which rates shall be approved by the director of the division of the budget, to be made by the department to approved organizations for the cost of health care services coverage pursuant to this section. Such reimbursement methodologies and fee schedules may include provisions for capitation arrangements.

(c) The commissioner of health shall have the authority to promulgate regulations, including emergency regulations, necessary to effectuate the provisions of this subdivision.

(d) The department of health shall require the independent actuary selected pursuant to paragraph (a) of this subdivision to provide a complete actuarial report, along with all actuarial assumptions made and all other data, materials and methodologies used in the development of rates for the 1332 state innovation plan authorized under this section. Such report shall be provided annually to the temporary president of the senate and the speaker of the assembly.

8. An individual who is lawfully admitted for permanent residence, permanently residing in the United States under color of law, or who is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15), and who would be ineligible for medical assistance under title eleven of this article due to their immigration status if the provisions of section one hundred twenty-two of this chapter were applied, shall be considered to be ineligible for medical assistance for purposes of paragraphs (b) and (c) of subdivision three of this section.

9. Reporting. The commissioner of health shall submit a report to the temporary president of the senate and the speaker of the assembly annually by December thirty-first. The report shall 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. 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 the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2023; provided that section three of this act shall be contingent upon the commissioner of health obtaining and maintaining all necessary approvals from the secretary of health and human services and the secretary of the treasury based on an application for a waiver for state innovation pursuant to section 1332 of the patient protection and affordable care act (P.L. 111-148) and subdivision 25 of section 268-c of the public health law. The department of health shall notify the legislative bill drafting commission upon the occurrence of approval of the waiver program in order that the commission may maintain an accurate and timely data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART I

Section 1. Subdivision (i) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medical expenditures, as amended by section 8 of part E of chapter 57 of the laws of 2019, is amended to read as follows:

(i) the amendments to paragraph (b) and subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law made by section forty-one-b of this act shall expire and be repealed April 1, [~~2023~~] **2027**;

§ 2. The opening paragraph of subdivision 2 of section 4403-f of the public health law, as amended by section 8 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

An eligible applicant shall submit an application for a certificate of authority to operate a managed long term care plan upon forms prescribed by the commissioner**, including any such forms or process as may be required or prescribed by the commissioner in accordance with the competitive bid process under subdivision six-a of this section**. Such eligible applicant shall submit information and documentation to the commissioner which shall include, but not be limited to:

§ 3. Paragraph (a) of subdivision 6 of section 4403-f of the public health law, as amended by section 4 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

(a) An applicant shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner that the applicant complies with the operating requirements for a managed long term care plan under this section. The commissioner shall issue no more than seventy-five certificates of authority to managed long term care plans pursuant to this section.

(a-1) Nothing in this section shall be construed as requiring the department to contract with or to contract for a particular line of business with an entity certified under this section for the provision of services available under title eleven of article five of the social services law. **A managed long term care plan that has been issued a certificate of authority, or an applicant for a certificate of authority as a managed long term care plan that has, in the sole discretion of the commissioner, in any of the three calendar years immediately preceding the application, met any of the following criteria shall not be eligible for a contract for the provision of services available under title eleven of article five of the social services law: (i) classified as a poor performer, or substantially similar terminology, by the centers for medicare and medicaid services; (ii) an excessive volume of penalties, statements of findings, statements of deficiency, intermediate sanctions or enforcement actions, regardless of whether the applicant has addressed such issues in a timely manner; or (iii) other criteria as deemed appropriate by the commissioner.**

§ 4. The opening paragraph of subparagraph (i) of paragraph (d) of subdivision 6 of section 4403-f of the public health law, as added by section 5 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

Effective April first, two thousand twenty, and expiring March thirty-first, two thousand [~~twenty-two~~] **twenty-seven**, the commissioner shall place a moratorium on the processing and approval of applications seeking a certificate of authority as a managed long term care plan pursuant to this section, including applications seeking authorization to expand an existing managed long term care plan's approved service area or scope of eligible enrollee populations. Such moratorium shall not apply to:

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

6-a. Performance standards and procurement. (a) On or before October first, two thousand twenty-four, each managed long term care plan that has been issued a certificate of authority pursuant to this section shall have demonstrated experience operating a managed long term care plan that continuously enrolled no fewer than twenty thousand enrollees and/or demonstrated experience operating a Medicare Dual Eligible Special Needs Plan, or an integrated Medicaid product offered by the department, that has continuously enrolled no fewer than five thousand residents of this state in the immediately preceding calendar year. In addition, a managed long term care plan shall sufficiently demonstrate, in the sole discretion of the commissioner, success in the following performance categories:

(i) in addition to meeting the requirements of paragraph (j) of subdivision seven of this section, commitment to contracting with the minimum number of licensed home care service agencies needed to provide necessary personal care services to the greatest practicable number of enrollees, and with the minimum number of fiscal intermediaries needed to provide necessary consumer directed personal assistance services to the greatest practicable number of enrollees in accordance with section three hundred sixty-five-f of the social services law;

(ii) readiness to timely implement and adhere to maximum wait time criteria for key categories of service in accordance with laws, rules and regulations of the department or the center for medicare and medicaid services;

(iii) implementation of a community reinvestment plan that has been approved by the department and commits a percentage of the managed long term care plan's surplus to health related social needs and advancing health equity in the managed long term care plan's service area;

(iv) commitment to quality improvement;

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

(vi) demonstrated cultural and language competencies specific to the 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 long term care plans have submitted a proposal, and shall have discretion to offer more contracts based on need for access.

(B) 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, managed long term care plans awarded under this subdivision shall be entitled to enter into a contract with the department for the purpose of providing health and long term care services to enrollees who are eligible under title XIX of the federal social security act. Such contracts shall run for a term to be determined by the commissioner, which may be renewed or modified from time to time without a new request for proposals, to ensure consistency with changes in federal and state laws, regulations or policies, including the expansion or reduction of medical assistance services available to participants through a managed long term care plan.

(C) Nothing in this paragraph or other provision of this section shall be construed to limit in any way the ability of the department to terminate awarded contracts for cause, which shall include but not be limited to any violation of the terms of such contracts or violations of state

or federal laws and regulations and any loss of necessary state or federal funding.

(D) 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, the department may, in accordance with the provisions of this paragraph, issue new requests for proposals and award new contracts for terms following an existing term of a contract entered into under this paragraph.

(vi) (A) Within sixty days of the department issuing the request for proposals, a managed long term care plan that was approved to provide health and long term care services to enrollees who are eligible under title XIX of the federal social security act prior to the issuance of the request for proposals shall submit its intention to complete such proposal to the department.

(B) A managed long term care plan that: (1) fails to submit its intent timely, (2) indicates within the sixty days its intent not to complete such a proposal, or (3) fails to submit a proposal within the further timeframe specified by the commissioner in the request for proposals, 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 enrollees for such period of time as determined necessary by the commissioner to achieve the safe and orderly transfer of enrollees.

(vii) If necessary to ensure access to a sufficient number of managed long term care plans on a geographic or other basis, including a lack of adequate and appropriate care, language and cultural competence, or special needs services, the commissioner may reissue a request for proposals as provided for under paragraph (b) of this subdivision, provided, however, that such request may be limited to the geographic or other basis of need that the request for proposals seeks to address. Any awards shall be subject to the requirements of this section, including the minimum and maximum number of awards in a region.

(d) In the event the commissioner, in their sole discretion at any time on or after October first, two thousand twenty-four, determines not to select managed long term care plans through a competitive bid process, the commissioner shall require a managed long term care plan that has not met the performance standards set forth in paragraph (a) of this subdivision to establish and implement a performance improvement plan acceptable to the commissioner. The determination not to select managed long term care plans through a competitive bid process and to require a performance improvement plan shall not preclude the commissioner from making a later determination to select managed long term care plans through a competitive bid process. In making the determination whether to select through a competitive bid process, the commissioner shall consider the standards set forth in paragraph (a) of this subdivision.

(e) The commissioner shall have the authority to promulgate regulations, including emergency regulations, to effectuate the provisions of this subdivision.

(f) The commissioner shall have the authority to add or modify all criteria in this subdivision.

§ 6. Subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as amended by section 1 of part GGG of chapter 59 of the laws of 2017, is amended to read as follows:

(i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social, cognitive, and environmental needs of each prospective enrollee in such program. This assessment shall also serve as the basis for the development and provision of an appropriate plan of care for the enrollee**, including appropriate community-based referrals**. Upon approval of federal waivers pursuant to paragraph (b) of this subdivision which require medical assistance recipients who require community-based long term care services to enroll in a plan, and upon approval of the commissioner, a plan may enroll an applicant who is currently receiving home and community-based services and complete the comprehensive assessment within thirty days of enrollment provided that the plan continues to cover transitional care until such time as the assessment is completed.

§ 6-a. Subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as added by section 65-c of part A of chapter 57 of the laws of 2006 and relettered by section 20 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social and environmental needs of each prospective enrollee in such program. This assessment shall also serve as the basis for the development and provision of an appropriate plan of care for the prospective enrollee**, including appropriate community-based referrals**.

§ 7. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4-a of section 365-f of the social services law, as amended by section 3 of part G of chapter 57 of the laws of 2019, the opening paragraph of subparagraph (i) as amended by section 2 of part PP of chapter 57 of the laws of 2022, are amended to read as follows:

(i) "Fiscal intermediary" means an entity that provides fiscal intermediary services and has a contract for providing such services with [~~the department of health and is selected through the procurement process described in paragraphs (b), (b-1), (b-2) and (b-3) of this subdivision. Eligible applicants for contracts shall be entities that are capable 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-l 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 OO 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-five-f of the social services law,~~] or other licensed or unlicensed person whose primary responsibility includes the provision of in-home assistance with activities of daily living, instrumental activities of daily living or health-related tasks; provided, however, that home care aide does not include any individual (i) working on a casual basis, or (ii) [~~(except for a person employed under the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law)~~] who is a relative through blood, marriage or adoption of: (1) the employer; or (2) the person for whom the worker is delivering services, under a program funded or administered by federal, state or local government.

[~~(i) "Fiscal intermediary" means a fiscal intermediary in the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law.~~]

2. Notwithstanding any inconsistent provision of law, rule or regulation, no payments by government agencies shall be made to certified home health agencies, long term home health care programs, managed care plans, [~~fiscal intermediaries,~~] the nursing home transition and diversion waiver program under section three hundred sixty-six of the social services law, or the traumatic brain injury waiver program under section twenty-seven hundred forty of this chapter for any episode of care furnished, in whole or in part, by any home care aide who is compensated at amounts less than the applicable minimum rate of home care aide total compensation established pursuant to this section.

4. The terms of this section shall apply equally to services provided by home care aides who work on episodes of care as direct employees of certified home health agencies, long term home health care programs, or managed care plans, or as employees of licensed home care services agencies, limited licensed home care services agencies, [~~or fiscal intermediaries,~~] or under any other arrangement.

5. No payments by government agencies shall be made to certified home health agencies, licensed home care services agencies, long term home health care programs, managed care plans, [~~fiscal intermediaries~~] for any episode of care without the certified home health agency, licensed home care services agency, long term home health care program, **or** managed care plan [~~or the fiscal intermediary~~], having delivered prior written certification to the commissioner annually, at a time prescribed by the commissioner, on forms prepared by the department in consultation with the department of labor, that all services provided under each episode of care during the period covered by the certification are in full compliance with the terms of this section and any regulations promulgated pursuant to this section and that no portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, **or** managed care plan, [~~or fiscal intermediary,~~] related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner. Such written certification shall also verify that the certified home health agency, long term home health care program, or managed care plan has received from the licensed home care services agency, [~~fiscal intermediary,~~] or other third party an annual statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an independently-audited financial statement verifying such expenses.

5-a. No portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, **or** managed care plan, [~~or fiscal intermediary,~~] related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner.

6. If a certified home health agency, long term home health care program or managed care plan elects to provide home care aide services through contracts with licensed home care services agencies, [~~fiscal intermediaries,~~] or through other third parties, provided that the episode of care on which the home care aide works is covered under the terms of this section, the certified home health agency, long term home health care program, or managed care plan shall include in its contracts, a requirement that it be provided with a written certif-

ication, verified by oath, from the licensed home care services agency, [~~fiscal intermediary,~~] or other third party, on forms prepared by the department in consultation with the department of labor, which attests to the licensed home care services agency's, [~~fiscal intermediary's,~~] or other third party's compliance with the terms of this section. Such contracts shall also obligate the licensed home care services agency, [~~fiscal intermediary,~~] or other third party to provide the certified home health agency, long term home health care program, or managed care plan all information from the licensed home care services agency, [~~fiscal intermediary~~] or other third party necessary to verify compliance with the terms of this section, which shall include an annual compliance statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an independently-audited financial statement verifying such expenses. Such annual statements shall be available no less than annually for the previous calendar year, at a time as prescribed by the commissioner. Such certifications, the information necessary to verify compliance, and the annual compliance statement and financial statements shall be retained by all certified home health agencies, long term home health care programs, or managed care plans, and all licensed home care services agencies, [~~fiscal intermediaries,~~] or other third parties for a period of no less than ten years, and made available to the department upon request. Any licensed home care services agency, [~~fiscal intermediary,~~] or other third party who shall upon oath verify any statement required to be transmitted under this section and any regulations promulgated pursuant to this section which is known by such party to be false shall be guilty of perjury and punishable as provided by the penal law.

6-a. The certified home health agency, long term home health care program, or managed care plan shall review and assess the annual compliance statement of wage parity hours and expenses and make a written referral to the department of labor for any reasonably suspected failures of licensed home care services agencies, [~~fiscal intermediaries,~~] or third parties to conform to the wage parity requirements of this section.

7. The commissioner shall distribute to all certified home health agencies, long term home health care programs, managed care plans, **and** licensed home care services agencies[~~, and fiscal intermediaries~~] official notice of the minimum rates of home care aide compensation at least one hundred twenty days prior to the effective date of each minimum rate for each social services district covered by the terms of this section.

7-a. Any certified home health agency, licensed home care services agency, long term home health care program, managed care plan, [~~or fiscal intermediary,~~] or other third party that willfully pays less than such stipulated minimums regarding wages and supplements, as established in this section, shall be guilty of a misdemeanor and upon conviction shall be punished, for a first offense by a fine of five hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment; for a second offense by a fine of one thousand dollars, and in addition thereto the contract on which the violation has occurred shall be forfeited; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state pay the same or authorize its payment from the funds under his or her charge or control to any person or corporation for work done upon any contract, on which the certified home health agency, licensed home care services agency, long term home health care program, managed care plan,

[~~or fiscal intermediary,~~] or other third party has been convicted of a second offense in violation of the provisions of this section.

9. Nothing in this section should be construed as applicable to any service provided by certified home health agencies, licensed home care services agencies, long term home health care programs, or managed care plans[~~, or fiscal intermediaries~~] except for all episodes of care reimbursed in whole or in part by the New York Medicaid program.

10. No certified home health agency, managed care plan, or long term home health care program shall be liable for recoupment of payments or any other penalty under this section for services provided through a licensed home care services agency, [~~fiscal intermediary,~~] or other third party with which the certified home health agency, long term home health care program, or managed care plan has a contract because the licensed agency, [~~fiscal intermediary,~~] or other third party failed to comply with the provisions of this section if the certified home health agency, long term home health care program, or managed care plan has reasonably and in good faith collected certifications and all information required pursuant to this section and conducts the monitoring and reporting required by this section.

§ 15. Subdivision 1 of section 3614-f of the public health law, as added by section 1 of part XX of chapter 56 of the laws of 2022, is amended to read as follows:

1. For the purpose of this section, "home care aide" shall [~~have the same meaning as defined in section thirty-six hundred fourteen-c of this article~~] **mean a home health aide, personal care aide, home attendant, personal assistant performing consumer directed personal assistance services pursuant to section three hundred sixty-five-f of the social services law, or other licensed or unlicensed person whose primary responsibility includes the provisions of in-home assistance with activities of daily living, instrumental activities of daily living or health-related tasks; provided, however, that home care aide does not include any individual (i) working on a casual basis, or (ii) (expect for a person employed under the consumer directed personal assistance program under section three hundred sixty-five-f of the social services law) who is a relative through blood, marriage or adoption of: (1) the employer; or (2) the person whom the worker is delivering services, under a program funded or administered by federal, state or local government**.

§ 16. The public health law is amended by adding a new section 3614-g to read as follows:

§ 3614-g. State supplemental premium assistance for consumer directed personal assistants.

1. State supplemental assistance for the payment of qualified health plan premiums shall be available to a personal assistant performing consumer directed personal assistance services pursuant to section three hundred sixty-five-f of the social services law, provided that such personal assistant:

(a) attests on the NY State of Health Marketplace application that they are providing such services on a full-time basis or part-time basis, as defined in applicable regulation,

(b) is eligible for federal premium tax credits pursuant to section 36B(b)(3)(A) of the Internal Revenue Code,

(c) is not otherwise eligible for comprehensive coverage under title 11 or 11-D of article five of the social services law; and

(d) is enrolled in a qualified health plan defined in 42 U.S.C. 18021(a), certified by the NY State of Health Marketplace, which does not include a catastrophic plan described in 42 U.S.C. 18022(e).

2. The amount of the supplemental premium assistance shall be equal to at least the contribution for the benchmark silver qualified health plan available in such personal assistant's county of residence, and shall account for the full-time or part-time status of the personal assistant. Personal assistants working part-time shall be eligible for a minimum of one-half of the state supplemental premium credit available for personal assistants working full-time. Such credit shall be paid directly to the qualified health plan issuer. Any subsidies provided pursuant to this section shall be in accordance with a schedule or methodology published by the commissioner, which may be based on a sliding scale in relation to the household income of the personal assistant, or such other methodology as the commissioner deems appropriate.

3. Applicants for coverage through the NY State Marketplace who are newly eligible for supplemental premium assistance pursuant to this section shall be eligible for a special enrollment period through the NY State of Health Marketplace.

4. The commissioner shall submit such applications to the secretary of the department of health and human services or treasury as may be necessary to receive federal financial participation in the costs of payments made pursuant to this section; provided further, however, that nothing in this section shall be deemed to affect the payment of the state supplemental premium assistance pursuant to applicable law and regulation if federal financial participation in the costs of such payments is not available.

5. Fiscal intermediaries and personal assistants under section three hundred sixty-five-f of the social services law shall be required to provide such information as is necessary for the implementation and operation of this section. The department shall specify the frequency and format of such reporting and determine the type and amount of information to be submitted, including any supporting documentation.

6. The commissioner shall promulgate any rules and regulations and take such steps as may be necessary for the implementation and operation of this section.

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

§ 97-bbbbb. CDPAP supplemental premium assistance fund. 1. CDPAP supplemental premium assistance fund. 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 "CDPAP supplemental premium assistance 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 appropriated for State supplemental premium assistance for the payment of qualified health plan premium of eligible enrollees performing consumer directed personal assistance services, in accordance with section thirty-six hundred fourteen-g of the social services law, or transferred to such account pursuant to applicable law.

4. The moneys, when allocated in accordance with section thirty-six hundred fourteen-g of the social services law, shall be paid out of the fund to qualified health plans on behalf of eligible enrollees.

§ 18. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023; provided, however, that:

(a) the amendments to section 4403-f of the public health law made by sections two through six-a of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(b) the amendments to subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law made by section six of this act shall be subject to the expiration and reversion of such subparagraph pursuant to subdivision (i) of section 111 of part H of chapter 59 of the laws of 2011, as amended, when upon such date the provisions of section six-a of this act shall take effect;

(c) sections fourteen, sixteen, and seventeen of this act shall take effect on and after the first of January next succeeding the date of enactment of a state supplemental premium assistance program in accordance with sections sixteen and seventeen of this act, takes effect; provided, however, such sections fourteen, sixteen, and seventeen of this act shall take effect no earlier than January 1, 2025; and provided, further, the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the establishment of such state supplemental premium assistance program in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law; and

(d) effective immediately, the commissioner of health shall promulgate any rules and regulations and take such steps, including requiring the submission of reports or surveys by fiscal intermediaries under the consumer directed personal assistance program, as may be necessary for the timely implementation of this act on or before such effective date.

PART J

Section 1. Subsection (a) of section 3224-a of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(a) Except 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 submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for **the** services rendered that is transmitted via the internet or electronic mail[~~,~~] or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile.

(1) 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 such a claim is clear, except for the desire of the insurer or organization or corporation to review clinical documentation or, to the

extent agreed upon by a hospital and the insurer or organization or corporation, electronic medical records, to confirm the medical necessity of emergency services or inpatient services following an emergency department visit provided by a hospital that participates in the network of the insurer or organization or corporation, which includes whether the services provided were emergency services or that the site of service or level of care billed was appropriate for the services provided, the insurer or organization or corporation shall pay the claim at the contracted rate for the services and site billed by the hospital within the timeframes set forth in this subsection. The insurer or organization or corporation may, within thirty days of paying the claim, request that the hospital submit to the insurer or organization or corporation only the clinical documentation or, to the extent agreed upon by the hospital and the insurer or organization or corporation, electronic medical records, necessary to confirm the medical necessity of the emergency services or inpatient services following an emergency department visit provided by the hospital, which includes whether the services provided by the hospital were emergency services or that the site of service or level of care billed was appropriate for the services provided. The hospital shall provide the clinical documentation to the insurer or organization or corporation within forty-five days of its request.

(2) Unless otherwise agreed upon by the hospital and the insurer or organization or corporation, an insurer or organization or corporation may submit a claim, within ninety days of receipt of the clinical documentation from the hospital, to a joint committee composed of clinicians from the insurer or organization or corporation and the hospital for a post-payment audit. If the hospital fails to provide clinical documentation to the insurer or organization or corporation within forty-five days of the request, the insurer or organization or corporation may submit the claim to the joint committee for review within ninety days after the end of the forty-five day period. The joint committee shall meet at least quarterly to review such claims. Nothing herein shall require the joint committee to be registered as a utilization review agent under article forty-nine of the public health law or file a utilization review report under article forty-nine of this chapter.

(3) Within ninety days of the joint committee's receipt of the request to review the claim from an insurer or organization or corporation, the joint committee shall request the clinical documentation from the hospital, review the claim and information submitted by the parties, and make a joint determination as to the medical necessity of the services provided, which includes whether the services were emergency services or that the site of service or level of care billed was appropriate for the services; provided, however, the insurer or organization or corporation and hospital may agree to meet more frequently than every ninety days, so long as such frequency does not require the joint committee to meet more frequently than every thirty days. Failure by the hospital to provide the clinical documentation to the joint committee within sixty days of request, or an alternative timeframe as may be agreed upon by all parties, shall result in a final determination that the services were not medically necessary by the joint committee, which shall not be subject to review under article forty-nine of this chapter and article forty-nine of the public health law.

(A) In the event a joint determination cannot be agreed upon within the ninety-day period, the hospital or insurer or organization or corpo-

ration may refer the claim to a mutually agreed upon independent third-party review agent within five business days from the end of the ninety-day period, for a determination. The determination of the independent third-party review agent shall be binding.

(B) The hospital and the insurer or organization or corporation shall designate one or more mutually agreed upon independent third-party review agents in the participating provider agreement. If the hospital and the insurer or organization or corporation are unable to reach agreement in the participating provider agreement on one or more independent third-party review agents, then the insurer or organization or corporation may select an independent third-party review agent that has been certified by the superintendent as an external appeal agent pursuant to article forty-nine of this chapter or as an independent dispute resolution entity pursuant to article six of the financial services law. If the independent third-party review agent determines that the services provided were not medically necessary, in whole or in part, the insurer or corporation or organization may recoup, offset, or otherwise require the hospital to refund any overpayment resulting from its determination consistent with subsection (b) of section three thousand two hundred twenty-four-b of this article within thirty days. The insurer or organization or corporation shall provide written notification to the hospital of such recoup or offset, which shall include: (i) the claim number; (ii) the amount of the overpayment; and (iii) the date of the joint committee determination.

(C) During the entirety of the review process, the hospital shall pend the imposition of any copayment, coinsurance or deductible until such time as there is a final determination as to whether the services in question were medically necessary. The hospital may thereafter bill the insured for the amount of the copayment, coinsurance or deductible for services determined to be medically necessary and shall hold the insured harmless for any other amounts, including amounts for services determined to be not medically necessary.

(4) Nothing in this subsection shall in any way be deemed to limit the ability of insurers or organizations or corporations and hospitals to agree to establish parameters for referral or review of medical records, including while the insured is in the hospital, or for insurers or organizations or corporations to require preauthorization for services that are not emergency services.

(5) For purposes of this subsection, "hospital" shall mean a general hospital as defined in section two thousand eight hundred one of the public health law.

(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 payment shall state at the top of such written notice with at least fourteen-point type bold: "NOTICE OF DENIAL OF MEDICAL COVERAGE". Any additional terms or conditions included on such notice of partial approval or such notice of denial, such as but not limited to time restraints to file an appeal, shall be included with at least twelve-point type.

§ 3. Paragraphs 4 and 5 of subsection (b) of section 3224-b of the insurance law are renumbered paragraphs 6 and 7 and two new paragraphs 4 and 5 are added to read as follows:

(4) A review or audit of claims by or on behalf of a health plan shall not reverse or otherwise alter a medical necessity determination, which includes, a site of service or level of care determination made by a utilization review agent or external appeal agent pursuant to article forty-nine of this chapter or article forty-nine of the public health law.

(5) A review or audit of claims by or on behalf of a health plan shall not downgrade the coding of a claim if it has the effect of reversing or altering a medical necessity determination, which includes, a level of care determination made by or on behalf of the health plan; provided however, that nothing in this paragraph shall limit a health plan's ability to review or audit claims for fraud, waste or abuse.

§ 4. The opening paragraph of subsection (c) of section 4904 of the insurance law, as amended by section 18 of part YY of chapter 56 of the laws of 2020, is amended to read as follows:

A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the insured of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within thirty days of the receipt of necessary information to conduct the appeal and, upon overturning the adverse decision, shall comply with subsection [~~(a)~~] **(b)** of section three thousand two hundred twenty-four-a of this chapter as applicable. The utilization review agent shall notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination.

§ 5. The opening paragraph of subdivision 3 of section 4904 of the public health law, as amended by section 17 of part YY of chapter 56 of the laws of 2020, is amended to read as follows:

A utilization review agent shall establish a standard appeal process which includes procedures for appeals to be filed in writing or by telephone. A utilization review agent must establish a period of no less than forty-five days after receipt of notification by the enrollee of the initial utilization review determination and receipt of all necessary information to file the appeal from said determination. The utilization review agent must provide written acknowledgment of the filing of the appeal to the appealing party within fifteen days of such filing and shall make a determination with regard to the appeal within thirty days of the receipt of necessary information to conduct the appeal and, upon overturning the adverse determination, shall comply with subsection [~~(a)~~] **(b)** of section three thousand two hundred twenty-four-a of the insurance law as applicable. The utilization review agent shall notify the enrollee, the enrollee's designee and, where appropriate, the enrollee's health care provider, in writing, of the appeal determination within two business days of the rendering of such determination. The notice of the appeal determination shall include:

§ 6. Nothing in this act shall limit the authority of the office of the medicaid inspector general, the department of health, or the state from conducting oversight activities, audits, recovering funds and imposing penalties in accordance with any relevant rule, regulation, provision of law or contract.

§ 7. This act shall take effect January 1, 2024.

PART K

Section 1. Subparagraphs 1 and 2 of paragraph (e) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D

of chapter 56 of the laws of 2013, clause (iii) of subparagraph 2 as amended by chapter 477 of the laws of 2022, are amended to read as follows:

(1) is an inmate or patient in an institution or facility wherein medical assistance may not be provided in accordance with applicable federal or state requirements, except for persons described in subparagraph ten of paragraph (c) of this subdivision or subdivision one-a or subdivision one-b of this section; **or except for certain services provided to persons in a correctional institution or facility permitted by a waiver authorized pursuant to section eleven hundred fifteen of the federal social security act; if, so long as, and to the extent federal financial participation is available for such expenditures provided pursuant to such waiver;** or

(2) is a patient in a public institution operated primarily for the treatment of tuberculosis or care of the mentally disabled, with the exception of: (i) a person sixty-five years of age or older and a patient in any such institution; (ii) a person under twenty-one years of age and receiving in-patient psychiatric services in a public institution operated primarily for the care of the mentally disabled; (iii) a patient in a public institution operated primarily for the care of individuals with developmental disabilities who is receiving medical care or treatment in that part of such institution that has been approved pursuant to law as a hospital or nursing home; (iv) a patient in an institution operated by the state department of mental hygiene, while under care in a hospital on release from such institution for the purpose of receiving care in such hospital; [~~or~~] (v) is a person residing in a community residence or a residential care center for adults**; or (vi) certain services provided to persons in an institution for mental diseases permitted by a waiver authorized pursuant to section eleven hundred fifteen of the federal social security act; if, so long as, and to the extent federal financial participation is available for such expenditures provided pursuant to such waiver**.

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

PART L

Section 1. Section 3241 of the insurance law is amended by adding a new subsection (d) to read as follows:

(d)(1) For purposes of this subsection:

(A) "Free-standing ambulatory surgical center" shall mean a diagnostic and treatment center authorized pursuant to article twenty-eight of the public health law and operated independently from a hospital.

(B) "Health care plan" shall mean an insurer, a corporation organized pursuant to article forty-three of this chapter, a health maintenance organization certified pursuant to article forty-four of the public health law, a municipal cooperative health benefit plan certified pursuant to article forty-seven of this chapter, and 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 or that arranges for care and services for members under a contract with the department of health with a network of health care providers and utilizes site of service review to determine coverage for services delivered by participating providers.

(C) "Hospital-based outpatient clinic" shall mean a clinic authorized pursuant to article twenty-eight of the public health law and listed on a hospital's operating certificate.

(D) "Site of service review" shall mean criteria applied by a health care plan for purposes of determining whether a procedure will be covered for a given insured or enrollee when rendered by a network provider at a hospital-based outpatient clinic rather than a free-standing ambulatory surgical center.

(2) Site of service review shall be deemed utilization review in accordance with and subject to the requirements and protections of article forty-nine of this chapter and article forty-nine of the public health law, including the right to internal and external appeal of denials related to site of service.

(3) Site of service review shall prioritize patient health and safety, patient choice of health care provider, and access to care and shall not be based solely on cost.

(4) A health care plan shall have adequate free-standing ambulatory surgical center providers to meet the health needs of insureds and enrollees and to provide an appropriate choice of providers sufficient to render the services covered under the policy or contract.

(5) Except as provided in paragraph six of this subsection, starting January first, two thousand twenty-four, a health care plan shall provide notice disclosing and clearly explaining the site of service review to:

(A) policyholders, contract holders, insureds, and enrollees and prospective policyholders, contract holders, insureds, and enrollees at the time of plan and policy or contract selection. This disclosure shall include a statement that site of service review may limit the settings in which services covered under the policy or contract may be provided and render a participating provider unable to perform a service and shall disclose to insureds or enrollees any quality or cost differential, including differences in out-of-pocket costs, between the hospital-based outpatient clinic and the free-standing ambulatory surgical center when services at a hospital-based outpatient clinic are requested, or at any other time upon the insured's or enrollee's request. Provider directories shall also indicate when health care plan site of service review may limit the scope of services that will be covered when delivered by a participating provider;

(B) participating providers at least ninety days prior to implementation. A health care plan shall also inform providers of the process for requesting coverage of a service in a hospital-based outpatient clinic setting, including the right to request a real time clinical peer to peer discussion as part of the authorization process; and

(C) the superintendent and, as applicable, to the commissioner of health, at least forty-five days prior to notifying policyholders, contract holders, insureds and enrollees and prospective policyholders, contract holders, insureds and enrollees and participating providers in accordance with this subsection. Such notice to the superintendent and, as applicable, to the commissioner of health, shall include draft communications to the foregoing persons for purposes of complying with this subsection.

(6) A health care plan that has implemented site of service review prior to January first, two thousand twenty-four shall provide the disclosures set forth in paragraph five of this subsection at the beginning of the open enrollment period for individual health insurance policies and contracts, and for group health insurance policies and

contracts, prior to issuance, renewal, or January first, two thousand twenty-four, whichever is earlier.

(7) Starting January first, two thousand twenty-four, at a minimum, a health care plan shall approve a service covered under the policy or contract and requested to be performed by a network provider at a hospital-based outpatient clinic in the following situations:

(A) the procedure cannot be safely performed in a free-standing ambulatory surgical center due to the insured's or enrollee's health condition or the health care services;

(B) there is not sufficient free-standing ambulatory surgical center capacity in the insured's or enrollee's geographic area; or

(C) the provision of health care services at a free-standing ambulatory surgical center would result in undue delay.

(8) Starting January first, two thousand twenty-four, site of service clinical review criteria developed by health care plans shall also take into consideration whether:

(A) the insured's or enrollee's in-network treating physician recommends that the service be provided at a hospital-based outpatient clinic;

(B) the insured's in-network treating physician is not credentialed or does not have privileges at a free-standing ambulatory surgical center; or

(C) the insured has an established relationship with an in-network treating physician who performs the requested service in a hospital-based outpatient clinic.

§ 2. This act shall take effect April 1, 2023.

PART M

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

3. The public health and health planning council shall not approve a certificate of incorporation, articles of organization or application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the institution at the time and place and under the circumstances proposed, provided, however, that in the case of an institution proposed to be established or operated by an organization defined in subdivision one of section one hundred seventy-two-a of the executive law, the needs of the members of the religious denomination concerned, for care or treatment in accordance with their religious or ethical convictions, shall be deemed to be public need; (b) the character, competence, and standing in the community, of the proposed incorporators, directors, sponsors, stockholders, members, or operators; with respect to any proposed incorporator, director, sponsor, stockholder, member, or operator who is already or within the past [~~ten~~] seven years [~~has~~] been an incorporator, director, sponsor, member, principal stockholder, principal member, or operator of any hospital or other health-related or long-term care facility, program or agency, including but not limited to, private proprietary home for adults, residence for adults, or non-profit home for the aged or blind which has been issued an operating certificate by the state department of social services, or a halfway house, hostel or other residential facility or institution for the care, custody or treatment of the mentally disabled which is subject to approval by the department of mental hygiene, no approval shall be granted unless the public health and health planning

council, having afforded an adequate opportunity to members of health systems agencies, if any, having geographical jurisdiction of the area where the institution is to be located to be heard, shall affirmatively find by substantial evidence as to each such incorporator, director, sponsor, **member,** principal stockholder**, principal member,** or operator that a substantially consistent high level of care is being or was being rendered in each such hospital, home, residence, halfway house, hostel, or other residential facility or institution [~~with~~] **in** which such person is or was affiliated; for the purposes of this paragraph, the public health and health planning council shall adopt rules and regulations, subject to the approval of the commissioner, to establish the criteria to be used to determine whether a substantially consistent high level of care has been rendered, provided, however, that there shall not be a finding that a substantially consistent high level of care has been rendered where there have been violations of the state hospital code, or other applicable rules and regulations, that (i) threatened to directly affect the health, safety or welfare of any patient or resident, and (ii) were recurrent or were not promptly corrected; (c) the financial resources of the proposed institution and its sources of future revenues; and (d) such other matters as it shall deem pertinent.

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

(b) [~~(i)~~] Any transfer, assignment or other disposition of [~~ten percent or more of~~] an interest**, stock,** or voting rights in a **sole proprietorship,** partnership [~~or~~]**,** limited liability company, **or corporation** which is the operator of a hospital [~~to a new partner or member~~] **or any transfer, assignment or other disposition which results in the 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 two [~~and~~]**,** three**, and three-b** of this section, except that: [~~(A) any such change shall be subject to the approval by the public~~]

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

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

[~~(ii) With~~] **(iii) No prior approval of the public health and health planning council shall be required with** respect to a transfer, assignment or disposition [~~involving less than ten percent of~~]**, directly or indirectly, of: (A)** an interest**, stock,** or voting rights **of less than ten percent** in [~~such partnership or limited liability company~~] **the operator,** to [~~a new~~] **any person,** partner [~~or~~]**,** member, [~~no prior approval of the public health and health planning council shall be required~~] **or stockholder who has not been previously approved by the public health and health planning council, or its predecessor for that operator**. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the [~~partnership or limited liability company~~] **operator** fully completes and files with the public health and health planning council notice on a form, to be developed by the public health and health planning council, which shall

disclose such information as may reasonably be necessary **for the department to recommend and** for the public health and health planning council to determine whether it should bar the transaction for any of the reasons set forth in item [~~(A), (B), (C) or (D)~~] **one, two, three or four** below**, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions**. [~~Within ninety days from the date of receipt of such notice, the~~] **The** public health and health planning council may bar**,** any transaction under this subparagraph: [~~(A)~~] **(1)** if the equity position of the partnership [~~or~~]**,** limited liability company, **or corporation that operates a hospital for profit,** determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition; [~~(B)~~] **(2)** if the transaction would result in the ownership of a partnership or membership interest **or stock** by any persons who have been convicted of a felony described in subdivision five of section twenty-eight hundred six of this article; [~~(C)~~] **(3)** if there are reasonable grounds to believe that the proposed transaction does not satisfy the character and competence criteria set forth in subdivision three **or three-b** of this section; or [~~(D)~~] **(4)** if the transaction, together with all transactions under this subparagraph for the [~~partnership, or successor,~~] **operator** during any five year period would, in the aggregate, involve twenty-five percent or more of the interest in the [~~partnership~~] **operator**. The public health and health planning council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction[~~.~~]**; or**

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

planning council may bar any transaction under this subparagraph if the equity position of the [~~partnership or limited liability company~~] **operator**, determined in accordance with generally accepted accounting principles, would be reduced as a result of the transfer, assignment or disposition. The public health and health planning council shall state specific reasons for barring any transaction under this subparagraph and shall so notify each party to the proposed transaction.

(c) [~~Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the operator of a hospital to a new stockholder, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person not previously approved by the public health and health planning council, or its predecessor, for that corporation shall be subject to approval by the public health and health planning council, in accordance with the provisions of subdivisions two and three of this section and rules and regulations pursuant thereto; except that: any such transaction shall be subject to the approval by the public health and health planning council in accordance with paragraph (b) of subdivision three of this section only with respect to a new stockholder or a new principal stockholder; and shall not be subject to paragraph (a) of subdivision three of this section. In the absence of such approval, the operating certificate of such hospital shall be subject to revocation or suspension. No prior approval of the public health and health planning council shall be required with respect to a transfer, assignment or disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a hospital or which is a member of a limited liability company which is the owner of a hospital to any person previously approved by the public health and health planning council, or its predecessor, for that corporation. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the stockholder completes and files with the public health and health planning council notice on forms to be developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the public health and health planning council to determine whether it should bar the transaction. Such transaction will be final as of the intended effective date unless, prior thereto, the public health and health planning council shall state specific reasons for barring such transactions under this paragraph and shall notify each party to the proposed transaction.~~] Nothing in this [~~paragraph~~] **subdivision** shall be construed as permitting [~~a~~] **any** person**, partner, member, or stockholder** not previously approved by the public health and health planning council for that [~~corporation~~] **operator** to [~~become the owner of~~] **own or control, directly or indirectly,** ten percent or more of the **interest,** stock**, or voting rights** of [~~a~~] **any partnership, limited liability company, 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.

[~~(c)~~] (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 developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions under this paragraph and has stated specific reasons for barring such transactions; or

(ii) an interest, stock, or voting rights of less than ten percent in the operator to any person, partner, member, or stockholder who has not

been previously approved by the public health and health planning council for that operator. However, no such transaction shall be effective unless at least ninety days prior to the intended effective date thereof, the [~~partner or member~~] operator 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 department to recommend and for the public health and health planning council to determine whether it should bar the transaction, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final [~~as of the intended effective date~~] upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council [~~shall state~~] has notified each party to the proposed transaction that it has barred such transactions under this paragraph and has stated specific reasons for barring such transactions [~~under this paragraph and shall notify each party to the proposed transaction~~].

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

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

2. [~~Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a licensed home care services agency or a certified home health agency, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person 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.

(iii) 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:

(A) 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 developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council

during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions under this paragraph and has stated specific reasons for barring such transactions; or

(B) an interest, stock, or voting rights of less than ten percent in the operator to any person, partner, member, or stockholder who has not been previously approved by the public health and health planning council 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 developed by the public health and health planning council, which shall disclose such information as may reasonably be necessary for the department to recommend and for the public health and health planning council to determine whether it should bar the transaction, and has fully responded to any request for additional information by the department acting on behalf of the public health and health planning council during the review period. Such transaction will be final upon completion of the review period, which shall be no longer than ninety days from the date the department receives a complete response to its final request for additional information, unless, prior thereto, the public health and health planning council has notified each party to the proposed transaction that it has barred such transactions under this paragraph and has stated specific reasons for barring such transactions.

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

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

§ 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 facili-

ty 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 indirectly owns, controls, or holds with the power to vote ten percent or more of the voting securities of a health care entity.

2. "Health care entity" shall include but not be limited to a physician practice or management services organization or similar entity providing all or substantially all administrative or management services under contract with one or more physician practice, provider-sponsored organization, health insurance plan, or any other kind of health care facility, organization or plan providing health care services in this state; provided, however, that a "health care entity" shall not include an insurer directly authorized to do business in this state, or a pharmacy benefit manager registered or licensed in this state. An "insurer" shall not include non-insurance subsidiaries and affiliated entities of insurance companies regulated under the insurance law or this chapter.

3. "Health equity" shall mean achieving the highest level of health for all people and shall entail focused efforts to address avoidable inequalities by equalizing those conditions for health for those that

have experienced injustices, socioeconomic disadvantages, and systemic disadvantages.

4. "Material transaction" shall mean:

(a) any of the following, occurring during a single transaction or in a series of related transactions, that take place within a time period and meet or exceed thresholds, as determined by the commissioner in regulation, for factors including but not limited to changes in revenue:

(i) a merger with a health care entity;

(ii) an acquisition of one or more health care entities, including but not limited to the assignment, sale, or other conveyance of assets, voting securities, membership, or partnership interest or the transfer of control;

(iii) an affiliation or contract formed between a health care entity and another person; or

(iv) the formation of a partnership, joint venture, accountable care organization, parent organization, or management services organization for the purpose of administering contracts with health plans, third-party administrators, pharmacy benefit managers, or health care providers as prescribed by the commissioner by regulation.

(b) "Material transaction" shall not include a clinical affiliation of health care entities formed for the purpose of collaborating on clinical trials or graduate medical education programs and shall not include any transaction that is already subject to review under article twenty-eight, thirty, thirty-six, forty, forty-six, forty-six-A, or forty-six-B of this chapter.

§ 4552. Review and oversight of material transactions. 1. The department shall have the authority to review and approve material transactions, which may be further defined by the commissioner in regulation, to assess such transactions' impact on cost, quality, access, health equity and competition in the health care service market.

2. In accordance with this article, and with the rules and regulations promulgated by the commissioner pursuant to section forty-five hundred fifty-six of this article, the department shall adopt criteria for the consideration of requests by health care entities to consummate a material transaction. The criteria shall include the factors listed in subdivision one of section forty-five hundred fifty-four of this article.

3. Nothing in this article shall limit or restrict the authority of the superintendent of financial services under article fifteen, sixteen, seventeen, forty-two, forty-three, seventy-one, or seventy-three of the insurance law, or regulations promulgated thereunder.

§ 4553. Notice of material transaction; requirements. 1. A health care entity shall not consummate a material transaction without obtaining approval from the department for such material transaction.

2. In order to obtain approval of a material transaction by the department, a health care entity shall submit to the department written notice and application, with supporting documentation as described below and further defined in regulation, which the department shall be in receipt of at least thirty days before the desired closing date of the transaction, in the form and manner prescribed by the department. Such written notice shall include, but not be limited to:

(a) The names of the parties to the proposed material transaction and their current addresses;

(b) Copies of any definitive agreements governing the terms of the material transaction, including pre- and post-closing conditions;

(c) Identification of all locations where health care services are currently provided by each party and the revenue generated in the state from such locations;

(d) Any plans to reduce or eliminate services and/or participation in specific plan networks;

(e) The desired closing date of the proposed material transaction;

(f) A brief description of the nature and purpose of the proposed material transaction, which will be used to inform the review under section forty-five hundred fifty-four of this article, including:

(i) the anticipated impact of the material transaction on cost, quality, access, health equity, and competition in the impacted markets, which may be supported by data and a formal market impact analysis; and

(ii) any commitments by the health care entity to address anticipated impacts; and

(g) a non-refundable application fee.

3. Except as provided in subdivision two of section forty-five hundred fifty-four of this article, supporting documentation as described in subdivision two of this section shall not be subject to disclosure under article six of the public officers law.

§ 4554. Material transaction review. 1. When reviewing a potential material transaction, the department may consider the following:

(a) Whether the parties to the transaction can demonstrate that the potential positive impacts of the material transaction outweigh the potential negative impacts related to factors such as:

(i) patient costs;

(ii) access to services;

(iii) health equity; and

(iv) health outcomes;

(b) Whether there is a substantial likelihood of anticompetitive effects from the transaction that outweigh the benefits of the transaction including by increasing or maintaining services to underserved populations or stabilizing the operations of the existing delivery system;

(c) The financial condition of the parties to the transaction;

(d) The character and competence of the parties or any officers or directors thereof;

(e) The source of the funds or assets for the transaction;

(f) The fairness of any exchange of shares, assets, cash, or other consideration for the shares or assets to be received; and

(g) Any other relevant information necessary to determine the impact of the material transaction.

2. If the department does not act on the application as described in subdivisions three and four of this section within thirty days of receipt of written notice and application as described in subdivision two of section forty-five hundred fifty-three of this article, then the transaction shall be deemed approved. During such thirty-day period, the department shall post in a manner determined by the department in regulation for public notice and public comment which may help to inform whether the department takes further actions as determined by this section. At a minimum, the public notice shall include:

(a) a summary of the proposed transaction;

(b) an explanation of the groups or individuals likely to be impacted by the transaction;

(c) information about services currently provided by the health care entity, commitments by the health care entity to continue such services and any services that will be reduced or eliminated; and

(d) details about how to submit comments, in a format that is easy to find and easy to read.

3. The department shall notify the parties to the transaction within thirty days of receipt of written notice and application as described in subdivision two of section forty-five hundred fifty-three of this article that it is withholding approval of the transaction if necessary to conduct a thorough examination and complete analysis of whether the transaction is consistent with the criteria established pursuant to subdivision four of section forty-five hundred fifty-two of this article, including the factors listed in subdivision one of this section.

(a) The department may request additional information from a health care entity that is a party to the material transaction and such entity shall promptly reply using the form of communication requested and such reply shall be affirmed as true and accurate under penalty of perjury by an officer of the entity, if required.

(b) A health care entity shall not refuse to provide documents or other information requested pursuant to this article on the grounds that such information is privileged or confidential.

(c) The department may retain actuaries, accountants or other professionals independent of the department as necessary to assist in conducting its analysis of a proposed material transaction. The department shall designate the party or parties to the material transaction that shall bear the cost of retaining such professionals.

(d) The department may take other actions to seek public input and otherwise engage the public before making a determination on the proposed material transaction.

4. (a) Unless the material transaction is approved pursuant to subdivision two of this section, the department shall issue a final order regarding the material transaction.

(b) If the department disapproves the material transaction or approves the material transaction subject to conditions, the department may notify the attorney general of the department's findings and analysis so that the attorney general may, if appropriate, conduct an investigation into whether the health care entities have engaged in unfair competition or anticompetitive behavior and, if necessary, take steps to protect consumers in the health care services market.

(c) Pursuant to this subdivision, the department shall have the authority to require undertakings as a condition of approving a material transaction, including but not limited to, investments in the communities affected by such material transaction, competition protections, and contributions to state-controlled funds, including the health care transformation fund pursuant to section ninety-two-hh of the state finance law, to preserve access or to otherwise mitigate the impact of the material transaction on the health care delivery system.

5. A health care entity that is a party to an approved material transaction shall notify the department upon closing of the transaction in the form and manner prescribed by the department.

§ 4555. Penalty for noncompliance; injunctive relief. 1. The department may impose a civil penalty in an amount of up to ten thousand dollars per day for any violation of this article. All fees, fines, and penalties derived from the operation of this article shall be paid to the department and shall be deposited in the health care transformation fund established pursuant to section ninety-two-hh of the state finance law.

2. The attorney general may apply to the supreme court within the judicial district in which a violation of this article is alleged to

have occurred for an order enjoining or restraining commission or continuance of the acts complained of. Thereupon the court shall have jurisdiction of the proceeding and shall have power to grant such temporary relief or restraining order as it deems just and proper. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if such order were not granted. The remedy provided by this section shall be in addition to any other remedy provided by law.

§ 4556. Rules and regulations. The department, in consultation with the department of financial services, may promulgate rules and regulations to implement the provisions of this article.

§ 4557. Separability. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the 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 the judgment shall have been rendered.

§ 6. Paragraph (b) of subdivision 7 of section 2802 of the public health law, as amended by section 87 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(b) At such time as the commissioner's written approval of the construction is granted, each applicant shall pay the following additional fee:

(i) for hospital, nursing home and diagnostic and treatment center applications that require approval by the council, the additional fee shall be [~~fifty-five~~] sixty hundredths of one percent of the total capital value of the application, provided however that applications for construction of a safety net diagnostic and treatment center, as defined in paragraph (c) of subdivision sixteen of section twenty-eight hundred one-a of this article, shall be subject to a fee of forty-five hundredths of one percent of the total capital value of the application; and

(ii) for hospital, nursing home and diagnostic and treatment center applications that do not require approval by the council, the additional fee shall be [~~thirty~~] thirty-five hundredths of one percent of the total capital value of the application, provided however that safety net diagnostic and treatment center applications, as defined in paragraph (c) of subdivision sixteen of section twenty-eight hundred one-a of this article, 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.

PART N

Section 1. Section 366 of the social services law is amended by adding a new subdivision 16 to read as follows:

16. (a) The commissioner of health is authorized to submit the appropriate waivers and/or any other required requests for federal approval, including but not limited to, those authorized in section eleven hundred fifteen of the federal social security act, in order to establish expanded medical assistance eligibility for working disabled individuals. Such waiver applications shall be executed consistent with paragraphs (b), (c), (d) and (e) of this subdivision, to the extent those sections comply with the requirements of section eleven hundred fifteen of the federal social security act. Notwithstanding subparagraphs five and six of paragraph (c) of subdivision one of this section and subdivision twelve of section three hundred sixty-seven-a of this title, or any other provision of law to the contrary, if granted such waiver, the commissioner of health may authorize eligible persons to receive medical assistance pursuant to the waiver if, for so long as, and to the extent that, financial participation is available therefor. The waiver applica-

tion shall provide for thirty thousand persons to be eligible to participate in such waiver.

(b) Individuals eligible for participation in such waiver shall:

(i) be a disabled individual, defined as having a medically determinable impairment of sufficient severity and duration to qualify for benefits under Titles II or XVI of the social security act;

(ii) be at least sixteen years of age;

(iii) be otherwise eligible for medical assistance benefits, but for earnings and/or resources in excess of the allowable limit;

(iv) have net available income, determined in accordance with subdivision two of this section, that does not exceed two thousand two hundred fifty percent of the applicable federal poverty line, as defined and updated by the United States department of health and human services;

(v) have resources, as defined in paragraph (e) of subdivision two of section three hundred sixty-six-c of this title, other than retirement accounts, that do not exceed three hundred thousand dollars;

(vi) contribute to the cost of medical assistance provided pursuant to this paragraph in accordance with paragraph (d) of this subdivision; and

(vii) meet such other criteria as may be established by the commissioner as may be necessary to administer the provisions of this subdivision in an equitable manner.

(c) An individual at least sixteen years of age who: is employed; ceases to be eligible for participation in such waiver pursuant to paragraph (b) of this subdivision because the person, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be certified as disabled under the social security act; continues to have a severe medically determinable impairment, to be determined in accordance with applicable federal regulations; and contributes to the cost of medical assistance provided pursuant to this paragraph in accordance with paragraph (d) of this subdivision, shall be eligible for participation in such waiver. For purposes of this paragraph, a person is considered to be employed if the person is earning at least the applicable minimum wage under section six of the federal fair labor standards act and working at least forty hours per month.

(d) Prior to receiving medical assistance pursuant to such waiver, a person whose net available income is greater than or equal to two hundred fifty percent of the applicable federal poverty line shall pay a monthly premium, in accordance with a procedure to be established by the commissioner. The amount of such premium for a person whose net available income is greater than or equal to two hundred fifty percent of the applicable federal poverty line, but less than three hundred percent of the applicable federal poverty line shall be three hundred and forty-seven dollars. The amount of such premium for a person whose net available income is greater than or equal to three hundred percent of the applicable federal poverty line, but less than four hundred percent of the applicable federal poverty line shall be five hundred eighteen dollars. The amount of such premium for a person whose net available income is greater than or equal to four hundred percent of the applicable federal poverty line, but less than five hundred percent of the applicable federal poverty line shall be seven hundred and seventy-nine dollars. The amount of such premium for a person whose net available income is equal to or greater than five hundred percent of the applicable federal poverty line shall be one thousand four hundred and forty-eight dollars. No premium shall be required from a person whose net

available income is less than two hundred fifty percent of the applicable federal poverty line.

(e) Notwithstanding any other provision of this section or any other law to the contrary, for purposes of determining medical assistance eligibility for persons specified in paragraph (b) or (c) of this subdivision, the income and resources of responsible relatives shall not be deemed available for as long as the person meets the criteria specified in this subdivision.

§ 2. This act shall take effect on January 1, 2025.

PART O

Section 1. Subdivisions 1, 15, 16, 17 and 18 of section 1399-aa of the public health law, subdivision 1 as amended by chapter 13 of the laws of 2003, subdivisions 15, 16, 17 and 18 as added by section 2 of part EE of chapter 56 of the laws of 2020, are amended and two new subdivisions 19 and 20 are added to read as follows:

1. "Enforcement officer" means the enforcement officer designated pursuant to article thirteen-E of this chapter to enforce such article and hold hearings pursuant thereto; provided that in a city with a population of more than one million it shall also mean an officer or employee or any agency of such city that is authorized to enforce any local law of such city related to the regulation of the sale of cigarettes, tobacco products, or vapor products to minors.

15. "Listed or non-discounted price" means the price listed for cigarettes, tobacco products, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] on their packages or any related shelving, posting, advertising or display at the location where the cigarettes, tobacco products, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] are sold or offered for sale, including all applicable taxes.

16. "Retail dealer" means a person licensed by the commissioner of taxation and finance to sell cigarettes, tobacco products, or vapor products [~~in this state~~], or a person or business required to obtain such license.

17. "Vapor products" means any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic [~~cigarette, including any~~] 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 of nicotine~~] for commercial purposes, or any agent or employee of such retail dealer, shall knowingly, in furtherance of such business:

(a) honor or accept a price reduction instrument in any transaction related to the sale of tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer;

(b) sell or offer for sale any tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer through any multi-package discount or otherwise provide to a consumer any tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] for less than the listed price or non-discounted price in exchange for the purchase of any other tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] by such consumer;

(c) sell, offer for sale, or otherwise provide any product other than a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer for less than the listed price or non-discounted price in exchange for the purchase of a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] by such consumer; or

(d) sell, offer for sale, or otherwise provide a tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to a consumer for less than the listed price or non-discounted price.

2. The prohibitions contained in subdivision one of this section shall not apply to the following locations:

(a) private social functions when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(b) conventions and trade shows; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(c) events sponsored by tobacco, vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarette manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one;

(d) bars as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter;

(e) tobacco businesses as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article;

(f) factories as defined in subdivision nine of section thirteen hundred ninety-nine-aa of this article and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of twenty-one.

3. No retail dealer shall distribute tobacco products, vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes at the locations set forth in paragraphs (b), (c) and (f) of subdivision two of this section unless such person gives five days written notice to the enforcement officer.

4. No retail dealer engaged in the business of selling or otherwise distributing [~~electronic cigarettes or~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any [~~electronic cigarettes~~] **vapor products** to any individual under twenty-one years of age.

5. The distribution of tobacco products, [~~electronic cigarettes,~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarettes pursuant to subdivision two of this section or the distribution without charge of [~~electronic cigarettes, or~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], shall be made only to an individual who demonstrates, through (a) a driver's license or non-driver 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, (b) a valid passport issued by the United States government or the govern-

ment of 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, [~~electronic cigarette,~~] vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], or herbal cigarette or the distribution without charge of [~~electronic cigarettes, or~~] vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine to an individual~~].

§ 3. The section heading and subdivisions 1, 2, 3, 4 and 7 of section 1399-cc of the public health law, the section heading, subdivisions 1 and 4 as amended by chapter 542 of the laws of 2014, subdivisions 2, 3 and 7 as amended by chapter 100 of the laws of 2019, are amended to read as follows:

Sale of tobacco products, herbal cigarettes, [~~liquid nicotine,~~] shisha, [~~rolling papers or~~] smoking paraphernalia**, or vapor products** to minors prohibited. 1. As used in this section:

(a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the bar code or magnetic strip of a driver's license or non-driver identification card issued by the state commissioner of motor vehicles;

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter;

(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;~~

~~(d)~~] "Transaction scan" means the process involving an automated bar code reader by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of [~~a~~] tobacco [~~product~~] **products, vapor products,** or herbal cigarettes pursuant to subdivision three of this section; and

[~~(e)~~] **(d)** "Liquid nicotine", "electronic liquid" or "e-liquid" means a liquid composed of nicotine and other chemicals, and which is sold as a 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 not be applicable in any civil or criminal proceeding, or in any other forum.

7. No 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 shall sell, permit to be sold, offer for sale or display for sale any tobacco product, **vapor product,** herbal cigarettes, [~~liquid nicotine,~~] **or** shisha [~~or electronic cigarettes~~] in any manner, unless such products and cigarettes are stored for sale (a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container; provided, however, such restriction shall not apply to tobacco businesses, as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article, and to places to which admission is restricted to persons twenty-one years of age or older.

§ 4. Section 1399-dd of the public health law, as amended by chapter 448 of the laws of 2012, subdivision (d) as amended by chapter 100 of the laws of 2019, is amended to read as follows:

§ 1399-dd. Sale of tobacco products, herbal cigarettes or [~~electronic cigarettes~~] **vapor products** in vending machines. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products, herbal cigarettes or [~~electronic cigarettes~~] **vapor products** unless such machine is located: (a) in a bar as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter, or the bar area of a food service establishment with a valid, on-premises full liquor license; (b) in a private club; (c) in a tobacco business as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article; or (d) in a place of employment which has an insignificant portion of its regular workforce comprised of people under the age of twenty-one years and only in such locations that are not accessible to the general public; provided, however, that in such locations the vending machine is located in plain view and under the direct supervision and control of the person in charge of the location or [~~his or her~~] **their** designated agent or employee.

§ 5. The section heading and subdivisions 1 and 2 of section 1399-dd-1 of the public health law, as added by section 13 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

Public display of tobacco **and vapor** product [~~and electronic cigarette~~] advertisements and smoking paraphernalia prohibited. 1. For purposes of this section[~~:~~

~~(a) "Advertisement"~~] **"advertisement"** means words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, which bear a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco **or vapor** product, [~~electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine~~], a trademark of a tobacco **or vapor** product, [~~electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or~~] a trade name associated exclusively with a tobacco **or vapor** product, [~~electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine~~] or to promote the use or sale of a tobacco **or vapor** product[~~, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine.~~

~~(b) "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment 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.

(b) Revocation. If the enforcement officer determines, after a hearing, that a retail dealer has violated this article four times within a three year time frame [~~he or she~~] **they** shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to revoke the dealer's registration for one year.

(c) Duration of points. Points assigned to a retail dealer's record shall be assessed for a period of thirty-six months beginning on the first day of the month following the assignment of points.

(d) Reinspection. Any retail dealer who is assigned points pursuant to paragraph (a) of this subdivision shall be reinspected at least two times a year by the enforcement officer until points assessed are removed from the retail dealer's record.

(e) Suspension. If the department determines that a retail dealer has accumulated three points or more, the department shall direct the commissioner of taxation and finance to suspend such dealer's registra-

tion for one year. The three points serving as the basis for a suspension shall be erased upon the completion of the one year penalty.

(f) Surcharge. A two hundred fifty dollar surcharge to be assessed for every violation will be made available to enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with this section.

4. (a) If the enforcement officer determines, after a hearing, that a retail dealer has violated this article while their registration was suspended pursuant to subdivision three of this section, [~~he or she~~] **the enforcement officer** shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to permanently revoke the dealer's registration and not permit the dealer to obtain a new registration.

(b) If the enforcement officer determines, after a hearing, that a vending machine operator has violated this article three times within a two year period, or four or more times cumulatively [~~he or she~~] **they** shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to suspend the vendor's registration for one year and not permit the vendor to obtain a new registration for such period.

§ 7. Subdivision 1 of section 1399-ff of the public health law, as amended by chapter 100 of the laws of 2019, is amended to read as follows:

1. Where a civil penalty for a particular incident has not been imposed or an enforcement action regarding an alleged violation for a particular incident is not pending under section thirteen hundred ninety-nine-ee of this article, a parent or guardian of a person under twenty-one years of age to whom tobacco products, herbal cigarettes [~~or electronic cigarettes~~]**, or vapor products** are sold or distributed in violation of this article may submit a complaint to an enforcement officer setting forth the name and address of the alleged violator, the date of the alleged violation, the name and address of the complainant and the person under twenty-one years of age, and a brief statement describing the alleged violation. The enforcement officer shall notify the alleged violator by certified or registered mail, return receipt requested, that a complaint has been submitted, and shall set a date, at least fifteen days after the mailing of such notice, for a hearing on the complaint. Such notice shall contain the information submitted by 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 personnel about the health risks associated with vapor product use and control measures to reduce the prevalence of vaping, particularly among persons less than twenty-one years of age. Such program shall include, but not be limited to, the creation of age-appropriate instructional tools and materials that may be used by all schools, and marketing and advertising materials to discourage [~~electronic cigarette~~] **vapor product** use.

§ 12. Subdivisions 1, 2 and 3 of section 1399-jj of the public health law, as amended by section 9 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1. The commissioner shall evaluate the effectiveness of the efforts by state and local governments to reduce the use of tobacco products and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] among minors and adults. The principal measurements of effectiveness shall include negative attitudes toward tobacco and vapor products[~~, intended or reasonably expected to be used~~

~~with or for the consumption of nicotine,~~] use and reduction of tobacco and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use among the general population, and given target populations.

2. The commissioner shall ensure that, to the extent practicable, the most current research findings regarding mechanisms to reduce and change attitudes toward tobacco and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use are used in tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] education programs administered by the department.

3. To diminish tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use among minors and adults, the commissioner shall ensure that, to the extent practicable, the following is achieved: The department shall conduct an independent evaluation of the statewide tobacco use prevention and control program under section thirteen hundred ninety-nine-ii of this article. The purpose of this evaluation is to direct the most efficient allocation of state resources devoted to tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine~~], education and cessation to accomplish the maximum prevention and reduction of tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use among minors and adults. Such evaluation shall be provided to the governor, the majority leader of the senate and the speaker of the assembly on or before September first, two thousand one, and annually on or before such date thereafter. The comprehensive evaluation design shall be guided by the following:

(a) sound evaluation principles including, to the extent feasible, elements of controlled experimental methods;

(b) an evaluation of the comparative effectiveness of individual program designs which shall be used in funding decisions and program modifications; and

(c) an evaluation of other programs identified by state agencies, local lead agencies, and federal agencies.

§ 13. The opening paragraph and subdivision 2 of section 1399-kk of the public health law, as amended by section 10 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

The commissioner shall submit to the governor and the legislature an interim tobacco control report and annual tobacco control reports which shall describe the extent of the use of tobacco products and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] by those under twenty-one years of age in the state and document the progress state and local governments have made in reducing such use among those under twenty-one years of age.

2. The commissioner shall submit to the governor and the legislature an annual tobacco and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] control report which shall describe the extent of the use of tobacco products and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] by those under twenty-one years of age in the state and document the progress state and local governments have made in reducing such use among those under twenty-one years of age. The annual report shall be submitted to the governor and the legislature on or before March thirty-first of each year beginning on March thirty-first, nineteen hundred ninety-nine. The annual report shall, to the extent

practicable, include the following information on a county by county basis:

(a) number of licensed and registered tobacco retailers and vendors and licensed vapor products dealers;

(b) the names and addresses of retailers and vendors who have paid fines, or have been otherwise penalized, due to enforcement actions;

(c) the number of complaints filed against licensed and registered tobacco retailers and licensed vapor products dealers;

(d) the number of fires caused or believed to be caused by tobacco products and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] and deaths and injuries resulting therefrom;

(e) the number and type of compliance checks conducted;

(f) a survey of attitudes and behaviors regarding tobacco use among those under twenty-one years of age. The initial such survey shall be deemed to constitute the baseline survey;

(g) the number of tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] users and estimated trends in tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use among those under twenty-one years of age;

(h) annual tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] sales;

(i) tax revenue collected from the sale of tobacco products and vapor products[~~, intended or reasonably expected to be used with or for the consumption of nicotine~~];

(j) the number of licensed tobacco retail outlets and licensed vapor products dealers;

(k) the number of cigarette vending machines;

(l) the number and type of compliance checks;

(m) the names of entities that have paid fines due to enforcement actions; and

(n) the number of complaints filed against licensed tobacco retail outlets and licensed vapor products dealers.

The annual tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] control report shall, to the extent practicable, include the following information:

(a) tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] control efforts sponsored by state government agencies including money spent to educate those under twenty-one years of age on the hazards of tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] use;

(b) recommendations for improving tobacco and vapor product[~~, intended or reasonably expected to be used with or for the consumption of nicotine,~~] control efforts in the state; and

(c) such other information as the commissioner deems appropriate.

§ 14. Subdivisions 1-a, 2, 3, 4, 5 and 6 of section 1399-ll of the public health law, subdivisions 2, 3, 4, 5 and 6 as amended and subdivision 1-a as added by section 3 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

1-a. It shall be unlawful for any person engaged in the business of selling vapor products to ship or cause to be shipped any vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to any person in this state who is not: (a) a person that receives a certificate of registration as a vapor products dealer under

article [~~twenty-eight-C~~] twenty-eight-C of the tax law; (b) an export warehouse proprietor pursuant to chapter 52 of the internal revenue code or an operator of a customs bonded warehouse pursuant to section 1311 or 1555 of title 19 of the United States Code; or (c) a person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state and presents [~~himself or herself~~] themself as such, when such person is acting in accordance with [~~his or her~~] their official duties. For purposes of this subdivision, a person is a licensed or registered agent or dealer described in paragraph (a) of this subdivision if [~~his or her~~] their name appears on a list of licensed or registered agents or vapor product dealers published by the department of taxation and finance, or if such person is licensed or registered as an agent or dealer under article [~~twenty-eight-C~~] twenty-eight-C of the tax law.

2. It shall be unlawful for any common or contract carrier to knowingly transport cigarettes to any person in this state reasonably believed by such carrier to be other than a person described in paragraph (a), (b) or (c) of subdivision one of this section. For purposes of the preceding sentence, if cigarettes are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in paragraph (a), (b) or (c) of subdivision one of this section. It shall be unlawful for any other person to knowingly transport cigarettes to any person in this state, other than to a person described in paragraph (a), (b) or (c) of subdivision one of this section. Nothing in this subdivision shall be construed to prohibit a person other than a common or contract carrier from transporting not more than eight hundred cigarettes at any one time to any person in this state. It shall be unlawful for any common or contract carrier to knowingly transport vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to any person in this state reasonably believed by such carrier to be other than a person described in paragraph (a), (b) or (c) of subdivision one-a of this section. For purposes of the preceding sentence, if vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in paragraph (a), (b) or (c) of subdivision one-a of this section. It shall be unlawful for any other person to knowingly transport vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] to any person in this state, other than to a person described in paragraph (a), (b) or (c) of subdivision one of this section. Nothing in this subdivision shall be construed to prohibit a person other than a common or contract carrier from transporting vapor products, provided that the amount of vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] shall not exceed the lesser of 500 milliliters, or a total nicotine content of 3 grams at any one time to any person in this state.

3. When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this state, other than in the cigarette manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes". When a person engaged in the business of selling vapor products ships or causes to be shipped any vapor products [~~intended or reasonably expected to be used with or for the consumption~~

~~of nicotine~~] to any person in this state, other than in the vapor products manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the words "vapor products".

4. Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four of section 2.10 of such law, acting pursuant to [~~his or her~~] **their** special duties, shall discover any cigarettes or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] which have been or which are being shipped or transported in violation of this section, such person is hereby empowered and authorized to seize and take possession of such cigarettes or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~], and such cigarettes or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] shall be subject to a forfeiture action pursuant to the procedures provided for in article thirteen-A of the civil practice law and rules, as if such article specifically provided for forfeiture of cigarettes or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] seized pursuant to this section as a pre-conviction forfeiture crime.

5. Any person who violates the provisions of subdivision one, one-a, or two of this section shall be guilty of a class A misdemeanor and for a second or subsequent violation shall be guilty of a class E felony. In addition to the criminal penalty, any person who violates the provisions of subdivision one, one-a, two or three of this section shall be subject to a civil penalty not to exceed the greater of (a) five thousand dollars for each such violation; (b) one hundred dollars for each pack of cigarettes shipped, caused to be shipped or transported in violation of such subdivision; or (c) one hundred dollars for each vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] shipped, caused to be shipped or transported in violation of such subdivision.

6. The attorney general may bring an action to recover the civil penalties provided by subdivision five of this section and for such other relief as may be deemed necessary. In addition, the corporation counsel of any political subdivision that imposes a tax on cigarettes or vapor products [~~intended or reasonably expected to used with or for the consumption of nicotine~~] may bring an action to recover the civil penalties provided by subdivision five of this section and for such other relief as may be deemed necessary with respect to any cigarettes or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine~~] shipped, caused to be shipped or transported in violation of this section to any person located within such political subdivision. All civil penalties obtained in any such action shall be retained by the state or political subdivision bringing such action, provided that no person shall be required to pay civil penalties to both the state and a political subdivision with respect to the same violation of this section.

§ 15. Paragraph (a) of subdivision 2 of section 1399-mm of the public health law, as added by chapter 549 of the laws of 2003, is amended to read as follows:

(a) The provisions of subdivision one of this section shall not apply to a tobacco business, as defined in **subdivision eight of** section thirteen hundred [~~ninety-nine-n~~] **ninety-nine-aa** of this [~~chapter~~] **article**.

§ 16. Section 1399-mm-1 of the public health law, as added by section 1 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

§ 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes of this section "flavored" shall mean any vapor **or tobacco** product [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] with a [~~distinguishable~~] taste [~~or~~], aroma**, or sensation, distinguishable by an ordinary consumer**, other than the taste or aroma of tobacco, imparted either prior to or during consumption of such product or a component part thereof, including but not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice, or any concept flavor that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor**, or a cooling or numbing sensation imparted during consumption of a tobacco or vapor product. This shall not include any product approved by the United States Food and Drug Administration as a drug or medical device**. A vapor **or tobacco** product [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] shall be presumed to be flavored if a product's **packaging or labeling, or if the product's** retailer, manufacturer, or a manufacturer's agent or employee**,** has made a statement or claim directed to consumers or the public, whether expressed or implied, that such product or device has a [~~distinguishable~~] taste [~~or~~], aroma**, or sensation, as distinguishable by the ordinary consumer,** other than the taste [~~or~~], aroma**, or sensation** of tobacco.

2. No vapor products dealer**, or retail dealer, or tobacco or vapor seller**, or any agent or employee of a vapor products dealer**, retail dealer, or a tobacco or vapor seller**, shall sell or offer for sale [~~at retail in the state~~]**, or exchange or offer for exchange, for any form of consideration,** any flavored vapor **or tobacco** product [~~intended or reasonably expected to be used with or for the consumption of nicotine~~]**, whether through retail or wholesale**.

3. **No vapor products dealer, retail dealer, or tobacco or vapor seller or any agent or employee of a vapor products dealer, retail dealer, or tobacco or vapor seller, acting in the capacity thereof, shall keep in inventory, store, stow, warehouse, process, package, ship, or distribute flavored vapor or tobacco products anywhere in, or adjacent to, a place of business where vapor or tobacco products are sold, offered for sale, exchanged, or offered for exchange, for any form of consideration, at retail.**

4. Any vapor products dealer**, retail dealer, or tobacco or vapor seller**, or any agent or employee of a vapor products dealer**, retail dealer, or tobacco or vapor seller**, who violates the provisions of this section shall be subject to a civil penalty of not more than one hundred dollars for each individual package of flavored vapor **or tobacco** product [~~intended or reasonably expected to be used with or for the consumption of nicotine sold or offered for sale, provided, however, that with respect to a manufacturer, it shall be an affirmative defense to a finding of violation pursuant to this section that such sale or offer of sale, as applicable, occurred without the knowledge, consent, authorization, or involvement, direct or indirect, of such manufacturer~~] **sold or offered for sale, or exchanged or offered for exchange, for any form of consideration, whether through retail or wholesale, or kept in inventory, stored, stowed, warehoused, processed, packaged, shipped, or distributed anywhere in, or adjacent to, a place of business where vapor**

or tobacco products are sold, offered for sale, exchanged, or offered for exchange, for any form of consideration, at retail. Violations of the provisions of this section shall be enforced pursuant to [~~section~~] sections thirteen hundred ninety-nine-ff and thirteen hundred ninety-nine-ee of this article, [~~except that any~~] provided, however, that violations of the provisions of this section may also be enforced by the commissioner. Any person may submit a complaint to an enforcement officer that a violation of this section has occurred.

[~~4. The provisions of this section shall not apply to any vapor products dealer, or any agent or employee of a vapor products dealer, who sells or offers for sale, or who possess with intent to sell or offer for sale, any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. Food and Drug Administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j(c) et seq.~~] 5. Nothing in this section shall be construed to penalize the purchase, use, or possession of a tobacco product or vapor product by any person not engaged as a vapor products dealer, retail dealer, tobacco or vapor seller, or any agent or employee of a vapor products dealer, retail dealer, or tobacco or vapor seller.

§ 17. Subdivision 1 of section 1399-mm-2 of the public health law, as added by section 1 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

1. No tobacco product, herbal cigarette, or vapor product [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] shall be sold in a pharmacy or in a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law. Provided, however, that such prohibition on the sale of tobacco products, herbal cigarettes, or vapor products [~~intended or reasonably expected to be used with or for the consumption of nicotine,~~] shall not apply to any other business that owns or leases premises within any building or other facility that also contains a pharmacy or a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law.

§ 18. Subdivision 1 of section 1399-mm-3 of the public health law, as added by section 1 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

1. For the purposes of this section "carrier oils" shall mean any ingredient of a vapor product intended to control the consistency or other physical characteristics of such vapor product, to control the consistency or other physical characteristics of vapor, or to facilitate the production of vapor when such vapor product is used in an electronic [~~cigarette~~] device. "Carrier oils" shall not include 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.

§ 19. This act shall take effect September 1, 2023.

PART P

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

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

2. The commissioner shall enter into an agreement with the president of the dormitory authority of the state of New York pursuant to section sixteen hundred eighty-r of the public authorities law, which shall apply to this agreement, subject to the approval of the director of the division of the budget, for the purposes of the distribution and administration of available funds pursuant to such agreement, and made available pursuant to this section and appropriation. Such funds may be awarded and distributed by the department for grants to health care providers including but not limited to, hospitals, residential health care facilities, adult care facilities licensed under title two of article seven of the social services law, diagnostic and treatment centers licensed or granted an operating certificate under this chapter, clinics, including but not limited to those licensed or granted an operating certificate under this chapter or the mental hygiene law, children's residential treatment facilities licensed under article thirty-one of the mental hygiene law, assisted living programs approved by the department pursuant to section four hundred sixty-one-l of the social services law, behavioral health facilities licensed or granted an operating certificate pursuant to articles thirty-one and thirty-two of the mental hygiene law, home care providers certified or licensed under article thirty-six of this chapter, primary care providers, hospices licensed or granted an operating certificate pursuant to article forty of this chapter, community-based programs funded under the office of mental health, the office of addiction services and supports, the office for people with developmental disabilities, or through local governmental units as defined under article forty-one of the mental hygiene law, independent practice associations or organizations, and residential facilities or day program facilities licensed or granted an operating certificate under article sixteen of the mental hygiene law. A copy of such agreement, and any amendments thereto, shall be provided by the department to the chair of the senate finance committee, the chair of the assembly ways and means committee, and the director of the division of the budget no later than thirty days after such agreement is finalized. Projects awarded, in whole or part, under sections twenty-eight hundred twenty-five-a and twenty-eight hundred twenty-five-b of this article shall not be eligible for grants or awards made available under this section.

3. Notwithstanding section one hundred sixty-three of the state finance law, sections one hundred forty-two and one hundred forty-three of the economic development law, or any inconsistent provision of law to the contrary, up to five hundred million dollars of the funds appropriated for this program shall be awarded, without a competitive bid or request for proposal process, for grants to health care providers, as defined in subdivision two of this section. Awards made pursuant to this subdivision shall provide funding only for capital projects, to the extent lawful appropriation and funding is available, to build innovative, patient-centered models of care, increase access to care, to improve the quality of care and to ensure financial sustainability of health care providers.

4. Notwithstanding section one hundred sixty-three of the state finance law, sections one hundred forty-two and one hundred forty-three of the economic development law, or any inconsistent provision of law to the contrary, up to five hundred million dollars of the funds appropriated for this program shall be awarded, without a competitive bid or request for proposal process, for technological and telehealth transformation projects.

5. Selection of awards made by the department pursuant to subdivisions three and four of this section shall be contingent on an evaluation process acceptable to the commissioner and approved by the director of the division of the budget. Disbursement of awards may be contingent on the health care provider as defined in subdivision two of this section achieving certain process and performance metrics and milestones that are structured to ensure that the goals of the project are achieved.

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

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

PART Q

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

(kk) community health worker services for children under age twenty-one, and for adults with health-related social needs, when such services are recommended by a physician or other health care practitioner authorized under title eight of the education law, and provided by qualified community health workers, as determined by the commissioner of health; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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) arthritis self-management training services for persons diagnosed with osteoarthritis 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, 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 healthcare 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 and with final approval of the department, shall create an emergency medical services system and agency performance standards (hereinafter referred to as "performance standards") for the purpose of sustaining and evolving a reliable emergency medical services system including but not limited to emergency medical services agencies and any facility or agency that dispatches or accepts emergency medical services resources.

2. The performance standards may include but shall not be limited to: safety initiatives, emergency vehicle operations, operational competencies, planning, training, onboarding, workforce development and engagement, survey responses, leadership and other standards and metrics as determined by the state emergency medical services council, with approval of the department, to promote positive patient outcomes, safety, provider retention and emergency medical services system sustainability throughout the state.

3. The performance standards shall require each emergency medical services agency, dispatch agency or facility that accepts emergency medical services resources to perform regular and periodic review of the performance standards and its metrics, perform surveys, identification

of agency deficiencies and strengths, development of programs to improve agency metrics, strengthen system sustainability and operations, and improve the delivery of patient care.

4. The department, after consultation with the state emergency medical services council, may contract for services with subject matter experts to assist in the oversight of the performance standards statewide.

5. Emergency medical services agencies that do not meet the performance standards set forth in this section may be subject to enforcement actions, including but not limited to revocation, suspension, performance improvement plans, or restriction from specific types of response including but not limited to suspension of ability to respond to requests for emergency medical assistance or to perform emergency medical services.

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

§ 3018. Statewide comprehensive emergency medical service system plan.

1. The state emergency medical services council, in collaboration and with final approval of the department, shall develop and maintain a statewide comprehensive emergency medical service system plan that shall provide for a coordinated emergency medical services system in New York state, including but not limited to:

(a) establishing a comprehensive statewide emergency medical service system, consisting of facilities, transportation, workforce, communications, and other components, to improve the delivery of emergency medical services and thereby decrease morbidity, hospitalization, disability, and mortality;

(b) improving the accessibility of high-quality emergency medical service;

(c) coordinating professional medical organizations, hospitals, and other public and private agencies in developing alternative delivery models whereby persons who are presently using the existing emergency department for routine, nonurgent, and primary medical care will be served appropriately; and

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

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

3. Each regional emergency medical services council shall develop and maintain a comprehensive regional emergency medical service system plan or adopt the statewide comprehensive emergency medical service system plan, to provide for a coordinated emergency medical service system within the region. Such plans shall be written in a format approved by the state emergency medical services council. Further, such plans shall be subject to review and approval by the state emergency medical services council and final approval by the department.

4. Each county shall develop and maintain a comprehensive county emergency medical service system plan that shall provide for a coordinated emergency medical service system within the county, to provide essential emergency medical services for all residents within the county. Such plan shall be written in a format approved by the state emergency

medical services council. The county office of emergency medical services shall be responsible for the development, implementation, and maintenance of the comprehensive county emergency medical service system plan. Such plans, as determined by the department and the state emergency medical services council, may require review and approval by the regional emergency medical services council, the state emergency medical services council and the department. Such plan shall outline the primary responding emergency medical services agency for requests for service for each part of the county.

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

§ 3019. Emergency medical service training programs. 1. The state emergency medical services council shall make recommendations to the department for the department to implement standards related to the establishment of training programs for emergency medical service systems that includes but is not limited to students, emergency medical service practitioners, emergency medical services agencies, approved educational institutions, geographic areas, facilities, and personnel, and the commissioner shall fund such training programs in full or in part based on state appropriations. Until such time as the department announces the standards for training programs pursuant to this section, all current standards, curriculums, and requirements for students, emergency medical service practitioners, agencies, facilities, and personnel shall remain in effect.

2. The state emergency medical services council, with final approval of the department, shall establish minimum education standards, curriculums, performance metrics and requirements for all emergency medical system educational institutions. No person or educational institution shall profess to provide emergency medical services training without meeting the requirements set forth in regulation and only after approval of the department and in the geographical area determined by the department.

3. The department is authorized to provide, either directly or through contract, for local or statewide initiatives, emergency medical system training for emergency medical service practitioners and emergency medical services agency personnel, using funding including but not limited to allocations to aid to localities for emergency medical services training.

4. The department may visit and inspect any emergency medical system training program or training center operating under this article to ensure compliance with all applicable regulations and standards. The department may request the state or regional emergency medical services council's assistance to ensure the compliance, maintenance, and coordination of training programs. The department, in consultation with the state emergency medical services council, may set standards and regulations for emergency medical services educational institutions. Emergency medical services educational institutions that fail to meet applicable standards and regulations may be subject to enforcement action, including but not limited to revocation, suspension, performance improvement plans, or restriction from specific types of education.

5. Students of an emergency medical services educational institution authorized pursuant to this section, shall be considered emergency medical services students and subject to the standards established in this article, regulations promulgated pursuant to this article and all applicable standards, as if they were a licensed emergency medical services practitioner and may be subject to enforcement action as such.

§ 7. Section 3012 of the public health law is amended by adding a new subdivision 5 to read as follows:

5. It shall be a violation of this chapter, subject to civil penalties, for any person to hold themselves out as an emergency medical services practitioner who is not designated by the department pursuant to this article or otherwise lawfully authorized, to provide emergency medical services, or to attempt to become an emergency medical practitioner in an unlawful or unethical manner.

§ 8. The public health law is amended by adding a new section 3020 to read as follows:

§ 3020. Recruitment and retention. 1. The commissioner shall establish and fund within amounts appropriated, a public service campaign to recruit additional personnel into the emergency medical system fields.

2. The commissioner shall establish and fund within amounts appropriated an emergency medical system mental health and wellness program that provides resources to emergency medical service practitioners.

3. The commissioner may establish in regulation standards for the licensure of emergency medical services practitioners by the department of health.

4. The department, with the approval of the state emergency medical services council, may create or adopt additional standards, training, and criteria to become an emergency medical service practitioner credentialed to provide specialized, advanced, or other services that further support or advance the emergency medical system. The department, with approval of the state emergency medical services council may also set standards and requirements to require specialized credentials to perform certain functions in the emergency medical services system.

5. The department, with approval of the state emergency medical services council may also set standards for emergency medical system agencies to become accredited in a specific area to increase system performance and agency recognition.

§ 9. Section 3008 of the public health law is REPEALED and a new section 3008 is added to read as follows:

§ 3008. Applications for new or modified operating authority. 1. Every application for new or modified operating authority shall be made in writing to the state emergency medical services council and shall specify the primary territory within which the applicant requests to operate, be verified under oath, and shall be in such form and contain such information as required by the rules and regulations promulgated pursuant to this article.

2. Notice of the application shall be forwarded to the appropriate regional emergency medical services council.

3. All determinations of new or modified operating authority shall be made by the state emergency medical services council and shall be consistent with the state emergency medical system plan, once established pursuant to section three thousand eighteen of this article. The department may promulgate regulations to provide for standards for evaluation of new or modified operating authority, and the process for determination of operating authority shall be approved by the state emergency medical services council and carried out thereafter.

4. The state emergency medical services council may create a new committee to hear and make determinations on all requests for new or modified operating authority. Such committee shall be comprised of one state emergency medical council member from each regional emergency medical services council.

5. If the state emergency medical services council proposes to disapprove an application under this section, it shall afford the applicant an opportunity to request a public hearing. The state emergency medical services council may hold a public hearing on the application on its own motion. Any public hearing held pursuant to this subdivision may be conducted by the state emergency medical services council, or by any individual designated by the state emergency medical services council.

6. Notwithstanding the provisions of subdivisions one and three of this section, during an emergency the commissioner may waive the requirement for a determination of operating authority and issue a temporary emergency medical system agency certificate.

7. Notwithstanding the provisions of subdivisions one and three of this section, the commissioner may waive the requirement for a determination of operating authority and issue a municipality, special taxing district, government agency or Native American tribal council, an emergency medical system agency certificate, provided the issuance of such certificate is financially supported by the municipality, special taxing district, government agency or Native American tribal council.

§ 10. Section 3032 of the public health law is REPEALED.

§ 11. The public health law is amended by adding six new sections 3032, 3033, 3034, 3035, 3036 and 3037 to read as follows:

§ 3032. Mobile integrated healthcare. 1. "Mobile integrated healthcare" means the provision of patient-centered mobile resources which includes a well-organized system of services to address healthcare gaps and decrease demand on portions of the healthcare system identified by a community needs assessment, integrated into the local healthcare system working in a collaborative manner as a patient care team that may include, but not limited to, physicians, mid-level practitioners, nurses, home care agencies, emergency medical services practitioners, emergency medical services agencies and other community health team colleagues, to meet the needs of the community.

2. Emergency medical service agencies may establish a mobile integrated healthcare program, provided they meet all standards established by the department, that the delivery of such services in full or in part will not decrease the agency's ability to respond to requests for emergency assistance and the agency receives express approval from the department. The department may revoke or suspend an emergency medical service agency's approval to provide a mobile integrated healthcare program if the department finds that one or more standards established by the department have not been met. The department, in collaboration with the state emergency medical services council, shall establish criteria and standards for the operation of mobile integrated healthcare programs and mobile integrated healthcare programs shall adhere to such criteria and standards.

3. Notwithstanding sections sixty-five hundred twenty-one and sixty-nine hundred two of the education law, an emergency medical services practitioner, licensed pursuant to this article, shall be authorized to administer immunizations pursuant to a patient specific or non-patient specific standing regimen ordered by a licensed physician and pursuant to protocols adopted by the state emergency medical services council and any standards established by the department.

4. Notwithstanding sections sixty-five hundred twenty-one and sixty-nine hundred two of the education law, an emergency medical services practitioner, licensed pursuant to this article, may be authorized by the department to administer buprenorphine pursuant to a non-patient specific standing regimen ordered by a licensed physician and pursuant

to protocols adopted by the state emergency medical services council and any standards established by the department.

§ 3033. Regional emergency medical service district. 1. A "regional emergency medical service district" means a special district as defined in subdivision sixteen of section one hundred two of the real property tax law created for the purpose of ensuring the essential services of emergency medical care, coordinating the emergency medical system within the district and providing when needed emergency medical services on a regional basis either directly or through contract with but not limited to towns, counties, municipalities, licensed ambulance and first response agencies, air medical providers and others as determined by the district council. There shall be ten regional service districts which will correspond to economic development regions as established in section two hundred thirty of the economic development law that are established in all areas of the state and operate under the direction of the department.

2. A group of five emergency medical service providers in each region, with nominations made from anyone in the district and appointment by the commissioner, shall act as a council to direct the operations of the emergency medical services system in their region. No less than one member of the council shall be a licensed physician who is board certified in emergency medicine or emergency medical services and has experience working with emergency medical services organizations, unless otherwise determined by the commissioner. The department shall establish term limits in regulation.

3. An emergency medical service practitioner, nominated by the regional emergency medical service district council and appointed by the commissioner, shall be the regional emergency medical service district director and shall be charged with carrying out the administration of the regional emergency medical service district when the council is not in session.

4. A physician board certified in emergency medicine or emergency medical services and who has experience working with emergency medical services organizations, nominated by the regional emergency medical service district council and appointed by the commissioner, shall be the regional emergency medical services medical director. The regional emergency medical services medical director shall report to the district director or their designee, and shall be charged with providing medical direction oversight and quality assurance to the regional emergency medical service district.

5. The regional emergency medical services districts shall operate under the direction and oversight of the department to ensure the emergency medical services system is reliable, sustainable and provides quality care to the residents, commuters and visitors of the district.

§ 3034. State emergency medical services task force. 1. The department shall develop a state emergency medical services (EMS) task force, operated by the department, that may coordinate and operate resources that are needed around the state in situations such as but not limited to a disaster, large event, specialized response, community need, or other need as determined by the commissioner.

2. The state EMS task force shall be made up of non-government and government agencies, that are licensed to provide emergency medical services in the state including but not limited to commercial agencies, nonprofits, fire departments and third services.

3. The department will allocate funds to effectuate the delivery of the state EMS task force that will allow for contracting with licensed

emergency medical services agencies, the purchase of specialized response equipment, staff to carry out the daily functions of the state EMS task force either directly or by contract and other functions as determined by the department.

4. The state emergency medical services council shall make recommendations to the department to effectuate the development and delivery of care by the state EMS task force.

5. The state EMS task force shall have the authority to operate throughout New York state or outside of the state with prior permission of the commissioner. Notwithstanding any law to the contrary, contracts let by the state EMS task force shall be exempt from sections one hundred twelve and one hundred sixty-three of the state finance law.

§ 3035. Demonstration projects. The department, in consultation with the state emergency medical services council, may allow demonstration projects related to the emergency medical system. Such demonstration projects may allow for waivers of certain parts of this article, article thirty-A of this chapter, and applicable regulations, provided the demonstration project meets any applicable standards set forth by the department.

§ 3036. Emergency medical system support services. The commissioner may promulgate regulations, with the approval of the state emergency medical services council, to set standards and criteria for basic life support first response agencies, emergency medical dispatch, and special event services, to strengthen the emergency medical service system. These organizations shall not be required to meet the standards set for determination of operating authority as outlined in section three thousand eight of this article unless otherwise determined by the state emergency medical services council and approved by the department.

§ 3037. Rules and regulations. The commissioner, upon approval of the state emergency medical services council, may promulgate rules and regulations to effectuate the purposes of this article.

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

11. A certified nurse practitioner may prescribe and order a non-patient specific regimen to an emergency medical services practitioner licensed by the department of health pursuant to article thirty of the public health law, pursuant to regulations promulgated by the commissioner, 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.

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

11. A licensed physician may prescribe and order a non-patient specific regimen to an emergency medical services practitioner licensed by the department of health pursuant to article thirty of the public health law, pursuant to regulations promulgated by the commissioner, 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.

§ 14. This act shall take effect immediately; provided, however, that section 3033 of the public health law, as added by section eleven of this act, shall take effect on the ninetieth day after it shall have become a law.

PART T

Section 1. The public health law is amended by adding a new section 1377 to read as follows:

§ 1377. State rental registry and proactive inspections to identify lead hazards. 1. The department shall develop a registry for all residential dwellings with two or more units built prior to nineteen hundred eighty which, by virtue of their municipal zoning designation, are potentially eligible for rental, lease, let or hiring out, and are located within communities of concern as identified by the department. Such registry shall only include qualifying residential dwellings outside New York city.

2. All residential dwellings qualifying for registration in accord with this section must be certified as free of lead paint hazards based on inspections conducted on a tri-annual basis. Inspection certifications must be submitted to the local health department or their designee for recording in the rental registry.

3. The commissioner shall promulgate regulations as needed to administer, coordinate, and enforce this section, including the establishment of fines to be levied in the event of non-compliance with the requirements of this section.

4. Inspection requirements shall be based on regulation and guidance from the department and may include qualifications for inspectors, minimum requirements of a compliant inspection and a process for reporting inspection results to local health departments. Minimum inspection requirements may include visual inspections for deteriorated paint and outdoor soil conditions, as well as the collection of dust wipe samples obtained in accordance with United States Environmental Protection Agency protocols for such procedures.

5. Remediation of lead-based paint hazards must be conducted in compliance with all municipal requirements and specific requirements specified in regulation.

§ 2. Paragraphs h and i of subdivision 1 of section 381 of the executive law, as added by chapter 560 of the laws of 2010, are amended and a new paragraph j is added to read as follows:

h. minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the state energy 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[~~.~~]**; 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 in ending their pregnancy within this state, or procuring or aiding in the procurement of an abortion within this state.

2. Any person or entity that is headquartered or incorporated in New York that provides electronic communications services to the general public, when served with a warrant issued by another state to produce records that would reveal the identity of the customers using those services, data stored by or on behalf of the customers, the customers' usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall not produce those records when the corporation knows or should know that the warrant relates to an investigation into, or enforcement of, a prohibited violation.

3. Any person or entity that is headquartered or incorporated in New York may comply with a warrant as described in subdivision two of this section if the warrant is accompanied by an attestation made by the entity seeking the records that the evidence sought is not related to an investigation into, or enforcement of, a prohibited violation.

4. The attorney general may commence a civil action to compel any corporation headquartered or incorporated in New York that provides

electronic communications services or remote computing services to the general public to comply with the provisions of this section.

§ 2. The general business law is amended by adding a new section 394-g to read as follows:

§ 394-g. Geofencing of health care facilities. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Digital advertisement" means any communication delivered by electronic means that is intended to be used for the purposes of marketing, solicitation, or dissemination of information related, directly or indirectly, to goods or services provided by the digital advertiser or a third party.

b. "Geofencing" means a technology that uses global positioning system coordinates, cell tower connectivity, cellular data, radio frequency identification, Wi-Fi data and/or any other form of location detection, to establish a virtual boundary or "geofence" around a particular location that allows a digital advertiser to track the location of an individual user and electronically deliver targeted digital advertisements directly to such user's mobile device upon such user's entry into the geofenced area.

c. "Health care facility" means any governmental or private agency, department, institution, clinic, laboratory, hospital, physician's office, nursing care facility, health maintenance organization, association or other similar entity that provides medical care or related services pursuant to the provisions of the public health law or the mental hygiene law, including the building or structure in which the facility is located.

d. "User" means a natural person who owns or uses a mobile device or any other connected electronic device capable of receiving digital advertisements.

2. It shall be unlawful for any person, corporation, partnership, or association to establish a geofence or similar virtual boundary around any health care facility, as defined pursuant to paragraph c of subdivision one of this section, for the purpose of delivering by electronic means a digital advertisement to a user at or within such health care facility, and it shall be unlawful for any person, corporation, partnership, or association to deliver by electronic means any digital advertisement 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 therapy shall not be required to pay an administrative fee. Such patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. This paragraph shall not apply to dedicated emergency contraceptive drugs classified as over-the-counter products by the federal Food and Drug Administration.

(d) For each emergency contraceptive drug therapy or self-administered hormonal contraceptive initiated pursuant to this subdivision, the pharmacist shall provide the recipient of the drug with a standardized factsheet that includes, but is not limited to, the indications and contraindications for use of the drug, the appropriate method for using the drug, the need for medical follow-up, and other appropriate information. The board of pharmacy shall develop this form in consultation with the department of health. This section does not preclude the use of existing publications developed by nationally recognized medical organizations.

§ 2. This act shall take effect immediately.

PART W

Section 1. Subdivision 7-a of section 6527 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

7-a. A licensed physician may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, 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**. A licensed physician may also prescribe and order a patient specific or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the 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**.

§ 2. Subdivision 8 of section 6909 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

8. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, 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**. A certified nurse practitioner may also prescribe and order a patient specific or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the 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**.

§ 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 phar-

macist 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 care facility or** a nursing home with an on-site pharmacy staffed by a licensed pharmacist **or any facility as defined in section twenty-eight hundred one of the public health law or other entity that provides direct patient care under the auspices of a medical director**; provided, however, for the purposes of this section the term "facility" shall not include dental clinics, dental dispensaries, [~~residential health care facilities~~] and rehabilitation centers.

For the purposes of this section, [~~a "teaching hospital" shall mean a hospital licensed pursuant to article twenty-eight of the public health law that is eligible to receive direct or indirect graduate medical education payments pursuant to article twenty-eight of the public health law~~] **a "practice" shall mean a place or situation in which physicians, and nurse practitioners either alone or in group practices provide diagnostic and treatment care for patients**.

e. [~~"Physician"~~] **"Physician or nurse practitioner"** shall mean the physician **or nurse practitioner** selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient for the disease and associated disease states that are the subject of the collaborative drug therapy management.

f. "Written agreement or protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that addresses a specific disease or associated disease states and that describes the nature and scope of collaborative drug therapy management to be undertaken by the pharmacists, in collaboration with the participating physician, nurse practitioner or facility in accordance with the provisions of this section.

2. a. A pharmacist who meets the experience requirements of paragraph b of this subdivision and who is [~~employed by or otherwise affiliated with a facility~~] certified by the department to engage in collaborative drug therapy management and who is either employed by or otherwise affiliated with a facility or is participating with a practicing physician or nurse practitioner shall be permitted to enter into a written agreement or protocol with a physician, or nurse practitioner or facility authorizing collaborative drug therapy management, subject to the limitations set forth in this section, within the scope of such employment [~~or~~], affiliation or participation. Only pharmacists so certified may engage in collaborative drug therapy management as defined in this section.

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~~] 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, the physician or nurse practitioner and the pharmacist who are parties to a written agreement or protocol authorizing collaborative drug therapy management shall be employed by or be otherwise affiliated with the facility.**

4. Participation in a written agreement or protocol authorizing collaborative drug therapy management shall be voluntary, and no patient, physician, **nurse practitioner,** 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.~~]

§ 10. Section 6601 of the education law, as amended by chapter 576 of the laws of 2001, is amended to read as follows:

§ 6601. Definition of practice of dentistry. The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in

conjunction with the provision of dental treatment. **The practice of dentistry may also include ordering and administering HIV and hepatitis C screening tests or diagnostic tests authorized by the Food and Drug Administration (FDA) and subject to certificate of waiver requirements established pursuant to the federal clinical laboratory improvement act of nineteen hundred eighty-eight.**

§ 11. Subdivision 4 of section 6909 of the education law is amended by adding four new paragraphs (i), (j), (k) and (l) to read as follows:

(i) the ordering of asthma self-management education and home-based asthma services.

(j) the urgent or emergency treatment of asthma.

(k) providing stool tests to screen for colorectal cancer.

(l) the ordering of diabetes self-management education and support.

§ 12. Subdivision 6 of section 6527 of the education law is amended by adding four new paragraphs (i), (j), (k) and (l) to read as follows:

(i) the ordering of asthma self-management education and home-based asthma services.

(j) the urgent or emergency treatment of asthma.

(k) providing stool tests to screen for colorectal cancer.

(l) the ordering of diabetes self-management education and support.

§ 13. Section 6801 of the education law is amended by adding a new subdivision 12 to read as follows:

12. A licensed pharmacist within their lawful scope of practice may order diabetes self-management education and support and asthma self-management education and home-based asthma services for patients, and any other services authorized in regulation by the commissioner in collaboration with the commissioner of health.

§ 14. Paragraph (q) of subdivision 2 of section 365-a of the social services law, as amended by section 35 of part B of chapter 58 of the laws of 2010, is amended to read as follows:

(q) diabetes self-management training services for persons diagnosed with diabetes when such services are ordered by a physician, registered physician assistant, registered nurse practitioner, **licensed pharmacist** or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health, who is certified as a diabetes educator by the National Certification Board for Diabetes Educators, or a successor national certification board, or provided by such a professional who is affiliated with a program certified by the American Diabetes Association, the American Association of Diabetes Educators, the Indian Health Services, or any other national accreditation organization approved by the federal centers for medicare and medicaid services; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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.

§ 15. Paragraph (r) of subdivision 2 of section 365-a of the social services law, as added by section 32 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(r) asthma self-management training services for persons diagnosed with asthma when such services are ordered by a physician, registered physician's assistant, registered nurse practitioner, **registered professional nurse, licensed pharmacist** or licensed midwife and provided by a licensed, registered, or certified health care professional, as

determined by the commissioner of health, who is certified as an asthma educator by the National Asthma Educator Certification Board, or a successor national certification board; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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.

§ 16. Paragraph (v) of subdivision 2 of section 365-a of the social services law, as added by section 4 of part B of chapter 58 of the laws of 2010, is amended to read as follows:

(v) **ordering and** administration of vaccinations [~~in a pharmacy~~]**, medications, self-management education, and home-based services** by a [~~certified~~] **licensed** pharmacist within [~~his or her~~] **their** scope of practice.

§ 17. Section 6542 of the education law, as amended by chapter 48 of the laws of 2012, subdivisions 3 and 5 as amended by section 1 of part T of chapter 57 of the laws of 2013, is amended to read as follows:

§ 6542. Performance of medical services. 1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are within the scope of practice of such supervising physician **unless otherwise permitted by this section**.

1-a. A physician assistant may practice without the supervision of a physician under the following circumstances:

a. Where the physician assistant, licensed under section sixty-five hundred forty-one of this article has practiced for more than eight thousand hours and:

(i) is practicing in primary care. For purposes of this paragraph, "primary care" shall mean non-surgical care in the fields of general pediatrics, general adult medicine, general geriatric medicine, general internal medicine, obstetrics and gynecology, family medicine, or such 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 practitioners so employed shall be duly licensed pursuant to applicable law.

§ 22. Subdivision 5 of section 6810 of the education law, as added by chapter 881 of the laws of 1972, is amended to read as follows:

5. Records of all prescriptions filled or refilled shall be maintained for a period of at least five years and upon request made available for inspection and copying by a representative of the department. Such records shall indicate date of filling or refilling, [~~doctor's~~] **prescriber's** name, patient's name and address and the name or initials of the pharmacist who prepared, compounded, or dispensed the prescription. Records of prescriptions for controlled substances shall be maintained pursuant to requirements of article thirty-three of the public health law.

§ 23. Subdivision 27 of section 3302 of the public health law, as amended by chapter 92 of the laws of 2021, is amended to read as follows:

27. "Practitioner" means:

A physician, **physician assistant,** dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating

to such substances, as is permitted by [~~his~~] **their** license, permit or otherwise permitted by law.

§ 24. Paragraph b of subdivision 2 of section 6908 of the education law, as added by chapter 471 of the laws of 2016, is amended to read as follows:

b. provide that advanced tasks performed by advanced home health aides may be performed only under the [~~direct~~] supervision of a registered professional nurse licensed in New York state, as set forth in this subdivision and subdivision eight of section sixty-nine hundred nine of this article, where such nurse is employed by a home care services agency licensed or certified pursuant to article thirty-six of the public health law, a hospice program certified pursuant to article forty of the public health law, or an enhanced assisted living residence licensed pursuant to article seven of the social services law and certified pursuant to article forty-six-B of the public health law. Such nursing supervision shall:

(i) include training and periodic assessment of the performance of advanced tasks;

(ii) be determined by the registered professional nurse responsible for supervising such advanced tasks based upon the complexity of such advanced tasks, the skill and experience of the advanced home health aide, and the health status of the individual for whom such advanced tasks are being performed;

(iii) include a comprehensive initial and thereafter regular and ongoing assessment of the individual's needs;

(iv) include as a requirement that the supervising registered professional nurse shall visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides [~~no less than once every two weeks~~] and include as a requirement that a registered professional nurse shall be available by telephone to the advanced home health aide twenty-four hours a day, seven days a week, provided that a registered professional nurse shall be available to visit an individual receiving services as necessary to protect the health and safety of such individual; and

(v) as shall be specified by the commissioner, be provided in a manner that takes into account individual care needs, case mix complexity and geographic considerations and provide that the number of individuals served by a supervising registered professional nurse is reasonable and prudent.

§ 25. Subparagraph (i) of paragraph (c) of subdivision 8 of section 6909 of the education law, as added by chapter 471 of the laws of 2016, is amended to read as follows:

(i) visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides [~~no less than once every two weeks~~]; and

§ 26. Subdivision (b) of section 12 of 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, is amended to read as follows:

b. this act shall expire and be deemed repealed March 31, [~~2023~~] **2029**.

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

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

a. specify the medication-related tasks that may be performed by certified medication aides pursuant to this subdivision. Such tasks shall include the administration of medications which are routine and pre-filled or otherwise packaged in a manner that promotes relative ease of administration, provided that administration of medications by injection, sterile procedures, and central line maintenance shall be prohibited. Provided, however, such prohibition shall not apply to injections of insulin or other injections for diabetes care, to injections of low molecular weight heparin, and to pre-filled auto-injections of naloxone and epinephrine for emergency purposes, and provided, further, that entities employing certified medication aides pursuant to this subdivision shall establish a systematic approach to address drug diversion;

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

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

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

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

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

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

e. provide that only a certified nurse aide may perform medication-related tasks as a certified medication aide when such aide has:

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

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

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

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

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

(vi) completed the requisite training and demonstrated competencies of a certified medication aide as determined by the commissioner in consultation with the commissioner of health;

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

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

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

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

h. provide that a certified medication aide shall not be authorized to perform any medication-related tasks or activities pursuant to this subdivision that are outside the scope of practice of a licensed practical nurse or any medication-related tasks that have not been appropriately assigned by the supervising registered professional nurse;

i. provide that a certified medication aide shall document all medication-related tasks provided to an individual, including medication administration to each individual through the use of a medication administration record; and

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

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

11. A registered professional nurse, while working for a residential health care facility licensed pursuant to article twenty-eight of the public health law, may, in accordance with this subdivision, assign certified medication aides to perform medication-related tasks for individuals pursuant to the provisions of subdivision three of section sixty-nine hundred eight of this article and supervise certified medication 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. "Bylaws" means those bylaws established by the interstate commission pursuant to section eighty-eight hundred seventy-one of this article for its governance, or for directing and controlling its actions and conduct.

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

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

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

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

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

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

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

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

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

11. "Physician" means any person who:

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

(b) Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

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

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

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

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

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

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

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

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

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

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

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

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

2. A physician who does not meet the requirements of subdivision eleven of section eighty-eight hundred sixty-two of this article may obtain

a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

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

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

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

(c) the location of the physician's employer, or

(d) if no state qualifies under paragraph (a), (b), or (c) of this subdivision, the state designated as state of residence for purpose of federal income tax.

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

3. The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

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

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

(a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

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

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

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

4. After receiving verification of eligibility under subdivision two of this section and any fees under subdivision three of this section, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issu-

ing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

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

6. An expedited license obtained though the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

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

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

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

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

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

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

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

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

2. Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

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

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

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

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

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

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

3. Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

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

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

6. All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

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

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

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

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

4. Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

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

§ 8870. Disciplinary actions. 1. Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice 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 election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

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

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

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

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

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

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

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

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

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

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

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

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

11. The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

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

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

1. Oversee and maintain the administration of the compact;

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

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

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

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

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

7. Establish and maintain one or more offices;

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

9. Purchase and maintain insurance and bonds;

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

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

12. Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

13. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed;

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

15. Establish a budget and make expenditures;

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

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

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

19. Maintain records in accordance with the bylaws;

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

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

§ 8873. Finance powers. 1. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

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

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

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

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

2. The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

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

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

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

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

(b) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

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

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

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

3. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable

law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

§ 8876. Oversight of interstate compact. 1. The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

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

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

§ 8877. Enforcement of interstate compact. 1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

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

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

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

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

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

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

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the compact shall terminate on the effective date of termi-

nation. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

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

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

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

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

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

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

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

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

2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

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

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

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

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

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

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

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

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

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

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

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

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

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

3. Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

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

2. All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

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

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

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

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

ARTICLE 170

NURSE LICENSURE COMPACT

Section 8900. Nurse licensure compact.
8901. Findings and declaration of purpose.
8902. Definitions.
8903. General provisions and jurisdiction.
8904. Applications for licensure in a party state.
8905. Additional authorities invested in party state licensing boards.

8906. Coordinated licensure information system and exchange of information.
8907. Establishment of the interstate commission of nurse licensure compact administrators.
8908. Rulemaking.
8909. Oversight, dispute resolution and enforcement.
8910. Effective date, withdrawal and amendment.
8911. Construction and severability.

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

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

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

b. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

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

d. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. "Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

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

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

f. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

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

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

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

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

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

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

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

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

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

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

§ 8903. General provisions and jurisdiction. 1. General provisions and jurisdiction. a. A multistate license to practice registered or licensed

practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

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

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

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

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

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

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

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

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

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

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

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

ix. Is not currently enrolled in an alternative program;

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

xi. Has a valid United States social security number.

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

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

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

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

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

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

§ 8904. Applications for licensure in a party state. 1. Applications for licensure in a party state. a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

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

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

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

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

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

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

a. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

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

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

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

c. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action or actions and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

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

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

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

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

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

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

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

b. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

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

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

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

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

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

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

i. Identifying information;

ii. Licensure data;

iii. Information related to alternative program participation; and

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

i. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

§ 8907. Establishment of the interstate commission of nurse licensure compact administrators. 1. Commission of nurse licensure compact administrators. The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators. The commission is an instrumentality of the party states.

2. Venue. Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to

the extent it adopts or consents to participate in alternative dispute resolution proceedings.

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

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

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

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

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

5. Closed meetings. a. The commission may convene in a closed, nonpublic meeting if the commission shall discuss:

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

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

iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

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

b. If a meeting, or portion of a meeting, is closed pursuant to this paragraph the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal,

subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

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

i. Establishing the fiscal year of the commission;

ii. Providing reasonable standards and procedures:

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

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

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

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

v. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission; and

vi. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

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

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

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

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

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

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

c. To purchase and maintain insurance and bonds;

d. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

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

f. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

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

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

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

j. To establish a budget and make expenditures;

k. To borrow money;

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

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

n. To adopt and use an official seal; and

o. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

8. Financing of the commission. a. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

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

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

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

9. Qualified immunity, defense and indemnification. a. The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of the commission's employment, duties or responsibilities; provided that nothing in this paragraph

shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

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

c. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of the commission's employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of the commission's employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

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

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

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

i. On the website of the commission; and

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

b. The notice of proposed rulemaking shall include:

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

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

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

iv. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

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

3. Public hearings on rules. a. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

b. The commission shall publish the place, time and date of the scheduled public hearing.

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

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

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

d. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 8910. Effective date, withdrawal and amendment. 1. Effective date. a. This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or the effective date of the chapter of the laws of two thousand twenty-three that enacted this compact. Thereafter, the compact shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. All party states to this compact, that also were parties to the prior nurse licensure compact, superseded by this compact, (herein referred to as "prior compact"), shall be deemed to have withdrawn from said prior compact within six months after the effective date of this compact.

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

2. Withdrawal. a. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

b. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

c. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

3. Amendment. a. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

b. Representatives of non-party states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

§ 8911. Construction and severability. 1. Construction and severability. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held to be invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

§ 32. Section 6501 of the education law is amended by adding a new subdivision 3 to read as follows:

3. a. an applicant for licensure in a qualified high-need healthcare profession who provides documentation and attestation that he or she holds a license in good standing from another state, may request the issuance of a temporary practice permit, which, if granted will permit

the applicant to work under the supervision of a New York state licensee in accordance with regulations of the commissioner. The department may grant such temporary practice permit when it appears based on the application and supporting documentation received that the applicant will meet the requirements for licensure in this state because he or she has provided documentation and attestation that they hold a license in good standing from another state with significantly comparable licensure requirements to those of this state, except the department has not been able to secure direct source verification of the applicant's underlying credentials (e.g., license verification, receipt of original transcript, experience verification). Such permit shall be valid for six months or until ten days after notification that the applicant does not meet the qualifications for licensure. An additional six months may be granted upon a determination by the department that the applicant is expected to qualify for the full license upon receipt of the remaining direct source verification documents requested by the department in such time period and that the delay in providing the necessary documentation for full licensure was due to extenuating circumstances which the applicant could not avoid.

b. a temporary practice permit issued under paragraph a of this subdivision shall be subject to the full disciplinary and regulatory authority of the board of regents and the department, pursuant to this title, as if such authorization were a professional license issued under this article.

c. for purposes of this subdivision "high-need healthcare profession" means a licensed healthcare profession of which there are an insufficient number of licensees to serve in the state or a region of the state, as determined by the commissioner of health, in consultation with the commissioner of education. The commissioner of health shall maintain a list of such licensed professions, which shall be posted online and updated from time to time as warranted.

§ 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.

5. "Nurse" means a registered professional nurse, or a licensed practical nurse as defined by article one hundred thirty-nine of the education law.

6. "Direct care worker" means an employee who is responsible for patient/resident handling or patient/resident assessment as a regular or incidental part of their employment, including any licensed or unlicensed health care worker.

7. "Person" means an individual, firm, corporation, partnership, or association.

8. "Temporary health care services agency" or "agency" means a person, firm, corporation, partnership, association or other entity in the business of providing or procuring temporary employment of health care personnel for health care entities. Temporary health care services agency shall include a nurses' registry licensed under article eleven of the general business law and entities that utilize apps or other technology-based solutions to provide or procure temporary employment of health care personnel in health care entities. Temporary health care services agency shall not include: (a) an individual who only engages in providing the individual's own services on a temporary basis to health care entities; or (b) a home care agency licensed under article thirty-six of this chapter.

§ 2999-jj. Registration of temporary health care services agencies; requirements. 1. Any person who operates a temporary health care

services agency shall register the agency with the department. Each separate location of the business of a temporary health care services agency shall have a separate registration.

2. The commissioner shall publish guidelines establishing the forms and procedures for applications for registration. Forms must include, at a minimum all of the following:

(a) The names and addresses of the temporary health care services agency controlling person or persons.

(b) The names and addresses of health care entities where the controlling person or persons or their family members:

(i) have an ownership relationship; or

(ii) direct the management or policies of such health care entities.

(c) A demonstration that the applicant is of good moral character and able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage under the registration.

(d) Registration and registration annual renewal fees of one thousand dollars and may only be used for the purpose of operating this registry.

(e) The state of incorporation of the agency.

(f) Any additional information that the commissioner determines is necessary to properly evaluate an application for registration.

3. As a condition of registration, a temporary health care services agency:

(a) Shall document that each temporary employee provided to health care entities currently meets the minimum licensing, training, and continuing education standards for the position in which the employee will be working.

(b) Shall comply with all pertinent requirements and qualifications for personnel employed in health care entities.

(c) Shall not restrict in any manner the employment opportunities of its employees.

(d) Shall maintain insurance coverage for workers' compensation and disability coverage for all health care personnel provided or procured by the agency.

(e) Shall not require the payment of liquidated damages, employment fees, or other compensation should the employee be hired as a permanent employee of a health care entity in any contract with any employee or health care entity or otherwise.

(f) Shall document that each temporary employee provided to health care entities is jointly employed by the agency and the entity and is not an independent contractor.

(g) Shall retain all records of employment for six calendar years and make them available to the department upon request.

(h) Shall comply with any requests made by the department to examine the books and records of the agency, subpoena witnesses and documents and make such other investigation as is necessary in the event that the department has reason to believe that the books or records do not accurately reflect the financial condition or financial transactions of the agency.

(i) Shall comply with any additional requirements the department may deem necessary.

4. A registration issued by the commissioner according to this section shall be effective for a period of one year, unless the registration is revoked or suspended, or unless ownership interest of ten percent or more, or management of the temporary health care services agency, is sold or transferred. When ownership interest of ten percent or more, or management of a temporary health care services agency is sold or trans-

ferred, the registration of the agency may be transferred to the new owner or operator for thirty days, or until the new owner or operator applies and is granted or denied a new registration, whichever is sooner.

5. The commissioner may, after appropriate notice and hearing, suspend, revoke, or refuse to issue or renew any registration or issue any fines established pursuant to section twenty-nine hundred ninety-nine-ll of this article if the applicant fails to comply with this article or any guidelines, rules and regulations promulgated thereunder.

6. The commissioner shall make available a list of temporary health care services agencies registered with the department on the department's public website.

7. The department shall publish a quarterly report containing aggregated and de-identified data collected pursuant to this article on the website of the department.

8. The department, in consultation with the department of labor, shall provide a report to the governor and legislature on or before March thirty-first, two thousand twenty-four, summarizing the key findings of the data collected pursuant to this article. The department shall further have authority to utilize any data collected pursuant to this article for additional purposes consistent with this chapter, including but not limited to determinations of whether an acute labor shortage exists, or any other purpose the department deems necessary for health care related data purposes.

9. The attorney general shall, upon the request of the department, bring an action for an injunction against any person who violates any provision of this article; provided, the department shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such action.

§ 2999-kk. Temporary health care services agencies; minimum standards. 1. A temporary health care services agency shall appoint an administrator qualified by training, experience or education to operate the agency. Each separate agency location shall have its own administrator.

2. A temporary health care services agency shall develop and maintain written employment policies and procedures. The agency shall inform its employees of the terms and conditions of employment by that agency at the time of hire, as well as no less than annually thereafter.

3. A temporary health care services agency shall maintain hours of operation at each of its locations sufficient to meet the obligations under its written agreements with health care entities.

4. A temporary health care services agency shall maintain a written agreement or contract with each health care entity, which shall include, at a minimum:

(a) The required minimum licensing, training, and continuing education requirements for each assigned health care personnel.

(b) Any requirement for minimum advance notice in order to ensure prompt arrival of assigned health care personnel.

(c) The maximum rates that can be billed or charged by the temporary health care services agency pursuant to section twenty-nine hundred ninety-nine-mm of this article and any applicable regulations.

(d) The rates to be charged by the temporary health care services agency.

(e) Procedures for the investigation and resolution of complaints about the performance of temporary health care services agency personnel.

(f) Procedures for notice from health care entities of failure of medical personnel to report to assignments and for back-up staff in such instances.

(g) Procedures for notice of actual or suspected abuse, theft, tampering or other diversion of controlled substances by medical personnel.

(h) The types and qualifications of health care personnel available for assignment through the temporary health care services agency.

5. A temporary health care services agency shall submit to the department copies of all contracts between the agency and a health care entity to which it assigns or refers health care personnel, and copies of all invoices to health care entities personnel. Executed contracts must be sent to the department within five business days of their effective date and are not subject to disclosure under article six of the public officers law.

6. The commissioner may promulgate regulations to implement the requirements of this section and to establish additional minimum standards for the operation of temporary health care services agencies, including but not limited to pricing, fees, administrative costs, and business practices.

7. The commissioner may waive the requirements of this article during a declared state or federal public health emergency.

§ 2999-ll. Violations; penalties. In addition to other remedies available by law, violations of the provisions of this article and any regulations promulgated thereunder shall be subject to penalties and fines pursuant to section twelve of this chapter; provided, however, that each violation committed by each individual employee of a temporary health care services agency shall be considered a separate violation.

§ 2999-mm. Rates for temporary health care services; reports. A temporary health care services agency shall report quarterly to the department a full disclosure of charges and compensation, including a schedule of all hourly bill rates per category of employee, a full description of administrative charges, and a schedule of rates of all compensation per category of employee, including, but not limited to:

1. hourly regular pay rate, shift differential, weekend differential, hazard pay, charge nurse add-on, overtime, holiday pay, travel or mileage pay, and any health or other fringe benefits provided;

2. the percentage of health care entity dollars that the agency expended on temporary personnel wages and benefits compared to the temporary health care services agency's profits and other administrative costs;

3. a list of the states and zip codes of their employees' primary residences;

4. the names of all health care entities they have contracted within New York state;

5. the number of employees of the temporary health care services agency working at each entity; and

6. any other information prescribed by the commissioner.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023.

PART Y

Section 1. This Part enacts into law major components of legislation relating to medical debt and drug prices. Each component is wholly contained within a Subpart identified as Subparts A through D. The effective date for each particular provision contained within such

Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Subdivisions (f) and (j) of section 3215 of the civil practice law and rules, subdivision (f) as amended and subdivision (j) as added by chapter 593 of the laws of 2021, subdivision (f) as separately amended by chapter 831 of the laws of 2021, are amended to read as follows:

(f) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316 of this chapter, and proof of the facts constituting the claim, the default and the amount due, including, if applicable, a statement that the interest rate for consumer debt pursuant to section five thousand four of this chapter applies, by affidavit made by the party, or where the state of New York is the plaintiff, by affidavit made by an attorney from the office of the attorney general who has or obtains knowledge of such facts through review of state records or otherwise. Where a verified complaint has been served, it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or the party's attorney. In an action arising out of a consumer credit transaction, if the plaintiff is not the original creditor, the applicant shall include: (1) an affidavit by the original creditor of the facts constituting the debt, the default in payment, the sale or assignment of the debt, and the amount due at the time of sale or assignment; (2) for each subsequent assignment or sale of the debt to another entity, an affidavit of sale of the debt by the debt seller, completed by the seller or assignor; and (3) an affidavit of a witness of the plaintiff, which includes a chain of title of the debt, completed by the plaintiff or plaintiff's witness. **In an action arising from medical debt, if the plaintiff is not a hospital licensed under article twenty-eight of the public health law or a health care professional authorized under title eight of the education law, the applicant shall include: (1) an affidavit by the hospital or health care professional of the facts constituting the medical debt, the default in payment, the sale or assignment of the medical debt, and the amount due at the time of sale or assignment; (2) for each subsequent assignment or sale of the medical debt to another entity, an affidavit of sale of the medical debt by the debt seller, completed by the seller or assignor; and (3) an affidavit of a witness of the plaintiff, which includes a chain of title of the medical debt, completed by the plaintiff or plaintiff's witness.** The chief administrative judge shall issue form affidavits to satisfy the requirements of this subdivision for consumer credit transactions **and actions arising from medical debt**. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing

the notice required by subdivision (g) of this section, where applicable, shall also be filed.

(j) Affidavit. A request for a default judgment entered by the clerk, must be accompanied by an affidavit by the plaintiff or plaintiff's attorney stating that after reasonable inquiry, he or she has reason to believe that the statute of limitations has not expired. The chief administrative judge shall issue form affidavits to satisfy the requirements of this subdivision for consumer credit transactions **and actions arising from medical debt**.

§ 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (cc) to read as follows:

(cc) Make available form affidavits required for a motion for default judgment in an action arising from medical debt as required by subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART B

Section 1. This act shall be known and may be cited as the "Prescription Drug Price and Supply Chain Transparency Act of 2023".

§ 2. Legislative intent. The state has a compelling interest in providing for transparency into the price of prescription drugs and the regulation of entities that play a role in the distribution of prescription drugs in this state. The impact of ever rising prescription drug costs impacts consumers in this state both at the pharmacy counter and in health plan premium costs. Prescription drug costs also have direct costs to the state fiscal, health insurance companies, pharmacies, pharmacy benefit managers, hospitals, employers, and unions.

§ 3. The insurance law is amended by adding a new article 30 to read as follows:

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 to levy a civil penalty, after notice and hearing, against such person not to exceed one thousand dollars per day for each day beyond the date specified by the superintendent for response to the inquiry.

(c) In addition to all other powers granted by law, the superintendent is hereby empowered to order any person or entity required to register or report information under this article to cease and desist from violations of this article and following issuance of such an order may bring and maintain an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of this article or of the superintendent's orders or regulations, such action may specifically seek restitution on behalf of persons aggrieved by a violation of this article or orders or regulations of the superintendent.

(d) In addition to all other powers granted by law, whenever it shall appear to the superintendent, either upon complaint or otherwise, that in the course of its business within or from this state that any entity shall have employed, or employs, or is about to employ any business practice or shall have performed, or is performing, or is about to perform any act in violation of this article or orders or regulations of the superintendent, or the superintendent believes it to be in the public interest that an investigation be made, the superintendent may,

in the superintendent's discretion, either require or permit such entity or any agent or employee thereof, to file with the department a statement in writing under oath or otherwise as to all the facts and circumstances concerning the subject matter that the superintendent believes is in the public interest to investigate, and for that purpose may prescribe forms upon which such statements shall be made. The superintendent may also require such other data and information as the superintendent may deem relevant and may make such special and independent investigations as the superintendent may deem necessary in connection with the matter. It shall be the duty of all public officers, their deputies, assistants, subordinates, clerks or employees and all other persons to render and furnish to the superintendent, when requested in connection with an investigation under this subsection, all information and assistance in their possession or within their power.

(e) Any entity who violates an order under subsection (c) or (d) of this section shall be subject to a civil penalty, after notice and a hearing, of not more than ten thousand dollars per act in violation, in addition to any other penalty provided by law.

(f) Any communications or documents sent or received in connection with an investigation under this article, and materials referring to such information in the possession of the superintendent shall be confidential and not subject to disclosure by the superintendent except where and as the superintendent determines that disclosure is in the public interest. This subsection shall not apply to information, documents and materials in the possession and under the control of an entity other than the superintendent.

§ 3004. Reporting of drug price increases. (a)(1) No manufacturer or wholesaler may charge any price for a drug based on an increase in wholesale acquisition cost, average wholesale price, or any other metric unless the manufacturer shall first report the price to the department.

(2) No entity may sell or distribute in this state any drug for which a report was required to be made under this subsection until such report is made.

(b) The report required by subsection (a) of this section shall be made in a form and manner prescribed by the superintendent, shall be made individually for each national drug code, and shall include the following:

(1) the name or names of the drug;

(2) the national drug code for the drug;

(3) the price of the drug prior to the increase;

(4) the price of the drug following the increase;

(5) the effective date of the increase;

(6) the date on which the decision was made to increase the price; and

(7) the reason and justification for the increase.

(c) Not later than May first, two thousand twenty-five, the department shall begin publishing reports received under this section on a publicly accessible online database, which is searchable at least by manufacturer name, drug name, and national drug code. Reports shall be posted not later than fifteen business days after they are received and shall remain on the database for not less than one hundred eighty days after the effective date of the increase or the first date the report is posted, whichever is later, provided, however, that the superintendent may delay the posting of a report if posting within fifteen business days of receipt is not feasible.

(d) Notwithstanding any law to the contrary, the information contained in paragraphs six and seven of subsection (b) of this section or any

statement required under subsection (g) of this section, together with any communications, documents, and materials referring to such information in the possession of the superintendent, shall be confidential and not subject to disclosure by the superintendent, except where the superintendent determines that disclosure is in the public interest. This subsection shall not apply to information, documents and materials in the possession and under the control of an entity other than the superintendent.

(e) No report shall be considered validly filed unless accompanied by a filing fee in an amount set forth in this subsection.

(1) For any report involving an increase that will not take effect for one hundred twenty days or more and for which the effective date of the change is between the first of January and the thirty-first of January and:

(A) for which the increase will result in a change of less than ten percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be twenty-five dollars;

(B) for which the increase will result in a change of less than twenty-five percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be twenty-five dollars;

(C) for which the increase will result in a change of less than fifty percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be two hundred fifty dollars; or

(D) for which the increase will result in a change of fifty percent or greater per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be one thousand dollars.

(2) For any report involving an increase that will not take effect for one hundred twenty days or more and for which the effective date is outside of the month of January and:

(A) for which the increase will result in a change of less than ten percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be two thousand five hundred dollars;

(B) for which the increase will result in a change of less than twenty-five percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be five thousand dollars;

(C) for which the increase will result in a change of less than fifty percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be seven thousand five hundred dollars; or

(D) for which the increase will result in a change of fifty percent or greater per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be ten thousand dollars.

(3) For any report involving an increase that will take effect in less than one hundred twenty days and for which the effective date of the change is between the first of January and the thirty-first of January and:

(A) for which the increase will result in a change of less than ten percent per unit over the price of the same drug three hundred sixty-

five days before the effective date of the change, the fee shall be two thousand five hundred dollars;

(B) for which the increase will result in a change of less than twenty-five percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be five thousand dollars;

(C) for which the increase will result in a change of less than fifty percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be seven thousand five hundred dollars; or

(D) for which the increase will result in a change of fifty percent or greater per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be ten thousand dollars.

(4) For any report involving an increase that will take effect in less than one hundred twenty days and for which the effective date of the change is outside of the month of January and:

(A) for which the increase will result in a change of less than ten percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be twenty-five thousand dollars;

(B) for which the increase will result in a change of less than twenty-five percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be fifty thousand dollars;

(C) for which the increase will result in a change of less than fifty percent per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be seventy-five thousand dollars; or

(D) for which the increase will result in a change of fifty percent or greater per unit over the price of the same drug three hundred sixty-five days before the effective date of the change, the fee shall be one hundred thousand dollars.

(5) For any report made after the effective date of the change, the fee shall be one hundred thousand dollars plus ten thousand dollars for each day after the effective date before the report is made.

(f) After notice and a hearing, the superintendent may impose a civil penalty on any entity that violates subsection (a) of this section in an amount not to exceed one million dollars per violation. In considering the amount of any such civil penalty, the superintendent shall consider:

(1) the timing of the increase;

(2) the cost of the drug;

(3) the impact on consumers;

(4) whether such violation is a first offense; and

(5) remedial measures the entity has put in place to prevent future violations.

(g) Whenever a report is made involving an increase that will take effect in less than one hundred twenty days, the manufacturer of the drug shall provide to the superintendent a statement of the reason that the increase must take effect in less than one hundred twenty days. When the superintendent believes it is in the public interest that an investigation be made, the superintendent may make independent and special investigations into the matter as the superintendent deems appropriate.

§ 3005. Reporting of pay for delay agreements. (a) Each manufacturer doing business in this state that manufactures a brand name prescription drug and enters into an arrangement, through agreement or otherwise,

with another pharmaceutical manufacturer that has the purpose or effect of delaying or preventing such other manufacturer from introducing a generic substitute for such drug into the marketplace shall, not later than thirty days after entering into such arrangement, send notice to the superintendent, in a form and manner prescribed by the superintendent, disclosing the name of such drug, the wholesale price, the disease or diseases such drug is commonly prescribed to treat, the manufacturer of such drug, the name of the generic manufacturer, the length of the delay, and such other information as the superintendent may require.

(b) The superintendent shall, no later than thirty days after receiving a notice pursuant to subsection (a) of this section, provide notice of the filing to the drug accountability board, the drug utilization review board established under section three hundred sixty-nine-bb of the social services law and all Medicaid managed care plans, health plans and pharmacy benefits managers. It shall be sufficient notice for the superintendent to make available an email notification list to which any of the aforementioned entities may elect to receive notice.

(c) No later than June first, two thousand twenty-four, the department shall post on its website within thirty days of receipt thereof, all the notices required pursuant to subsection (a) of this section in a format and manner developed by the superintendent that is searchable by drug, cost, disease, and manufacturer both for the brand and generic drug for public review.

(d) Each notice required under subsection (a) of this section shall be accompanied by a filing fee of one hundred dollars.

(e) For a violation by a manufacturer of a brand name drug who knowingly or negligently fails to notify the superintendent as required in subsection (a) of this section, the superintendent shall fine such manufacturer no less than five thousand dollars for each day such manufacturer fails to properly notify the superintendent pursuant to the requirements of this section for the first violation and no less than ten thousand dollars for each day such manufacturer fails to properly notify the superintendent pursuant to the requirements of this section for each violation thereafter.

§ 3006. Registration of pharmacy services administrative organizations. (a) No PSAO shall operate in this state after March thirty-first, two thousand twenty-four without first registering with the department.

(b) A PSAO seeking registration shall file, in a form and manner determined by the superintendent, information that includes at a minimum:

(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 with which the entity provides services;

(5) the persons who exercise control of the entity;

(6) a primary point of contact for the entity;

(7) an agent for service of process;

(8) a set of audited financials for the prior fiscal year; and

(9) such other information as the superintendent shall require.

(c) The superintendent shall accept a registration only if the superintendent determines that all the required information has been provided in a satisfactory form and has received payment of a nonrefundable registration fee of five thousand dollars.

(d) If any of the information contained in the registration shall change, the PSAO shall notify the department of the change in a form and manner prescribed by the superintendent for such purpose within twenty-one days of the change. The requirement to update shall include the filing of a new set of audited financials upon adoption. For any change other than new audited financials, the filing shall not be deemed complete unless accompanied by a payment of a fee of fifty dollars.

(e) Every PSAO registration issued pursuant to this section shall expire twelve months after the date of issue. A PSAO may renew its registration for another twelve months upon the filing of an application in conformity with this section.

(f) Before a PSAO registration shall be renewed, the PSAO shall file an application for renewal in such form as the superintendent prescribes, and pay a fee of five thousand dollars.

(g) If a PSAO files a renewal application with the superintendent at least one month before its expiration, then the registration sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal registration applied for or until five days after the superintendent shall have refused to issue such renewal registration and given notice of such refusal to the applicant, otherwise the PSAO registration shall expire and the registrant shall have no expectation of renewal.

§ 3007. Required disclosures by pharmacy services administrative organizations. (a) (1) Each PSAO shall at the time of registration pursuant to section three thousand six of this article disclose to the department the extent of any ownership or control of the PSAO or by the PSAO of any parent company, subsidiary, or affiliate that:

(A) provides pharmacy services;

(B) provides prescription drug or device services; or

(C) manufactures, sells, or distributes prescription drugs, biologicals, or medical devices.

(2) A PSAO shall furnish a copy of the disclosure made at the time of registration to all pharmacies located in this state with which it has contract in place at the time of the registration. A PSAO shall not collect any fee for any services provided to a pharmacy for any period beginning five days after the filing of a registration with the department 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;

(7) an agent for service of process;

(8) a set of audited financials for the prior fiscal year; and

(9) such other information or documents as the superintendent shall require.

(c) The superintendent shall accept a registration only if he or she deems that all the required information has been provided in a satisfactory form and has received payment of a nonrefundable registration fee of one thousand dollars.

(d) If any of the information contained in the registration shall change, the switch company shall notify the department of the change in a form and manner prescribed by the superintendent for such purpose within twenty-one days of the change. The requirement to update shall include the filing of a new set of audited financials upon adoption. For any change other than new audited financials, the filing shall not be deemed complete unless accompanied by a payment of a fee of fifty dollars.

(e) Every pharmacy switch company's registration shall expire twelve months after the date of issue. Every registration issued pursuant to

this section may be renewed for the ensuing period of twelve months upon the filing of an application in conformity with this subsection.

(f) Before a pharmacy switch company's registration shall be renewed, the pharmacy switch company shall properly file in the office of the superintendent an application for renewal in such form as the superintendent prescribes, and pay a fee of one thousand dollars.

(g) If an application for a renewal registration shall have been filed with the superintendent at least one month before its expiration, then the registration sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal registration applied for or until five days after the superintendent shall have refused to issue such renewal registration and given notice of such refusal to the applicant, otherwise the registration shall expire and the registrant shall have no expectation of renewal.

§ 3009. Required disclosures by pharmacy switch companies. (a) Each switch company shall annually disclose to the department, in a form and manner prescribed by the superintendent, such information as the superintendent deems necessary for the proper supervision of the industry. Such information shall include:

(1) a list of services the switch company provides and the industries to which they are provided;

(2) information on electronic voucher services provided by the switch company, including:

(A) a list of manufacturers that the switch company has contracts with or for which it transmits electronic vouchers;

(B) a list of medications and the National Drug Codes (NDCs) for which the switch company may apply electronic vouchers; and

(C) the total amount of money collected from manufacturers related to transmission of electronic vouchers; and

(3) the number of transactions processed in this state and the total amount of revenue attributable to those transactions.

(b) A switch company shall disclose to each pharmacy benefit manager with which it does business any instance in which an electronic voucher was applied in the course of routing the claim.

§ 3010. Registration of rebate aggregators. (a) No rebate aggregator may do business in this state after September thirtieth, two thousand twenty-four without first registering with the department.

(b) A rebate aggregator seeking registration shall file, 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 health plans and the pharmacy benefit managers licensed in this state for which the entity provides services;

(5) the persons who exercise control of the entity;

(6) a primary point of contact for the entity;

(7) an agent for service of process;

(8) a set of audited financials for the prior fiscal year; and

(9) such other information or documents as the superintendent shall require.

(c) The superintendent shall accept a registration only if he or she deems that all the required information has been provided in a satisfactory form and has received payment of a nonrefundable registration fee of one thousand dollars.

(d) If any of the information contained in the registration shall change the rebate aggregator shall notify the department of the change in a form and manner prescribed by the superintendent for such purpose within twenty-one days of the change. The requirement to update shall include the filing of a new set of audited financials upon adoption. For any change other than new audited financials, the filing shall not be deemed complete unless accompanied by a payment of a fee of fifty dollars.

(e) Every rebate aggregator's registration shall expire twelve months after the date of issue. Every registration issued pursuant to this section may be renewed for the ensuing period of twelve months upon the filing of an application in conformity with this subsection.

(f) Before a rebate aggregator's registration shall be renewed, the rebate aggregator shall properly file in the office of the superintendent an application for renewal in such form as the superintendent prescribes, and pay a fee of one thousand dollars.

(g) If an application for a renewal registration shall have been filed with the superintendent at least one month before its expiration, then the registration sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal registration applied for or until five days after the superintendent shall have refused to issue such renewal registration and given notice of such refusal to the applicant, otherwise the registration shall expire and the registrant shall have no expectation of renewal.

§ 3011. Required disclosures by rebate aggregators. (a) Each rebate aggregator that has a contract or arrangement with a pharmacy benefit manager serving a health plan shall, on an annual basis, disclose in writing to the health plan the following:

(1) fee structure provisions of any contract or arrangement between the rebate aggregator and pharmacy benefit manager or drug manufacturer, including:

(A) fees collected for aggregating rebates due to the health plan; and

(B) such other information as the superintendent may require by regulation; and

(2) quantification of inflationary payments, credits, grants, reimbursements, other financial or other reimbursements, incentives, inducements, refunds or other benefits received by the rebate aggregator from the drug manufacturer and retained by the rebate aggregator, whether referred to as a rebate, a discount, or otherwise.

(b) (1) Each rebate aggregator shall, at the time of registration, disclose to the department the extent of any ownership or control of the rebate aggregator or by the rebate aggregator of any parent company, subsidiary, or other affiliated organizations that provides pharmacy benefit management services.

(2) Each rebate aggregator shall on an annual basis disclose to the department the information requested by the superintendent, including:

(A) any payments made to a rebate aggregator by a drug manufacturer relating to a drug's utilization, including inflationary payments, credits, grants, reimbursements, other financial or other reimbursements, incentives, inducements, refunds or other benefits received by the rebate aggregator, whether referred to as a rebate, a discount, or otherwise;

(B) any payments made, including those described in subparagraph (A) of this paragraph and subsequently retained by a rebate aggregator;

(C) any fees charged by the rebate aggregator to the pharmacy benefit manager or drug manufacturer relating to a drug's utilization;

(D) any payments made to a rebate aggregator from a program administered by a drug manufacturer for the purpose of assisting patients with the cost of prescription drugs, including copayment assistance programs, discount cards, and coupons; and

(E) the terms and conditions of any contract or arrangement between the rebate aggregator and a pharmacy benefit manager or drug manufacturer.

§ 3012. Deposit of penalties and fees. Penalties and fees collected pursuant to this article shall be deposited into the pharmacy benefit manager regulatory fund established pursuant to section ninety-nine-oo of the state finance law.

§ 4. Subdivision 3 of section 99-oo of the state finance law, as added by chapter 128 of the laws of 2022, is amended to read as follows:

3. Such fund shall consist of money received by the state as fees under [~~article~~] articles twenty-nine and thirty of the insurance law or penalties ordered under [~~article~~] articles twenty-nine and thirty of the insurance law and all other monies appropriated, credited, or transferred thereto from any other fund or source pursuant to law. All monies shall remain in such fund unless and until directed by statute or appropriation.

§ 5. This act shall take effect on the one hundred fiftieth day after it shall have become a law.

SUBPART C

Section 1. Subdivision 9 of section 2807-k of the public health law, as amended by section 17 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

9. In order for a general hospital to participate in the distribution of funds from the pool, the general hospital must implement minimum collection policies and procedures approved by the commissioner, utilizing only a uniform financial assistance form developed and provided by the department.

§ 2. This act shall take effect April 1, 2024.

SUBPART D

Section 1. Legislative findings. The legislature finds that it is in the best interest of the people of this state to expand article 77 of the insurance law to protect insureds and health care providers against the failure or inability of a health or property/casualty insurer writing health insurance to perform its contractual obligations due to financial impairment or insolvency. The superintendent of financial services has the right and responsibility to enforce the insurance law and the authority to seek redress against any person responsible for the impairment or insolvency of the insurer, and nothing in this act is intended to restrict or limit such right, responsibility, or authority.

§ 2. The article heading of article 77 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

THE LIFE AND HEALTH INSURANCE COMPANY
GUARANTY CORPORATION
OF NEW YORK ACT

§ 3. Section 7701 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

§ 7701. Short title. This article shall be known and may be cited as "The Life **and Health** Insurance Company Guaranty Corporation of New York Act".

§ 4. Section 7702 of the insurance law, as amended by chapter 454 of the laws of 2014, is amended to read as follows:

§ 7702. Purpose. The purpose of this article is to provide funds to protect policy owners, insureds, **health care providers,** beneficiaries, annuitants, payees and assignees of life insurance policies, health insurance policies, annuity contracts, funding agreements and supplemental contracts issued by life insurance companies, **health insurance companies, and property/casualty insurance companies,** subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing such policies, contracts, or funding agreements. In the judgment of the legislature, the foregoing objects and purposes not being capable of accomplishment by a corporation created under general laws, the creation of a not-for-profit corporation of insurers is provided for by this article to enable the guarantee of payment of benefits and of continuation of coverages, and members of the corporation are subject to assessment to carry out the purposes of this article.

§ 5. Paragraphs 1 and 2 of subsection (a) of section 7703 of the insurance law, as added by chapter 454 of the laws of 2014, are amended to read as follows:

(1) This article shall apply to direct life insurance policies, health insurance policies, annuity contracts, funding agreements, and supplemental contracts issued by a life insurance company**, health insurance company, or property/casualty insurance company** licensed to transact life or health insurance or annuities in this state at the time the policy, contract, or funding agreement was issued or on the date of entry of a court order of liquidation or rehabilitation with respect to such a company that is an impaired or insolvent insurer, as the case may be.

(2) Except as otherwise provided in this section, this article shall apply to the policies, contracts, and funding agreements specified in paragraph one of this subsection with regard to a person who is:

(A) an owner or certificate holder under a policy, contract, or funding agreement and in each case who:

(i) is a resident **of this state**; or

(ii) is not a resident **of this state**, but only under all of the following conditions:

(I) **(aa)** the insurer that issued the policy, contract, or agreement is domiciled in this state; **or**

(bb) the insurer that issued the policy, contract, or agreement is domiciled outside this state and the insurer delivered or issued for delivery the policy, contract, or agreement in this state; provided, however, that for the purpose of this subitem, any certificate issued to an individual under any group or blanket policy or contract delivered or issued for delivery in this state shall be considered to have been delivered or issued for delivery in this state;

(II) the state or states in which the person resides has or have a guaranty entity similar to the corporation created by this article; and

(III) the person is not eligible for coverage by a guaranty entity in any other state because the insurer was not licensed or authorized in that state at the time specified in that state's guaranty entity law; [~~or~~]

(B) the beneficiary, assignee, or payee of the person specified in subparagraph (A) of this paragraph, regardless of where the person resides**; or**

(C) a health care provider that has rendered services to a person specified in subparagraph (A) of this paragraph.

§ 6. Subsections (c), (d), (e), (h), and (i) of section 7705 of the insurance law, subsections (c), (e) and (i) as added by chapter 802 of the laws of 1985 and subsections (d) and (h) as amended by chapter 454 of the laws of 2014, are amended and a new subsection (m) is added to read as follows:

(c) "Corporation" means The Life **and Health** Insurance Company Guaranty Corporation of New York created under section seven thousand seven hundred six of this article unless the context otherwise requires.

(d) "Covered policy" means any of the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this chapter, any supplemental contract, or any funding agreement referred to in section three thousand two hundred twenty-two of this chapter, or any portion or part thereof, within the scope of this article under section seven thousand seven hundred three of this article, except that any certificate issued to an individual under any group **or blanket** policy or contract shall be considered to be a separate covered policy for purposes of section seven thousand seven hundred eight of this article.

(e) "Health insurance" means the kinds of insurance specified under items (i) and (ii) of paragraph three **and paragraph thirty-one** of subsection (a) of section one thousand one hundred thirteen of this chapter**, and section one thousand one hundred seventeen of this chapter; medical expense indemnity, dental expense indemnity, hospital service, or health service under article forty-three of this chapter; and comprehensive health services under article forty-four of the public health law. "Health insurance" shall not include hospital, medical, surgical, prescription drug, or other health care benefits pursuant to: (1) part C of title XVIII of the social security act (42 U.S.C. § 1395w-21 et seq.) or part D of title XVIII of the social security act (42 U.S.C. § 1395w-101 et seq.), commonly known as Medicare parts C and D, or any regulations promulgated thereunder; (2) titles XIX and XXI of the social security act (42 U.S.C. § 1396 et seq.), commonly known as the Medicaid and child health insurance programs, or any regulations promulgated thereunder; or (3) the basic health program under section three hundred sixty-nine-gg of the social services law**.

(h) **(1)** "Member insurer" means**:**

(A) any life insurance company licensed to transact in this state any kind of insurance to which this article applies under section seven thousand seven hundred three of this article; provided, however, that the term "member insurer" also means any life insurance company formerly licensed to transact in this state any kind of insurance to which this article applies under section seven thousand seven hundred three of this article**; and**

(B) an insurer licensed or formerly licensed to write accident and health insurance or salary protection insurance in this state, corporation organized pursuant to article forty-three of this chapter, reciprocal insurer organized pursuant to article sixty-one of this chapter, cooperative property/casualty insurance company operating under or subject to article sixty-six of this chapter, nonprofit property/casualty insurance company organized pursuant to article sixty-seven of this chapter, and health maintenance organization certi-

fied pursuant to article forty-four of the public health law, which is not a member of, or participant in, the fund or corporation created pursuant to article seventy-five or seventy-seven of this chapter.

(2) "Member insurer" shall not include a municipal cooperative health benefit plan established pursuant to article forty-seven of this chapter, an employee welfare fund registered under article forty-four of this chapter, a fraternal benefit society organized under article forty-five of this chapter, an institution of higher education with a certificate of authority under section one thousand one hundred twenty-four of this chapter, or a continuing care retirement community with a certificate of authority under article forty-six or forty-six-A of the public health law.

(i) "Premiums" means direct gross insurance premiums and annuity and funding agreement considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders or contract holders on such direct business, subject to such modifications as the superintendent may establish by regulation or order as necessary to facilitate the equitable administration of this article. Premiums do not include premiums and considerations on contracts between insurers and reinsurers. For the purposes of determining the assessment for an insurer under this article, the term "premiums", with respect to a group annuity contract (or portion of any such contract) that does not guarantee annuity benefits to any specific individual identified in the contract and with respect to any funding agreement issued to fund benefits under any employee benefit plan, means the lesser of one million dollars or the premium attributable to that portion of such group contract that does not guarantee benefits to any specific individuals or such agreements that fund benefits under any employee benefit plan.

(m) "Long-term care insurance" means an insurance policy, rider, or certificate advertised, marketed, offered, or designed to provide coverage, subject to eligibility requirements, for not less than twenty-four consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis and provides at least the benefits set forth in part fifty-two of title eleven of the official compilation of codes, rules and regulations of this state.

§ 7. Subsection (a) of section 7706 of the insurance law, as added by 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 such premiums received on business in this state for such calendar years by all assessed member insurers.

§ 11. Subsection (a) of section 7712 of the insurance law, as added by chapter 802 of the laws of 1985, is amended to read as follows:

(a) The superintendent shall annually, within six months following the close of each calendar year, furnish to the commissioner of taxation and finance and the director of the division of the budget a statement of operations for the life insurance guaranty corporation and the life **and health** insurance company guaranty corporation of New York. Such statement shall show the assessments, less any refunds or reimbursements thereof, paid by each insurance company pursuant to the provisions of article seventy-five or section seven thousand seven hundred nine of this article, for the purposes of meeting the requirements of this chapter. Each statement, starting with the statement furnished in the year nineteen hundred eighty-six and ending with the statement furnished in the year two thousand, shall show the annual activity for every year commencing from nineteen hundred eighty-five through the most recently completed year. Each statement furnished in each year after the year two

thousand shall reflect such assessments paid during the preceding fifteen calendar years. The superintendent shall also furnish a copy of such statement to each such insurance company.

§ 12. Subsections (a), (d), and (g) of section 7719 of the insurance law, as added by chapter 454 of the laws of 2014, are amended to read as follows:

(a) The corporation may incorporate one or more not-for-profit corporations, known as a resolution facility, in connection with the liquidation of an insolvent domestic life insurance company**, health insurance company, or property/casualty insurance company** under article seventy-four of this chapter for the purpose of administering and disposing of the business of the insolvent [~~domestic life~~] insurance company.

(d) A resolution facility may:

(1) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies, or arrange for replacement by policies found by the superintendent to be substantially similar to the covered policies;

(2) exercise, for the purposes of this article and to the extent approved by the superintendent, the powers of a domestic life insurance company, **health insurance company, or property/casualty insurance company** but in no case may the resolution facility issue insurance policies, annuity contracts, funding agreements, or supplemental contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer;

(3) assure payment of the contractual obligations of the insolvent insurer; and

(4) provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge its duties.

(g) (1) If the superintendent determines that the resolution facility is not administering and disposing of the business of an insolvent domestic life insurance company**, health insurance company, or property/casualty insurance company** consistent with the resolution facility's certificate of incorporation, plan of operation, or this section, then the superintendent shall provide notice to the resolution facility and the resolution facility shall have thirty days to respond to the superintendent and cure the defect.

(2) If, after thirty days, the superintendent continues to believe that the resolution facility is not administering and disposing of the business of an insolvent domestic life insurance company**, health insurance company, or property/casualty insurance company** consistent with the resolution facility's certificate of incorporation, plan of operation, or this section, then the superintendent may apply to the court for an order directing the resolution facility to correct the defect or take other appropriate actions.

§ 13. The insurance law is amended by adding a new section 7720 to read as follows:

§ 7720. Penalties. (a) If any member insurer fails to make any payment required by this article, or if the superintendent has cause to believe that any other statement filed is false or inaccurate in any particular, or that any payment made is incorrect, the superintendent may examine all the books and records of the member insurer to ascertain the facts and determine the correct amount to be paid. Based on such finding, the corporation may proceed in any court of competent jurisdiction to recover for the benefit of the fund any sums shown to be due upon such examination and determination.

(b) Any member insurer that fails to make any such required statement, or to make any payment to the fund when due, shall forfeit to the corporation for deposit in the fund a penalty of five percent of the amount determined to be due plus one percent of such amount for each month of delay, or fraction thereof, after the expiration of the first month of such delay. If satisfied that the delay was excusable, the corporation may remit all or any part of the penalty.

(c) The superintendent, in the superintendent's discretion, may revoke the certificate of authority to do business in this state of any foreign member insurer that fails to comply with this article or to pay any penalty imposed hereunder.

§ 14. The insurance law is amended by adding a new section 3245 to read as follows:

§ 3245. Liability to providers in the event of an insolvency. In the event an insurance company authorized to do an accident and health insurance business in this state is deemed insolvent, as provided in section one thousand three hundred nine of this chapter, no insured covered under a policy delivered or issued for delivery in this state by the insurance company shall be liable to any provider of health care services for any covered services of the insolvent insurance company. No provider of health care services or any representative of such provider shall collect or attempt to collect from the insured sums owed by such insurance company, and no provider or representative of such provider may maintain any action at law against an insured to collect sums owed to such provider by such insurance company.

§ 15. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Subparts A through D of this act shall be as specifically set forth in the last section of such Subparts.

PART Z

Section 1. Subdivisions 7 and 8 of section 4656 of the public health law, as added by chapter 2 of the laws of 2004, are renumbered subdivisions 8 and 9 and a new subdivision 7 is added to read as follows:

7. Assisted living quality improvement standards. (a) All assisted living residences, as defined in subdivision one of section forty-six hundred fifty-one of this article, including those licensed and certified as an assisted living residence, special needs assisted living residence, or enhanced assisted living residence, shall:

(i) report annually on quality measures to be established by the department, in the form and format prescribed by the department, with the first report due no later than January thirty-first, two thousand twenty-four; and

(ii) post the monthly service rate, staffing complement, approved admission or residency agreement, and a consumer-friendly summary of all service fees in a conspicuous place on the facility's website and in a

public space within the facility. Such information shall be made available to the public on forms developed by the department. Beginning on January first, two thousand twenty-four, this information shall also be reported to the department.

(b) The department shall score the results of the assisted living quality reporting obtained pursuant to paragraph (a) of this subdivision. Top scoring facilities shall be granted the classification of advanced standing on their annual surveillance schedules.

(i) Notwithstanding subparagraph one of paragraph (a) of subdivision two of section four hundred sixty-one-a of the social services law, facilities achieving an advanced standing classification shall be surveyed every twelve to eighteen months. All other facilities shall be surveyed on an unannounced basis no less than annually; provided, however, that this shall not apply to surveys, inspections or investigations based on complaints received by the department under any other provision of law.

(ii) Facilities may remain on advanced standing classification provided they meet the scoring requirements in assisted living quality reporting.

(c) (i) Effective January thirty-first, two thousand twenty-four, the department may post on its website the results of the assisted living quality reporting, collected pursuant to subparagraph (i) of paragraph (a) of this subdivision.

§ 2. Subparagraph 1 of paragraph (a) of subdivision 2 of section 461-a of the social services law, as amended by chapter 735 of the laws of 1994, is amended and a new subparagraph (1-a) is added to read as follows:

(1) Such facilities receiving the department's highest rating shall be inspected at least once every eighteen months on an unannounced basis. Such rating determination shall be made pursuant to an evaluation of quality indicators as developed by the department and published on the department's website.

(1-a) (i) Adult care facilities dually licensed to provide assisted living pursuant to the requirements specified in section forty-six hundred fifty-three of the public health law may seek accreditation by one or more nationally recognized accrediting agencies determined by the commissioner.

(ii) Such accreditation agencies shall report data and information, in 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 same time as the initial HCV screening test specimen, to confirm diagnosis of current infection. The** health care provider shall either offer [~~the individual~~] **all persons with a detectable HCV RNA test** follow-up **HCV** health care **and treatment** or refer the individual to a health care provider who can provide follow-up **HCV** health care **and treatment**. [~~The follow-up health care shall include a hepatitis C diagnostic test.~~]

§ 3. The public health law is amended by adding a new section 2500-l to read as follows:

§ 2500-l. Pregnant people, blood test for hepatitis C virus (HCV); follow-up care. 1. Every physician or other authorized practitioner attending a pregnant person in the state shall order a hepatitis C virus (HCV) screening test and if the test is reactive, an HCV RNA test must be performed on the same specimen, or a second specimen collected at the same time as the initial HCV screening test specimen, to confirm diagnosis of current infection. The health care provider shall either offer all persons with a detectable HCV RNA test follow-up HCV health care and

treatment or refer the individual to a health care provider who can provide follow-up HCV health care and treatment.

2. The physician or other authorized practitioner attending a pregnant person shall record the HCV test results prominently in the pregnant person's medical record at or before the time of hospital admission for delivery.

3. The commissioner may promulgate such rules and regulations as are necessary to carry out the requirements of this section.

§ 4. The section heading of section 2308 of the public health law, as amended by section 37 of part E of chapter 56 of the laws of 2013, is amended to read as follows:

Sexually transmitted disease; pregnant [~~women~~] persons; blood test for syphilis.

§ 5. Subdivision 1 of section 2308 of the public health law is amended to read as follows:

1. Every physician or other authorized practitioner attending pregnant [~~women~~] persons in the state shall in the case of every [~~woman~~] person so attended take or cause to be taken a sample of blood of such [~~woman~~] person at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. In addition to testing at the time of first examination, every such physician or other authorized practitioner shall order a syphilis test during the third trimester of pregnancy consistent with any guidance and regulations issued by the commissioner.

§ 6. This act shall take effect immediately; provided, however that sections two, three, four and five shall take effect one year after it shall have become a law. 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.

PART BB

Section 1. Paragraphs 59 and 61 of subdivision (b) of schedule I of section 3306 of the public health law, as added by section 2 of part CC of chapter 56 of the laws of 2020, are amended and 30 new paragraphs 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 are added to read as follows:

(59) [~~N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenylpropionamide~~] N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenyl propionamide. Other name: Beta-Hydroxythiofentanyl.

(61) [~~3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide~~] 3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide. Other name: U-47700.

(71) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide. Other name: Valeryl fentanyl.

(72) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Other name: para-methoxybutyryl fentanyl.

(73) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other name: para-chloroisobutyryl fentanyl.

(74) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Other name: isobutyryl fentanyl.

(75) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide. Other name: cyclopentyl fentanyl.

(76) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide. Other name: crotonyl fentanyl.

(77) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl) propionamide. Other names: 2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl.

(78) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide. Other names: ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl.

(79) N-(1-phenethylpiperidin-4-yl)-N, 3-diphenylpropanamide. Other names: beta'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl fentanyl.

(80) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide. Other names: thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene fentanyl.

(81) N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide. Other names: beta-Methyl fentanyl; beta-methyl fentanyl.

(82) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Other names: ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl.

(83) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide. Other name: 4'-methyl acetyl fentanyl.

(84) 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide. Other names: ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl.

(85) N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide. Other names: para-methylfentanyl; 4-methylfentanyl.

(86) N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide. Other names: phenyl fentanyl; benzoyl fentanyl.

(87) ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate. Other name: Fentanyl carbamate.

(88) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide. Other name: ortho-fluoroacryl fentanyl.

(89) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other name: ortho-fluoroisobutyryl fentanyl.

(90) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide. Other name: para-fluoro furanyl fentanyl.

(91) N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl) ethan-1-amine. Other name: Isotonitazene.

(92) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[~~d~~]imidazol-2-one. Other names: Brorphine; 1-[1-~~[1-(4-bromophenyl) 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-phenenethylpiperidine (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:

(i) its price, nature, use or effect as a controlled substance; or

(ii) its packaging in a manner normally used for illicit controlled substances; or

(iii) markings on the substance; or

(iv) having been prescribed or provided by a pharmacist or health care practitioner.

§ 4. Subdivision 7 of section 3383 of the public health law is REPEALED and subdivision 8 is renumbered subdivision 7.

§ 5. Subdivision 21 of section 10.00 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

21. "Drug trafficking felony" means any of the following offenses defined in article two hundred twenty of this chapter: violation of use of a child to commit a controlled substance offense as defined in section 220.28; criminal sale of a controlled substance in the fourth degree as defined in section 220.34; criminal sale of a controlled substance in the third degree as defined in section 220.39; criminal

sale of a controlled substance in the second degree as defined in section 220.41; criminal sale of a controlled substance in the first degree as defined in section 220.43; criminal sale of a controlled substance in or near school grounds as defined in section 220.44; unlawful manufacture of methamphetamine in the second degree as defined in section 220.74; unlawful manufacture of methamphetamine in the first degree as defined in section 220.75; or operating as a major trafficker as defined in section 220.77**; criminal sale of an imitation controlled substance in the fifth degree as defined in section 220.83; criminal sale of an imitation controlled substance in the third degree as defined in section 220.84; and criminal sale of an imitation controlled substance in the first degree as defined in section 220.85**.

§ 6. Paragraphs (a) and (b) of subdivision 1 of section 460.10 of the penal law, paragraph (a) as amended by chapter 134 of the laws of 2019 and paragraph (b) as amended by chapter 442 of the laws of 2006, are amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; section 230.34-a relating to sex trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; sections 265.14 and 265.16 relating to criminal sale of a firearm; section 265.50 relating to the criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun; section 275.10, 275.20,

275.30, or 275.40 relating to unauthorized recordings; **sections 220.82, 220.83, 220.84 and 220.85 relating to imitation controlled substances;** and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

(b) Any felony set forth elsewhere in the laws of this state and defined by the tax law relating to alcoholic beverage, cigarette, gasoline and similar motor fuel taxes; article seventy-one of the environmental conservation law relating to water pollution, hazardous waste or substances hazardous or acutely hazardous to public health or safety of the environment; article twenty-three-A of the general business law relating to prohibited acts concerning stocks, bonds and other securities, article twenty-two of the general business law concerning monopolies**; article thirty-three of the public health law relating to controlled substances or imitation controlled substances**.

§ 7. Paragraph (c) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 92 of the laws of 2021, is amended and a new paragraph (w) is added to read as follows:

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, **criminal possession of an imitation controlled substance in the third degree as defined in section 220.82 of the penal law, criminal sale of an imitation controlled substance in the fifth degree as defined in section 220.83 of the penal law, criminal sale of an imitation controlled substance in the third degree as defined in section 220.84 of the penal law, criminal sale of an imitation**

controlled substance in the first degree as defined in section 220.85 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

(w) Any of the acts designated as felonies in article thirty-three of the public health law.

§ 8. Section 220.00 of the penal law is amended by adding a new subdivision 6 to read as follows:

6. "Imitation controlled substance" shall have the same meaning as provided for in paragraph c of subdivision one of section thirty-three hundred eighty-three of the public health law.

§ 9. The penal law is amended by adding five new sections 220.81, 220.82, 220.83, 220.84 and 220.85 to read as follows:

§ 220.81 Criminal possession of an imitation controlled substance in the fifth degree.

A person is guilty of criminal possession of an imitation controlled substance in the fifth degree when he or she knowingly and unlawfully possesses an imitation controlled substance, as defined in subparagraph one of paragraph c of subdivision one of section thirty-three hundred eighty-three of the public health law, with the intent to sell it.

Criminal possession of an imitation controlled substance in the fifth degree is a class A misdemeanor.

§ 220.82 Criminal possession of an imitation controlled substance in the third degree.

A person is guilty of criminal possession of an imitation controlled substance in the third degree when he or she knowingly and unlawfully possesses an imitation controlled substance, as defined in subparagraph two of paragraph c of subdivision one of section thirty-three hundred eighty-three of the public health law, with the intent to sell it.

Criminal possession of an imitation controlled substance in the third degree is a class D felony.

§ 220.83 Criminal sale of an imitation controlled substance in the fifth degree.

A person is guilty of criminal sale of an imitation controlled substance in the fifth degree when he or she knowingly and unlawfully sells an imitation controlled substance, as defined in subparagraph one of paragraph c of subdivision one of section thirty-three hundred eighty-three of the public health law.

Criminal sale of an imitation controlled substance in the fifth degree is a class E felony.

§ 220.84 Criminal sale of an imitation controlled substance in the third degree.

A person is guilty of criminal sale of an imitation controlled substance in the third degree when he or she knowingly and unlawfully sells an imitation controlled substance, as defined in subparagraph two of paragraph c of subdivision one of section thirty-three hundred eighty-three of the public health law.

Criminal sale of an imitation controlled substance in the third degree is a class C felony.

§ 220.85 Criminal sale of an imitation controlled substance in the first degree.

A person is guilty of criminal sale of an imitation controlled substance in the first degree when he or she knowingly and unlawfully sells an imitation controlled substance and he or she knows or reasonably should know that the imitation controlled substance could cause the serious physical injury of another person, as defined by subdivision ten of section 10.00 of this chapter, or he or she knows or reasonably should know that the imitation controlled substance could cause the death of another person, and the imitation controlled substance causes the serious physical injury or death of another person.

Criminal sale of an imitation controlled substance in the first degree is a class A-1 felony.

§ 10. Section 220.25 of the penal law, as amended by chapter 276 of the laws of 1973, subdivision 1 as amended by chapter 278 of the laws of 1973 and subdivision 2 as amended by chapter 341 of the laws of 1985, is amended to read as follows:

§ 220.25 Criminal possession of a controlled substance **or an imitation controlled substance**; presumption.

1. The presence of a controlled substance **or an imitation controlled substance** in an automobile, other than a public omnibus, is presumptive evidence of knowing possession thereof by each and every person in the automobile at the time such controlled substance **or imitation controlled substance** was found; except that such presumption does not apply (a) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of his trade, or (b) to any person in the automobile if one of them, having obtained the controlled substance **or imitation controlled substance** and not being under duress, is authorized to possess it and such controlled substance **or imitation controlled substance** is in the same container as when he received possession thereof, or (c) when the controlled substance **or imitation controlled substance** is concealed upon the person of one of the occupants.

2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such controlled substance **or imitation controlled substance** is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance **or imitation controlled substance** at the time such controlled substance **or imitation controlled substance** was found; except that such presumption does not apply to any such persons if (a) one of them, having obtained such controlled substance **or imitation controlled substance** and not being under duress, is authorized to possess it and such controlled substance **or imitation controlled substance** is in the same container as when he received possession thereof, or (b) one of them has such controlled substance **or imitation controlled substance** upon his person.

§ 11. This act shall take effect immediately.

PART CC

Section 1. Articles 131, 131-A, 131-B, 131-C, 132, 133, 134, 136, 137, 137-A, 139, 140, 141, 143, 144, 153, 154, 155, 156, 157, 159, 160, 162, 163, 164, 165, 166, 167 and 168 of the education law are REPEALED.

§ 2. The public health law is amended by adding a new article 51 to read as follows:

ARTICLE 51
LICENSED HEALTHCARE PROFESSIONS
TITLE 1
LICENSED HEALTHCARE PROFESSIONS GENERAL PROVISIONS
SUBTITLE 1
INTRODUCTORY SUMMARY

Section 6500. Introduction.
6501. Admission to a profession (licensing).
6501-a. Affirmation of applications.
6502. Duration and registration of a license.
6502-a. Renewal of professional license, certification, or registration.
6503. Practice of a profession.
6503-a. Waiver for entities providing certain professional services.
6503-b. Waiver for certain special education schools and early intervention agencies.
6504. Regulation of the professions.
6505. Construction.
6505-a. Professional referrals.
6505-b. Course work or training in infection control practices.
6505-c. Articulation between military and civilian professional careers.

§ 6500. Introduction. This article provides for the regulation of the admission to and the practice of certain professions. This first title applies to all the professions included in this article, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine and physician's assistants and specialist's assistants shall be conducted pursuant to the provisions of title two-A of article two of this chapter. Each of the remaining titles applies to a particular profession.

§ 6501. Admission to a profession (licensing). 1. Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the health department. To qualify for a license an applicant shall meet the requirements prescribed in the title for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law.

2. a. Notwithstanding any provision of law to the contrary, any applicant seeking to qualify for a license pursuant to this article who is the spouse of an active duty member of the armed forces of the United States, national guard or reserves as defined in 10 U.S.C. sections 1209 and 1211, and such spouse is transferred by the military to this state shall be afforded an expedited review of his or her application for licensure. Such application shall be on a form prescribed by the department and shall include an attestation by the applicant of the military status of his or her spouse and any other such supporting documentation that the department may require. Upon review of such application, the department shall issue a license to the applicant if the applicant holds a license in good standing in another state and in the opinion of the department, the requirements for licensure of such other state are substantially equivalent to the requirements for licensure in this state.

b. In addition to the expedited review granted in paragraph a of this subdivision, an applicant who provides satisfactory documentation that he or she holds a license in good standing from another state, may request the issuance of a temporary practice permit, which, if granted

will permit the applicant to work under the supervision of a New York state licensee in accordance with regulations of the commissioner. The department may grant such temporary practice permit when it appears based on the application and supporting documentation received that the applicant will meet the requirements for licensure in this state because he or she holds a license in good standing from another state with significantly comparable licensure requirements to those of this state, except the department has not been able to secure direct source verification of the applicant's underlying credentials (e.g., receipt of original transcript, experience verification). Such permit shall be valid for six months or until ten days after notification that the applicant does not meet the qualifications for licensure. An additional six months may be granted upon a determination by the department that the applicant is expected to qualify for the full license upon receipt of the remaining direct source verification documents requested by the department in such time period and that the delay in providing the necessary documentation for full licensure was due to extenuating circumstances which the military spouse could not avoid.

c. A temporary practice permit issued under paragraph b of this subdivision shall be subject to the full disciplinary and regulatory authority of the department, pursuant to this article, as if such authorization were a professional license issued under this article.

d. The department shall reduce the initial licensure application fee by one-half for any application submitted by a military spouse under this subdivision.

§ 6501-a. Affirmation of applications. Notwithstanding any other provision of law to the contrary, any application required by this article to be filed with the department may, in lieu of being certified or sworn under oath, be subscribed by the applicant and affirmed by the applicant as true under penalties of perjury.

§ 6502. Duration and registration of a license. 1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by commissioner or in the case of physicians, physicians practicing under a limited permit, physician's assistants, specialist's assistants and medical residents, the licensee is stricken from the roster of such licensees by the commissioner on the order of the state board for professional medical conduct. A licensee must register with the department and meet the requirements prescribed in section 3-503 of the general obligations law to practice in this state.

2. The department shall establish the beginning dates of the registration periods for each profession and mail an application for registration conforming to the requirements of section 3-503 of the general obligations law to every licensee currently registered at least four months prior to the beginning of the registration period for the respective profession.

3. An application for registration and the required registration fee shall be submitted together with or as a part of the application for a license. A person initially licensed or a licensee resuming practice after a lapse of registration during the last two years of a triennial registration period shall receive a prorated refund of one-third of the total registration fee for each full year of the triennial period that has elapsed prior to the date of registration. Except as provided in subdivision three-a of this section, the department shall renew the registration of each licensee upon receipt of a proper application, on a form prescribed by the department and conforming to the requirements of section 3-503 of the general obligations law, and the registration fee.

Any licensee who fails to register by the beginning of the appropriate registration period shall be required to pay an additional fee for late filing of ten dollars for each month that registration has been delayed. No licensee resuming practice after a lapse of registration shall be permitted to practice without actual possession of the registration certificate.

3-a. Prior to issuing any registration pursuant to this section and section sixty-five hundred twenty-four of this article, the department shall request and review any information relating to an applicant which reasonably appears to relate to professional misconduct in his or her professional practice in this and any other jurisdiction. The department shall advise the director of the office of professional medical conduct in the department of any information about an applicant which reasonably appears to be professional misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of this article, within seven days of its discovery. The registration or re-registration of such applicant shall not be delayed for a period exceeding thirty days unless the director finds a basis for recommending summary action pursuant to subdivision twelve of section two hundred thirty of this chapter after consultation with a committee on professional conduct of the state board for professional medical conduct, if warranted. Re-registration shall be issued if the commissioner of health fails to issue a summary order pursuant to subdivision twelve of section two hundred thirty of this chapter within ninety days of notice by the department pursuant to this subdivision. Re-registration shall be denied if the commissioner issues a summary order pursuant to subdivision twelve of section two hundred thirty of this chapter.

4. Any licensee who is not engaging in the practice of his profession in this state and does not desire to register shall so advise the department. Such licensee shall not be required to pay an additional fee for failure to register at the beginning of the registration period.

5. Licensees shall notify the department of any change of name or mailing address within thirty days of such change. Failure to register or provide such notice within one hundred eighty days of such change shall be willful failure under section sixty-five hundred thirty of this article.

6. The fee for replacement of a lost registration certificate or license or for registration of an additional office shall be ten dollars.

7. An additional fee of twenty-five dollars shall be charged for the licensure or registration of any applicant who submits a bad check to the department.

§ 6502-a. Renewal of professional license, certification, or registration. 1. This section shall apply to healthcare professionals licensed, certified, registered or authorized pursuant to this article other than those licensed or registered pursuant to title two of this article.

2. In conjunction with and as a condition of each registration renewal, the professionals described in subdivision one of this section shall provide to the department, and the department shall collect, such information and documentation required by the department as is necessary to enable the department to evaluate access to needed services in this state, including, but not limited to, the location and type of setting in which the professional practices and other relevant information. The department shall make such data available in aggregate, de-identified form on a publicly accessible website.

3. The dates by which the professionals described in subdivision one of this section must comply with the requirements of subdivision two of this section shall be determined by the department and may vary by profession, to allow the development and refinement of necessary program features and to allow sufficient advanced notice to be provided to affected professionals. The provisions of this section shall be effective only if and for so long as an appropriation is made for the purposes of its implementation.

§ 6503. Practice of a profession. Admission to the practice of a profession entitles the licensee to: 1. practice the profession as defined in the title for the particular profession;

2. entitles the individual licensee to use the professional title as provided in the title for the particular profession; and

3. subjects the licensee to the procedures and penalties for professional misconduct as prescribed in this article.

§ 6503-a. Waiver for entities providing certain professional services. 1. a. Notwithstanding any laws to the contrary, except as provided in subdivision two of this section, a not-for-profit corporation formed for charitable, educational, or religious purposes or other similar purposes deemed acceptable by the department; or an education corporation as defined in subdivision one of section two hundred sixteen-a of the education law may provide the following services, provided that, except as otherwise provided in paragraph b of this subdivision, the entity was in existence prior to the effective date of this section and has applied to the department for a waiver pursuant to this section by no later than February first, two thousand twenty-four:

(i) services provided under title eighteen, twenty-five or twenty-nine of this article for which licensure would be required, or

(ii) services constituting the provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this article and authorized and provided under title two, twelve, or seventeen of this article.

Such services may be provided either directly through the entity's employees or indirectly by contract with individuals or professional entities duly licensed, registered, or authorized to provide such services.

b. The department may issue a waiver on or after July first, two thousand twenty-four to an entity which was created before, on, or after the effective date of this section if there is a demonstration of need of the entity's services satisfactory to the department.

c. After the commissioner prescribes the application form and posts notice of its availability on the department's website, any entity described in paragraph a of this subdivision providing services on the effective date of this section, must apply for a waiver no later than February first, two thousand twenty-four. Upon submission of an application, an entity may continue to operate and provide services until the department shall either deny or approve the entity's application. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraphs d, e, and f of this subdivision are satisfied, applications for waivers shall be approved or denied within ninety days; provided however, that if the waiver application is denied the entity shall cease providing professional services, pursuant to paragraph a of this subdivision, in the state of New York.

d. Such waiver shall provide that services rendered pursuant to this section, directly or indirectly, shall be provided only by a person

appropriately licensed to provide such services pursuant to title two, twelve, seventeen, eighteen or twenty-five of this article, or by a person otherwise authorized to provide such services under such titles, or by a professional entity authorized by law to provide such services.

e. An application for a waiver to provide professional services pursuant to this section shall be on a form prescribed by the commissioner. Such application shall include:

(i) the name of the entity,

(ii) the names of the directors and officers of such entity,

(iii) a listing of any other jurisdictions where the entity may provide services, and

(iv) an attestation made by an officer authorized by the entity to make such attestation that identifies the scope of services to be provided; includes a list of professions under this article in which professional services will be provided by such entity; includes a statement that, unless otherwise authorized by law, the entity shall only provide professional services authorized under this section; includes a statement that only a licensed professional, a person otherwise authorized to provide such services, or a professional entity authorized by law to provide such services shall provide such professional services as authorized under this section; and attests to the adequacy of the entity's fiscal and financial resources to provide such services. Such application shall also include any other information related to the application as may be required by the department.

f. Each officer and director of such entity shall provide an attestation regarding his or her good moral character as required pursuant to paragraph h of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for entities pursuant to this section. Such regulations shall include standards relating to the entity's ability to provide services, the entity's maintenance of patient and business records, the entity's fiscal policies, and such other standards as may be prescribed by the commissioner.

g. The entity operating pursuant to a waiver shall display, at each site where professional services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the entity and the address of the site. Such entities shall obtain from the department additional certificates for each site at which professional services are provided to the public. Each entity shall be required to re-apply for a waiver every three years. If any information supplied to the department regarding the entity shall change, the entity shall be required to provide such updated information to the department within sixty days.

h. Entities operating under a waiver pursuant to this section shall be under the supervision of the department and shall be subject to disciplinary proceedings and penalties. The waivers for such entities shall be subject to suspension, revocation or annulment for cause in the same manner and to the same extent as individuals and professional services corporations with respect to their licenses, certificates, and registrations, as applicable, as provided in this article relating to the applicable profession. All officers and directors of such entities shall be of good moral character. Entities operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable

or assignable, as such terms are defined in the regulations of the commissioner.

i. An entity operating pursuant to a waiver shall not practice any profession licensed pursuant to this article or hold itself out to the public as authorized to provide professional services pursuant to this article except as specifically authorized by this section or as otherwise authorized by law.

2. No waiver pursuant to this section shall be required of:

a. any entity operated under an operating certificate appropriately issued in accordance with article sixteen, thirty-one or thirty-two of the mental hygiene law, article twenty-eight of this chapter, or comparable procedures by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, in accordance with the scope of the authority of such operating certificate; or

b. a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law; or

c. an institution of higher education authorized to provide a program leading to licensure in a profession defined under title two, twelve, seventeen, eighteen, or twenty-five of this article, to the extent that the scope of such services is limited to the services authorized to be provided within such registered program; or

d. an institution of higher education providing counseling only to the students, staff, or family members of students and staff of such institution; or

e. any other entity as may be defined in the regulations of the commissioner, provided that such entity is otherwise authorized to provide such services pursuant to law and only to the extent such services are authorized under any certificates of incorporation or such other organizing documents as may be applicable.

3. Nothing in this section shall be construed to limit the authority of another state agency to certify, license, contract or otherwise authorize an entity applying for a waiver pursuant to this section, if such state agency is otherwise authorized under another provision of law to certify, license, contract or authorize such an entity, nor shall a waiver pursuant to this section be construed to provide an exemption of such entity from any certification, licensure, need to contract or any other such requirement established by such state agency or under any other provision of law. If a state agency determines that such certification, licensure, contract or other authorization is required, a waiver pursuant to this section shall not have the effect of authorizing the provision of professional services under the jurisdiction of such agency in the absence of certification, licensure, a contract or other authorization from such state agency, and the department shall consult with such agency regarding the need for licensure, contracting, certification or authorization. In determining an application for a waiver pursuant to this section, the department shall consider as a factor in such determination any denial of an operating certificate or other authority to provide the services authorized pursuant to this section by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, and shall not approve a waiver application authorizing an entity to provide a program or services where the entity operated such a program or provided such services for which an operating certificate or license is pending, was disapproved or was revoked, or a written authorization or contract was terminated for cause, by one of such agencies, except upon approval of such action by

the appropriate state agency. Such state agencies shall notify the department, upon request and within a fifteen day period, whether a waiver applicant has been subject to such disapproval, revocation or termination for cause or has a pending application for a license or operating certificate.

4. Nothing in this section shall be construed to limit the authority of the following entities to provide professional services they are authorized by law to provide:

a. any appropriately organized professional entity, including, but not limited to, those established under the business corporation law, the limited liability company law or the partnership law; or

b. any entity operated by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit pursuant to authority granted by law, including but not limited to any entity operated by the office of mental health, the office for people with developmental disabilities, or the office of alcoholism and substance abuse services under articles seven, thirteen, and nineteen of the mental hygiene law, respectively.

5. For the purposes of this section, "professional entity" shall mean and include sole proprietorships and any professional services organization established pursuant to article fifteen of the business corporation law, article twelve of the limited liability company law and section two and article eight-B of the partnership law.

§ 6503-b. Waiver for certain special education schools and early intervention agencies. 1. Definitions. As used in this section the following terms shall have the following meanings:

a. "Special education school" means an approved program as defined in paragraph b of subdivision one of section forty-four hundred ten of the education law that meets the requirements of paragraph b of subdivision six of such section; an approved private non-residential or residential school for the education of students with disabilities that is located within the state; a child care institution as defined in section four thousand one of the education law that operates a private school for the education of students with disabilities or an institution for the deaf or blind operating pursuant to article eighty-five of the education law that either: (i) conducts a multi-disciplinary evaluation for purposes of articles eighty-one or eighty-nine of the education law that involves the practice of one or more professions for which a license is required pursuant to this article and no exception from corporate practice restrictions applies, or

(ii) provides related services to students enrolled in the school or approved program that involves the practice of one or more professions for which a license is required pursuant to this article and no exception from practice restrictions applies. Such term shall not include a school district, board of cooperative educational services, municipality, state agency or other public entity. Nothing in this section shall be construed to require a child care institution that conducts multi-disciplinary evaluations or provides related services through an approved private nonresidential school operated by such child care institution to obtain a waiver, provided that such school obtains a waiver pursuant to this section.

b. "Early intervention agency" means an agency which is approved or is seeking approval in accordance with title two-A of article twenty-five of this chapter to deliver early intervention program multi-disciplinary evaluations, service coordination services and early intervention program services, and is lawfully operated as a sole proprietorship or

by a partnership, not-for-profit corporation, education corporation, business corporation, a limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law.

c. "Early intervention program services" means early intervention services as defined in subdivision seven of section twenty-five hundred forty-one of this chapter that are provided under the early intervention program and authorized in an eligible child's individualized family services plan.

d. "Multi-disciplinary evaluation" for purposes of a special education school means a multi-disciplinary evaluation of a preschool child suspected of having a disability or a preschool child with a disability that is conducted pursuant to section forty-four hundred ten of the education law or an evaluation of a school-age child suspected of having a disability or with a disability which is conducted by a child care institution that operates a special education school or the special education school operated by such institution pursuant to subdivision three of section four thousand two of the education law or by an institution for the deaf or blind operating pursuant to article eighty-five of the education law or an evaluation of a school-age child suspected of having a disability or with a disability that is authorized to be conducted by a special education school pursuant to any other provision of the education law and the regulations of the commissioner of education for purposes of identification of the child as a child with a disability or the development of an individualized education program for the child.

e. "Multi-disciplinary evaluation" for purposes of the early intervention program means a professional, objective assessment conducted by appropriately qualified personnel in accordance with section twenty-five hundred forty-four of this chapter and its implementing regulations to determine a child's eligibility for early intervention program services.

f. "Related services" means related services as defined in paragraph g of subdivision two of section four thousand two, paragraph k of subdivision two of section forty-four hundred one, or paragraph j of subdivision one of section forty-four hundred ten of the education law provided to a child with a disability pursuant to such child's individualized education program.

2. Waiver. a. No special education school may employ individuals licensed pursuant to this title to conduct components of a multi-disciplinary evaluation of a child with a disability or a child suspected of having a disability or to provide related services to children with disabilities enrolled in the school, and no special education school may provide such an evaluation component or related services by contract with an individual licensed or otherwise authorized to practice pursuant to this title or with an entity authorized by law to provide such professional services, unless such school obtains a waiver pursuant to this section. All special education schools approved by the commissioner as of the effective date of this section shall be deemed operating under a waiver pursuant to this section for a period commencing on such effective date and ending on July first, two thousand thirteen.

b. No early intervention agency may employ or contract with individuals licensed pursuant to this title or with a not-for-profit corporation, education corporation, business corporation, limited liability company, or a professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thir-

teen of the limited liability company law or article eight-B of the partnership law, to conduct an early intervention program multi-disciplinary evaluation, provide service coordination services or early intervention program services unless such agency has obtained a waiver pursuant to this section and has been approved in accordance with title two-A of article twenty-five of this chapter as an early intervention program provider. All early intervention agencies approved as of the effective date of this section shall be deemed to be operating under a waiver pursuant to this section for a period commencing on such effective date and ending on July first, two thousand thirteen. Nothing in this section shall be construed to require an early intervention agency to operate under a waiver in accordance with this section provided that it is otherwise authorized by law to provide the applicable professional services.

3. Obtaining a waiver. a. A special education school and early intervention agency shall obtain an application for a waiver on a form prescribed by the department. The department may issue a waiver on or after July first, two thousand thirteen to an entity which was created before, on or after the effective date of this section if there is demonstration of need of the entity's services satisfactory to the department. The application for an initial waiver shall be accompanied by a fee of three hundred forty-five dollars. Where the applicant simultaneously applies for a waiver as a special education school and early intervention agency the total waiver fee shall be three hundred forty-five dollars.

b. Within one hundred twenty days after the commissioner prescribes the application form and posts notice of its availability on the department's website, a special education school or early intervention agency must apply for a waiver. Upon submission of such application, the school or agency may continue to operate and provide services until the department shall either deny or approve the application. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraphs c, d and e of this subdivision are satisfied, applications for waivers shall be approved or denied within ninety days, provided however that if the waiver application is denied the school or agency shall cease providing services pursuant to this subdivision in the state of New York.

c. Such waiver shall provide that services rendered pursuant to this section, directly or indirectly, shall be provided only by a person appropriately licensed to provide such services, except as otherwise provided in law, to provide such services or by a professional services entity authorized by law to provide such services.

d. An application for a waiver to provide professional services pursuant to this section shall be on a form prescribed by the commissioner. Such application shall include: (i) the name of the special education school or early intervention agency; (ii) the names of the directors or trustees and officers of such school or agency; (iii) a listing of any other jurisdictions where such school or agency may provide services; and (iv) an attestation made by an officer authorized by such school or agency to make such attestation that identifies the scope of services to be provided; includes a list of professions under this article in which professional services will be provided by such school or agency; includes a statement that, unless otherwise authorized by law, the school or agency shall only provide services authorized under this section; includes a statement that only a licensed professional, a

person otherwise authorized to provide such services, or a professional services entity authorized by law to provide such services shall provide such services as authorized under this section; and attests to the adequacy of the school's or agency's fiscal and financial resources to provide such services. Such application shall also include any other information related to the application as may be required by the department. A school or agency with an approved waiver may apply, on a form prescribed by the commissioner, to amend the waiver to add additional professional services.

e. Each officer, trustee and director of such school or agency shall provide an attestation regarding his or her good moral character as required pursuant to paragraph g of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for special education schools and early intervention agencies pursuant to this section. Such regulations shall include standards relating to the school's or agency's ability to provide services, the school's or agency's maintenance of student or client and business records, the school's or agency's fiscal policies, and such other standards as may be prescribed by the commissioner.

f. The special education school or early intervention agency operating pursuant to a waiver shall display, at each site where services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the school or agency and the address of the site. Such schools or agencies shall obtain from the department additional certificates for each site at which professional services are provided to the public. Each school or agency shall be required to re-apply for a waiver every three years. An early intervention agency's waiver shall not be renewed unless the agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination or early intervention program services in accordance with title two-A of article twenty-five of this chapter. Except as otherwise provided in subdivision four of this section, if any information supplied to the department regarding the school or agency shall change, the school or agency shall be required to provide such updated information to the department within sixty days.

g. All officers, trustees and directors of such schools or agencies shall be of good moral character. Schools or agencies operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable or assignable; as such terms are defined in the regulations of the commissioner.

4. Renewal of waiver. All special education school and early intervention agency waivers shall be renewed on dates set by the department. The triennial waiver fee shall be two hundred sixty dollars or a prorated portion thereof as determined by the department. An early intervention agency's waiver shall not be renewed unless the agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination nor early intervention program services in accordance with title two-A of article twenty-five of this chapter.

5. Change of location. In the event that a change in the location of the chief administrative offices of a special education school or early intervention agency is contemplated, the owner shall notify the office of professions of the department of the change of location at least thirty days prior to relocation.

6. Professional practice. a. Notwithstanding any other provision of law to the contrary, a special education school operating under a waiver may employ individuals licensed or otherwise authorized to practice any profession pursuant to this title to conduct components of a multi-disciplinary evaluation of a child with a disability or a child suspected of having a disability or to provide related services to children with disabilities enrolled in the school or may provide components of such an evaluation or such related services by contract with an individual licensed or otherwise authorized to practice pursuant to this title or a not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law authorized by law to provide the applicable professional services.

b. Notwithstanding any other provision of law to the contrary, an early intervention agency operating under a waiver that is approved in accordance with title two-A of article twenty-five of this chapter may employ or contract with individuals licensed or otherwise authorized to practice any profession pursuant to this title or with a not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law authorized to conduct early intervention program multi-disciplinary evaluations, provide service coordination services and early intervention program services.

c. A special education school or early intervention agency operating under a waiver shall not practice any profession licensed pursuant to this article or hold itself out to the public as authorized to provide professional services pursuant to this article except as authorized by this section or otherwise authorized by law.

7. Supervision of professional practice. A special education school or early intervention agency shall be under the supervision of the department and be subject to disciplinary proceedings and penalties. A special education school or early intervention agency operating under a waiver shall be subject to suspension, revocation or annulment of the waiver for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in the provisions of this article relating to the applicable profession. Notwithstanding the provisions of this subdivision, a special education school or early intervention agency that conducts or contracts for a component of a multi-disciplinary evaluation that involves the practice of medicine shall be subject to the pre-hearing procedures and hearing procedures as is provided with respect to individual physicians and their licenses in title two-A of article two of this chapter. Notwithstanding any other provision of law to the contrary, upon revocation or other termination by the commissioner of approval of the special education school pursuant to article eighty-nine of the education law and the regulations of the commissioner implementing such article or termination of the early intervention agency pursuant to title two-A of article twenty-five of this chapter and implementing regulations by the commissioner pursuant to subdivision eighteen of section forty-four hundred three of the education law, the school's or early intervention agency's waiver pursuant to this section shall be deemed revoked and annulled.

§ 6504. Regulation of the professions. Admission to the practice of the professions, licensing and regulation of such practice shall be supervised and administered by the department, assisted by a state board for each profession.

§ 6505. Construction. No definition of the practice of a profession shall be construed to restrain or restrict the performance of similar acts authorized in the definition of other professions.

§ 6505-a. Professional referrals. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any association or society of professionals authorized to practice under this article, or any employee, agent, or member thereof, for referring any person to a member of the profession represented by such association or society provided that such referral was made without charge as a service to the public, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

§ 6505-b. Course work or training in infection control practices. 1. Every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control, which shall include sepsis, and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of education, which shall be consistent, as far as appropriate, with such standards adopted by the department pursuant to section two hundred thirty-nine of this chapter to prevent the transmission of HIV, HBV, HCV and infections that could lead to sepsis in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of this chapter shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who:

a. clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice; or

b. that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by 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. Promulgate rules, except that no rule shall be promulgated concerning title three of this article;

2. Establish by rule, high school, preprofessional, professional and other educational qualifications required for licensing in the professions regulated by this article;

3. Appoint such committees as it deems necessary and compensate members of such committees who are not members of the department up to one hundred dollars per day for each day devoted to committee functions, together with their necessary expenses;

4. Waive education, experience and examination requirements for a professional license prescribed in the title relating to the profession, provided the department shall be satisfied that the requirements of such title have been substantially met;

5. Indorse a license issued by a licensing board of another state or country upon the applicant fulfilling the following requirements:

a. Application: file an application with the department;

b. Education: meet educational requirements in accordance with the commissioner's regulations;

c. Experience: have experience satisfactory to the state boards for the professions as prescribed in the title relating to the profession and in accordance with the commissioner's regulations;

d. Examination: pass an examination satisfactory to the state boards for the professions as prescribed in the title relating to the profession and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

g. Character: be of good moral character as determined by the department; and

h. Prior professional conduct: where an application is submitted for licensure endorsement in any profession regulated by this article and the department determines that while engaged in practice in another jurisdiction the applicant: (i) has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, or (ii) has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction, based on conduct that would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, the department shall evaluate the conduct and may deny licensure endorsement to the applicant based on such conduct;

6. Direct the department to remedy any error, omission, delay or other circumstance in the issuance or registration of a license;

7. Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his or her designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings;

8. Establish by rule, standards of conduct with respect to advertising, fee splitting, practicing under a name other than that of the individual licensee (when not specifically authorized), proper use of academic or professional degrees or titles tending to imply professional status, and such other ethical practices as such board shall deem necessary, except that no rule shall be established concerning title two of this article; and

9. Delegate to department officers the disposition of any licensing matters pursuant to rules.

§ 6507. Administration. 1. The commissioner and department shall administer the admission to and the practice of the professions.

2. In administering, the commissioner may:

a. Promulgate regulations, except that no regulations shall be promulgated concerning title three of this chapter;

b. Conduct investigations;

c. Issue subpoenas;

d. Grant immunity from prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this article; and

e. Excuse, for cause acceptable to the commissioner, the failure to register with the department. Such excuse shall validate and authorize such practitioner's right to practice pending registration.

3. The department assisted by the board for each profession, shall:

a. Establish standards for pre-professional and professional education, experience and licensing examinations as required to implement the title for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, dental hygienist, licensed behavior analyst, or certified behavior analyst assistant shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office for people with developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

b. Review qualifications in connection with licensing requirements; and

c. Provide for licensing examinations and reexaminations.

4. The department shall:

a. Register or approve educational programs designed for the purpose of providing professional preparation which meet standards established by the department.

b. Issue licenses, registrations, and limited permits to qualified applicants;

c. (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law or to a university faculty practice corporation being organized under section fourteen hundred twelve of the not-for-profit corporation law on payment of a fee of ninety dollars, (ii) require such corporations to file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of twenty dollars, (iii) require such corporations to file a triennial statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of one hundred five dollars.

d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned, except for limited permits issued to physicians, physician's assistants and specialist's assistants which shall be subject to sections two hundred thirty, two hundred thirty-a, two hundred thirty-b and two hundred thirty-c of this chapter;

e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;

f. Collect the fees prescribed by this article or otherwise provided by law;

g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and

h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. Where an application is submitted for licensure or a limited permit in any profession regulated by this article and the commissioner determines that while engaged in practice in another jurisdiction: (i) the applicant has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, or (ii) the applicant has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction based on conduct that would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, the department shall evaluate the conduct and the commissioner may deny licensure or issuance of a limited permit to the applicant based on such conduct.

6. The commissioner and the department shall perform any other functions necessary to implement this article.

§ 6507-a. Registration fee surcharge. The commissioner is hereby authorized to impose and collect a fifteen percent surcharge, rounded upward to the nearest dollar, on any professional registration fee imposed under this article that is subject to deposit in the office of the professions account established pursuant to section ninety-seven-nnn of the state finance law. Such surcharge shall not be imposed on any such fee dedicated for deposit in the professional medical conduct account.

§ 6508. Assistance by state boards for the professions. 1. A board for each profession shall be appointed by the department on the recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the title relating to each profession. Within each board a committee on licensing may be appointed by the board chairman. Except as provided in paragraph a of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the department from the general public.

a. The membership of the professional licensing boards created under sections sixty-five hundred twenty-three, sixty-eight hundred four and sixty-nine hundred three of this article, and section seventy-four hundred three of the education law shall be increased by two members, and each such board shall have at least two public representatives, who shall be selected by the department from the general public.

b. For the purposes of this article, a "public representative" shall be a person who is a consumer of services provided by those licensed or otherwise supervised or regulated by the boards created hereunder, and shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

(ii) a person maintaining a contractual relationship with a licensee of such board, which would constitute more than two percentum of the practice or business of any such licensee, or an officer, director, or representative of such person or group of persons.

2. Each state board for the professions as prescribed in the title relating to each profession board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the department.

3. Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as 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.
6510-d. Nurses' refusal of overtime work.
6511. Penalties for professional misconduct.

§ 6509. 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 sixty-five hundred ten of this subtitle shall be subject to the penalties prescribed in section sixty-five hundred eleven of this subtitle:

1. Obtaining the license fraudulently,

2. Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,

3. Practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability,

4. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects,

5. 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 by the commissioner to be in violation of article thirty-three this chapter.

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.

6. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin,

7. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license,

8. Practicing the profession while the license is suspended, or willfully failing to register or notify the department 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 willfully failing to comply with paragraphs (b), (c) and (d) of section fifteen hundred three and section fifteen hundred fourteen of the business corporation law,

9. Committing unprofessional conduct, as defined by the department in its rules or by the commissioner in regulations approved by the department,

10. A violation of section twenty-eight hundred three-d or twenty-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 by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workers' compensation law except as expressly authorized by the workers' compensation law. Nothing contained in this chapter

shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6509-b. Additional definition of professional misconduct; arrears in payment of support; limited application. 1. The provisions of this section shall apply in all cases of licensee or registrant arrears in payment of child support or combined child and spousal support referred to the department by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b of the family court act.

2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the department, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant of, and cause the regents review committee to initiate, a hearing which shall be held at least twenty days and no more than thirty days after the sending of such notice to the licensee or registrant. The hearing shall be held solely for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensee or registrant have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or by the support collection unit where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensee or registrant shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined by the regents review committee as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order shall be received or considered by the committee.

3. 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 this article and/or subject to the provisions of title two-A of article two of this chapter shall be suspended if, at the hearing provided for by subdivision two of this section, the licensee or registrant fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the regents review committee that full payment of all arrears of support established by the order of the court to be due have been paid.

4. The department shall inform the court of all actions taken hereunder as required by law.

5. This section shall apply to support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of section two hundred thirty-six or two hundred forty of the

domestic relations law, or article four, five or five-A of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

§ 6509-c. Additional definition of professional misconduct; failure to comply in paternity or child support proceedings; limited application. 1. The provisions of this section shall apply in all cases of licensee or registrant failure after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding referred to the department by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.

2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the department, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant that his or her license or registration shall be suspended in sixty days unless the conditions as set forth in subdivision three of this section are met.

3. 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 this article and/or subject to the provisions of title two-A of article two of this chapter shall be suspended unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the department terminating its order to commence suspension proceedings.

4. The department shall inform the court of all actions taken here-under as required by law.

5. This section applies to paternity or child support proceedings commenced under, and support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

§ 6509-d. Limited exemption from professional misconduct. Notwith-standing any other provision of law to the contrary, it shall not be considered professional misconduct pursuant to this subtitle for any person who is licensed under this chapter and who would otherwise be prohibited from prescribing or administering drugs pursuant to the title that licenses such individual, to administer an opioid antagonist in the event of an emergency.

§ 6509-e. Additional definition of professional misconduct; mental health professionals.

1. For the purposes of this section:

a. "Mental health professional" means a person subject to the provisions of title seventeen, eighteen, or twenty-five of this article;

or any other person designated as a mental health professional pursuant to law, rule or regulation.

b. "Sexual orientation change efforts" (i) means any practice by a mental health professional that seeks to change an individual's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same sex and (ii) shall not include counseling for a person seeking to transition from one gender to another, or psychotherapies that: (A) provide acceptance, support and understanding of patients or the facilitation of patients' coping, social support and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

2. It shall be professional misconduct for a mental health professional to engage in sexual orientation change efforts upon any patient under the age of eighteen years, and any mental health professional found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this subtitle shall be subject to the penalties prescribed in section sixty-five hundred eleven of this subtitle.

§ 6510. Proceedings in cases of professional misconduct. In cases of professional misconduct the proceedings shall be as follows:

1. Preliminary procedures.

a. Complaint. A complaint of a licensee's professional misconduct may be made by any person to the education department.

b. Investigation. The department shall investigate each complaint which alleges conduct constituting professional misconduct. The results of the investigation shall be referred to the professional conduct officer designated by the department pursuant to section sixty-five hundred six of this subtitle. If such officer decides that there is not substantial evidence of professional misconduct or that further proceedings are not warranted, no further action shall be taken. If such officer, after consultation with a professional member of the applicable state board for the profession, determines that there is substantial evidence of professional misconduct, and that further proceedings are warranted, such proceedings shall be conducted pursuant to this section. If the complaint involves a question of professional expertise, then such officer may seek, and if so shall obtain, the concurrence of at least two members of a panel of three members of the applicable board. The department shall cause a preliminary review of every report made to the department pursuant to section twenty-eight hundred three-e of this chapter, as added by chapter eight hundred sixty-six of the laws of nineteen hundred eighty, section forty-four hundred five-b of this chapter and section three hundred fifteen of the insurance law, to determine if such report reasonably appears to reflect conduct warranting further investigation pursuant to this subdivision.

c. Charges. In all disciplinary proceedings other than those terminated by an administrative warning pursuant to paragraph a of subdivision two of this section, the department shall prepare the charges. The charges shall state the alleged professional misconduct and shall state concisely the material facts but not the evidence by which the charges are to be proved.

d. Records and reports as public information. In all disciplinary proceedings brought pursuant to this section or in any voluntary settlement of a complaint between the licensee and the department, the depart-

ment shall notify the licensee in writing that the record and reports of such disciplinary proceeding or of such voluntary settlement shall be considered matters of public information unless specifically excepted in this title, or in any other law or applicable rule or regulation.

e. Service of charges and notice of hearing. In order to commence disciplinary proceedings under this article, service of a copy of the charges and notice of hearing must be completed twenty days before the date of the hearing if by personal delivery, and must be completed twenty-five days before the date of the hearing if by any other method.

f. Service of charges and of notice of hearing upon a natural person. Personal service of the charges and notice of any hearing pursuant to subdivision two or three of this section upon a natural person shall be made by any of the following methods:

(i) by delivery within the state to the person to be served;

(ii) by delivery within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and either: (A) by mailing by certified mail, return receipt requested, to the person to be served at his or her last known residence, or (B) by mailing by certified mail, return receipt requested, to the person to be served at his or her last address on file with the division of licensing services of the department in an envelope bearing the legend "personal and confidential," provided that, in either case: such delivery and mailing shall be effected within twenty days of each other; service pursuant to this subparagraph shall be complete ten days after either the delivery, or the mailing, whichever is later; and proof of service shall, among other things, identify such person of suitable age and discretion and state the date, time and place of such service; or

(iii) where service under subparagraphs (i) and (ii) of this paragraph cannot be made with due diligence, a copy of the charges and the notice of hearing shall be served by certified mail, return receipt requested, to the person's last known address on file with the division of licensing services of the department or by affixing the changes and the notice of hearing to the door of either the actual place of business, dwelling place or usual place of abode of the person to be served; provided that: service pursuant to this subparagraph shall be complete ten days after such mailing, and proof of service shall set forth the department's efforts of due diligence.

g. Service of charges and notice of hearing outside of the state. A natural person subject to the jurisdiction of the department may be served with a copy of the charges and the notice of hearing outside of the state in the same manner as service is made within the state, by any person authorized to make service within the state of New York or by any person authorized to make service by the laws of the state, territory, possession or country in which service is made or by any duly qualified attorney or equivalent in such jurisdiction.

2. Expedited procedures.

a. Violations. Violations involving professional misconduct of a minor or technical nature may be resolved by expedited procedures as provided in paragraph b or c of this subdivision. For purposes of this subdivision, violations of a minor or technical nature shall include, but shall not be limited to, isolated instances of violations concerning professional advertising or record keeping, and other isolated violations which do not directly affect or impair the public health, welfare or safety. The department shall make recommendations to the legislature on or before June first, nineteen hundred eighty-one, for the further defi-

nition of violations of a minor or technical nature. The initial instance of any violation of a minor or technical nature may be resolved by the issuance of an administrative warning pursuant to paragraph b of this subdivision. Subsequent instances of similar violations of a minor or technical nature within a period of three years may be resolved by the procedure set forth in paragraph c of this subdivision.

b. Administrative warning. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of professional misconduct but that it is an initial violation of a minor or technical nature which would not justify the imposition of a more severe disciplinary penalty, the matter may be terminated by the issuance of an administrative warning. Such warnings shall be confidential and shall not constitute an adjudication of guilt or be used as evidence that the licensee is guilty of the alleged misconduct. However, in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened and further proceedings instituted as provided in this section.

c. Determination of penalty on uncontested minor violations. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of a violation of a minor or technical nature, and of a nature justifying a penalty as specified in this paragraph, the department may prepare and serve charges either by personal service or by certified mail, return receipt requested. Such charges shall include a statement that unless an answer is received within twenty days denying the charges, the matter shall be referred to a violations committee consisting of at least three members of the state board for the profession, at least one of whom shall be a public representative, for determination. The violations panel shall be appointed by the executive secretary of the state board. The licensee shall be given at least fifteen days notice of the time and place of the meeting of the violations committee and shall have the right to appear in person and by an attorney and to make a statement to the committee in mitigation or explanation of the misconduct. The department may appear and make a statement in support of its position. The violations committee may issue a censure and reprimand, and in addition, or in the alternative, may impose a fine not to exceed five hundred dollars for each specification of minor, or technical misconduct. If the fine is not paid within three months the matter may be reopened and shall be subject to the hearing and regents decision procedures of this section. The determination of the panel shall be final and shall not be subject to the regents decision procedures of this section. If an answer is filed denying the charges, the matter shall be processed as provided in subdivision three of this section.

d. Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision five of section sixty-five hundred nine of this subtitle, the professional conduct officer may prepare and serve the charges and may refer the matter directly to a regents review committee for its review and report of its findings, determination as to guilt, and recommendation as to the measure of discipline to be imposed. In such cases the notice of hearing shall state that the licensee may file a written answer, brief and affidavits; that the licensee may appear personally before the regents review committee, may be represented by counsel and may present evidence or sworn testimony on behalf of the licensee, and the notice may contain such other information as may be considered appropriate by the department. The department may also present evidence or sworn testi-

mony at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered at the meeting of the regents review committee shall be limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. The presiding officer at the meeting of the regents review committee may, in his or her discretion, reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify. In lieu of referring the matter to the department, the regents review committee may refer any such matter for further proceedings pursuant to paragraph b or c of this subdivision or subdivision three of this section.

3. Adversary proceedings. Contested disciplinary proceedings and other disciplinary proceedings not resolved pursuant to subdivision two of this section shall be tried before a hearing panel of the appropriate state board as provided in this subdivision.

a. Notice of hearing. The department shall set the time and place of the hearing and shall prepare the notice of hearing. The notice of hearing shall state (i) the time and place of the hearing, (ii) that the licensee may file a written answer to the charges prior to the hearing, (iii) that the licensee may appear personally at the hearing and may be represented by counsel, (iv) that the licensee shall have the right to produce witnesses and evidence in his behalf, to cross-examine witnesses and examine evidence produced against him, and to issue subpoenas in accordance with the provisions of the civil practice law and rules, (v) that a stenographic record of the hearing will be made, and (vi) such other information as may be considered appropriate by the department.

b. Hearing panel. The hearing shall be conducted by a panel of three or more members, at least two of whom shall be members of the applicable state board for the profession, and at least one of whom shall be a public representative who is a member of the applicable state board or of the state board for another profession licensed pursuant to this article. The executive secretary for the applicable state board shall appoint the panel and shall designate its chairperson. After the commencement of a hearing, no panel member shall be replaced. A determination by the administrative officer of a need to disqualify or remove any panel member will result in the disqualification or removal of the panel and cause a new panel to be appointed. In addition to said panel members, the department shall designate an administrative officer, admitted to practice as an attorney in the state of New York, who shall have the authority to rule on all motions, procedures and other legal objections and shall draft a report for the hearing panel which shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

c. Conduct of hearing. The evidence in support of the charges shall be presented by an attorney for the department. The licensee shall have the rights required to be stated in the notice of hearing. The panel shall not be bound by the rules of evidence, but its determination of guilt shall be based on a preponderance of the evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity to serve of one member of the hearing panel.

d. Results of hearing. The hearing panel shall render a written report which shall include (i) findings of fact, (ii) a determination of guilty or not guilty on each charge, and (iii) in the event of a determination of guilty, a recommendation of the penalty to be imposed. For the panel to make a determination of guilty, a minimum of two of the voting

members of the panel must vote for such a determination. A copy of the report of the hearing panel shall be transmitted to the licensee.

4. Regents decision procedures.

a. Regents review committee. The transcript and report of the hearing panel shall be reviewed at a meeting by a regents review committee appointed by the department. The regents review committee shall consist of three members, at least one of whom shall be a regent pursuant to section two hundred two of the education law.

b. Regents review committee meetings. The review shall be based on the transcript and the report of the hearing panel. The licensee may appear at the meeting, and the regents review committee may require the licensee to appear. The licensee may be represented by counsel. The department shall notify the licensee at least seven days before the meeting (i) of the time and place of the meeting, (ii) of his right to appear, (iii) of his or her right to be represented by counsel, (iv) whether or not he or she is required to appear, and (v) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the department. In cases referred directly to the regents review committee pursuant to paragraph d of subdivision two of this section, the review shall be based upon the charges, the documentary evidence submitted by the department, any answer, affidavits or brief the licensee may wish to submit, and any evidence or sworn testimony presented by the licensee or the department at the hearing, pursuant to the procedures described by paragraph d of subdivision two of this section.

c. Regents decision and order. The department (i) shall consider the transcript, the report of the hearing panel, and the report of the regents review committee, (ii) shall decide whether the licensee is guilty or not guilty on each charge, (iii) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this subtitle, and (iv) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the department. If the department disagrees with the hearing panel's determination of not guilty, it shall remand the matter to the original panel for reconsideration or to a new panel for a new hearing. The panel's determination of not guilty on reconsideration or a new hearing shall be final. The order shall be served upon the licensee personally or by certified mail to the licensee's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The licensee shall deliver to the department the license and registration certificate which has been revoked, annulled, suspended, or surrendered within five days after the effective date of the service of the order. If the license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, the licensee shall submit an affidavit to that effect, and shall deliver such license or certificate to the department when located.

5. Court review procedures. The decisions of the department may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined except upon application to such appellate division after notice to the department and to the attorney general and upon a showing that the petitioner has a substantial likelihood of success.

5-a. At any time, if the professional conduct officer or his or her designee designated to investigate a complaint of professional misconduct of a licensed health care provider or licensed mental health care provider determines that there is a reasonable belief that an act that constitutes a sex offense identified in paragraph (h) of subdivision three of section 130.05 of the penal law has been committed by the licensee against a client or patient during a treatment session, consultation, interview, or examination, the professional conduct officer or the office of professional discipline shall notify the appropriate law enforcement official or authority.

6. The provisions of subdivisions one, two, three and four of this section shall not be applicable to proceedings in cases of professional misconduct involving the medical profession, except as provided in paragraph (m) of subdivision ten of section two hundred thirty of this chapter.

7. Notwithstanding any other provision of law, persons who assist the department as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding, in accordance with section seventeen of the public officers law.

8. The files of the department relating to the investigation of possible instances of professional misconduct, or the unlawful practice of any profession licensed by the department, or the unlawful use of a professional title or the moral fitness of an applicant for a professional license or permit, shall be confidential and not subject to disclosure at the request of any person, except upon the order of a court in a pending action or proceeding. The provisions of this subdivision shall not apply to documents introduced in evidence at a hearing held pursuant to this chapter and shall not prevent the department from sharing information concerning investigations with other duly authorized public agencies responsible for professional regulation or criminal prosecution.

9. A disciplinary proceeding under subdivision three or four of this section shall be treated in the same manner as an action or proceeding in supreme court for the purpose of any claim by counsel of actual engagement.

§ 6510-a. Temporary surrender of licenses during treatment for drug or alcohol abuse. 1. The license and registration of a licensee who may be temporarily incapacitated for the active practice of a profession licensed pursuant to this article, except professionals licensed pursuant to title two or four of this article, and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to the department, which may accept and hold such license during the period of such alleged incapacity or the department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license. The department shall give written notification of such surrender to the licensing authorities of any other state or country in which the licensee is authorized to practice. In addition to the foregoing, the department shall also give written notification of such surrender, for professionals licensed pursuant to titles six, seven, ten, or twelve of this article to the commissioner or

his or her designee, and where appropriate to each hospital at which the professional has privileges, is affiliated, or is employed. The licensee whose license is so surrendered shall notify all persons who request professional services that he or she has temporarily withdrawn from the practice of the profession. The department may provide for similar notification of patients or clients and of other interested parties, as appropriate under the circumstances of the professional practice and responsibilities of the licensee. The licensure status of such licensee shall be "inactive" and he or she shall not be authorized to practice the profession and shall refrain from practice in this state or in any other state or country. The voluntary surrender shall not be deemed to be an admission of disability or of professional misconduct and shall not be used as evidence of a violation of subdivision three or four of section sixty-five hundred nine of this subtitle, unless the licensee practices while the license is "inactive"; and any such practice shall constitute a violation of subdivision eight of such section. The surrender of a license under this subdivision shall not bar any disciplinary action except action based solely upon the provisions of subdivision three or four of section sixty-five hundred nine of this subtitle, and only if no harm to a patient has resulted; and shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. A surrendered license shall be restored upon a showing to the satisfaction of the department that the licensee is not incapacitated for the active practice of the profession, provided that the department may, by order of the commissioner, impose reasonable conditions on the licensee, if it determines that because of the nature and extent of the licensee's former incapacity, such conditions are necessary to protect the health, safety and welfare of the public. Prompt written notification of such restoration shall be given to all licensing bodies which were notified of the temporary surrender of the license.

2. There shall be appointed within the department, by the department, a committee on drug and alcohol abuse, which shall advise the department on matters relating to practice by professional licensees with drug or alcohol abuse problems, and which shall administer the provisions of this section. The department shall determine the size, composition, and terms of office of such committee, a majority of the members of which shall be persons with expertise in problems of drug or alcohol abuse. The committee shall recommend to the department such rules as are necessary to carry out the purposes of this section, including but not limited to procedures for the submission of applications for the surrender of a license and for the referral of cases for investigation or prosecution pursuant to section sixty-five hundred ten of this subtitle if a licensee fails to comply with the conditions of an approved program of treatment. There shall be an executive secretary appointed by the department to assist the committee. The executive secretary shall employ, or otherwise retain, the services of a registered professional nurse with appropriate qualifications in substance abuse and addiction to assist in the implementation of the program authorized by section six thousand five hundred ten-c of this subtitle. Determinations by the committee relating to licensees shall be made by panels of at least three members of the committee designated by the executive secretary, who shall also designate a member of the state board for the licensee's profession as the ex-officio non-voting member of each panel. In the case of a determination relating to a licensed nurse, at least one panel member must be a registered professional nurse licensed by the state.

3. Application for the surrender of a license pursuant to this section shall be submitted to the committee, and shall identify a proposed treatment or rehabilitation program, and shall include a consent to the release of all information concerning the licensee's treatment to the committee. All information concerning an application, other than the fact of the surrender of the license and the participation in the program and the successful completion or failure of or withdrawal from the program, shall be strictly confidential, and may not be released by the committee to any person or body without the consent of the licensee. The immunity from disciplinary action conferred by this section shall be conditioned upon the approval of the treatment or rehabilitation program by the committee and its successful completion by the applicant and the elimination of the incapacity to practice. Approval of a treatment or rehabilitation program by the committee shall not constitute a representation as to the probability of success of the program or any assumption of financial responsibility for its costs.

4. The immunity from disciplinary action conferred by this section may be revoked by the committee upon a finding that the licensee has failed to successfully complete the program or that the incapacity to practice has not been eliminated. Such revocation shall be made only after notice and an opportunity to be heard, but no adjudicatory hearing shall be required. The matter shall be referred for appropriate proceedings pursuant to section sixty-five hundred ten of this subtitle. The license shall be returned unless charges are served pursuant to section sixty-five hundred ten of this subtitle within thirty days after the revocation of the approval of the special treatment afforded by this section.

5. The commissioner is authorized to adopt regulations to carry out the purposes of this section, including but not limited to the notice of temporary inactive status to be required in different professions and practice situations and the measures required upon temporary withdrawal from practice.

6. No individual who serves as a member of a committee whose purpose is to confront and refer either to treatment or to the department licensees who are thought to be suffering from alcoholism or drug abuse shall be liable for damages to any person for any action taken by such individual provided such action was taken without malice and within the scope of such individual's function as a member of such committee, and provided further that such committee has been established by and functions under the auspices of an association or society of professionals authorized to practice under this article.

7. In addition to the provisions of section two thousand eight hundred three-e of this chapter, any entity licensed pursuant to articles thirty-six, forty and forty-four of this chapter, and any mental hygiene facilities, and correctional, occupational, school and college health services shall provide a report to the office of professional discipline when there is a suspension, restriction, termination, curtailment or resignation of employment or privileges in any way related to a licensed nurse that is impaired when the impairment is alleged to have been caused by a drug-related problem. Any person, facility, or corporation which makes a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, for having made such a report except where the conduct constitutes negligence, gross negligence or intentional misconduct. For the purpose of any proceeding, civil or criminal, the good faith of any person, facility or corporation required to make a report shall be presumed. Such presumption may be rebutted by any competent evidence.

8. Notwithstanding any other provision of law, the license and registration of a licensed dentist or pharmacist who may be temporarily incapacitated for the active practice of their profession licensed pursuant to titles seven and ten of this article and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to, or voluntarily offered for any alternative disposition with the department, which may accept and hold such license or make any other disposition regarding such license deemed appropriate under the circumstances, if the department determines the health and safety of the public will be adequately protected thereby, during the period of such alleged incapacity. The department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license or the department may treat the license as not surrendered and may impose conditions to allow the licensee to retain the license. All other provisions of this section shall be applied to the professions of dentistry and pharmacy in conformity with this subdivision.

§ 6510-b. Nurse peer assistance programs. 1. As used in this section:

a. "Drug-related problem" means a problem or problems that are related to the use, misuse or addiction to drugs or alcohol.

b. "Participant" means an individual licensed pursuant to title twelve of this article who has or may have a drug-related problem.

c. "Approved nurse peer assistance program" means a program operated by the New York state nurses association or a statewide professional association of nurses which has experience in providing peer assistance services to nurses who have drug-related problems which are designed to help a participant or a licensee's employer and has been approved by the department in accordance with criteria established in regulations of the commissioner.

d. "Peer assistance services" includes assessing the needs of a participant, including early identification of drug-related problems, and providing information, support, and advice as requested by a participant.

2. a. The department shall provide funds, including but not limited to a portion of the funds made available pursuant to the provisions of this section, for services provided by an approved nurse peer assistance program. Funds used to provide services shall not be used for the treatment of participants. Funded services shall include, but not be limited to:

(i) providing peer assistance services for nurses with drug-related problems;

(ii) maintaining a toll-free telephone information line for anonymous nurses, their employers, and others to provide assistance in the identification of services and information for nurses dealing with drug-related problems;

(iii) training monitors for the professional assistance program;

(iv) arranging for mental health consultants to assess nurses for the professional assistance program, as needed; and

(v) preparing written assessments of nurses who have been referred from the professional assistance program.

b. An additional fee of fifteen dollars shall be paid at the time of application for licensure and first registration and every registration by those licensed pursuant to title twelve of this article for the purpose of implementing this program. The funds made available under this provision shall be deposited in the office of professions special revenue account for its purposes in implementing this section. The

department may use a portion of this amount for its administrative expenses incurred in implementing this program including, but not limited to, employment of personnel, the costs of approving and contracting with a peer assistance program as required by this section and outreach activities to promote this program.

3. No approved nurse peer assistance program or individual who serves in an approved nurse peer assistance program shall be liable in damages to any person for any action taken or not taken or recommendations made unless, based on the facts disclosed by a participant, the conduct of the program or person with respect to the person asserting liability constituted negligence, gross negligence, or intentional misconduct.

4. All information concerning a participant gathered by the approved nurse peer assistance program shall be strictly confidential and may not be released to any person or body without the consent of the participant, except upon the order of a court in a pending action or proceeding. Aggregate data may be released to the committee on drug and alcohol abuse.

§ 6510-c. Voluntary non-disciplinary surrender of a license. A professional who is licensed pursuant to title twelve of this article may voluntarily surrender a license to the committee on drug and alcohol abuse when such licensee requests to be monitored and/or receive peer support services in relation to the use, misuse or addiction to drugs. The committee shall accept such voluntary non-disciplinary surrender of a license and provide for expedited reinstatement of the license if the licensee meets criteria set by the committee. Such criteria will include, but not be limited to, confidence that the licensee's use of drugs and/or alcohol has not resulted in harm to a patient or client and the licensee is not incapacitated, unfit for practice or a threat to the health, safety and welfare of the public. Such voluntary surrender, if accepted by the committee, shall result in an immediate reinstatement of the license and shall provide immunity from a violation of subdivision three or four of section sixty-five hundred nine of this subtitle and cannot be deemed an admission or used as evidence in professional misconduct. Acceptance by the committee shall not require a report to the department of health or to any employer or licensing authority of another jurisdiction, nor require any disclosure to patients or to the public that such license has been temporarily surrendered, except if it is subsequently determined by the department that a participant being monitored by the department is found to have used drugs and/or alcohol which has resulted in harm to a patient or client.

§ 6510-d. Nurses' refusal of overtime work. The refusal of a licensed practical nurse or a registered professional nurse to work beyond said nurse's regularly scheduled hours of work shall not solely constitute patient abandonment or neglect except under the circumstances provided for under subdivision three of section one hundred sixty-seven of the labor law.

§ 6511. Penalties for professional misconduct. The penalties which may be imposed by the department on a present or former licensee found guilty of professional misconduct, pursuant to the definitions and proceedings prescribed in sections sixty-five hundred nine and sixty-five hundred ten of this subtitle, are:

1. censure and reprimand;

2. suspension of license: (a) wholly, for a fixed period of time; (b) partially, until the licensee successfully completes a course of retraining in the area to which the suspension applies; or (c) wholly,

until the licensee successfully completes a course of therapy or treatment prescribed by the regents;

3. revocation of license;

4. annulment of license or registration;

5. limitation on registration or issuance of any further license;

6. a fine not to exceed ten thousand dollars, upon each specification of charges of which the respondent is determined to be guilty;

7. a requirement that a licensee pursue a course of health or training; and

8. a requirement that a licensee perform up to one hundred hours of public service, in a manner and at a time and place as directed by the state board for the professions as prescribed in the title relating to each profession.

The department may stay such penalties in whole or in part, may place the licensee on probation and may restore a license which has been revoked, provided, in the case of licensees subject to section two hundred thirty of this chapter, notice that such state board for the profession as prescribed in the title relating to such profession is considering such restoration is given to the office of professional medical conduct at least thirty days before the date on which such restoration shall be considered. Upon the recommendation of the office of professional medical conduct, the department may deny such restoration. Any fine imposed pursuant to this section or pursuant to subdivision two of section sixty-five hundred ten of this subtitle may be sued for and recovered in the name of the people of the state of New York in an action brought by the attorney general. In such action the findings and determination of the department or of the violations committee shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed.

SUBTITLE 4
UNAUTHORIZED ACTS

Section 6512. Unauthorized practice a crime.
6513. Unauthorized use of a professional title a crime.
6514. Criminal proceedings.
6515. Restraint of unlawful acts.
6516. Civil enforcement proceedings and civil penalties.

§ 6512. Unauthorized practice a crime. 1. Anyone not authorized to practice under this article who practices or offers to practice or holds himself or herself out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who practices any profession as an exempt person during the time when his or her professional license is suspended, revoked or annulled, or who aids or abets an unlicensed person to practice a profession, or who fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of a profession, shall be guilty of a class E felony.

2. Anyone who knowingly aids or abets three or more unlicensed persons to practice a profession or employs or holds such unlicensed persons out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who knowingly aids or abets three or more persons to practice any profession as exempt persons during the time when the professional licenses of such persons are suspended, revoked or annulled, shall be guilty of a class E felony.

§ 6513. Unauthorized use of a professional title a crime. 1. Anyone not authorized to use a professional title regulated by this article, and who uses such professional title, shall be guilty of a class A misdemeanor.

2. Anyone who knowingly aids or abets three or more persons not authorized to use a professional title regulated by this article, to use such professional title, or knowingly employs three or more persons not authorized to use a professional title regulated by this article, who use such professional title in the course of such employment, shall be guilty of a class E felony.

§ 6514. Criminal proceedings. 1. All alleged violations of sections sixty-five hundred twelve or sixty-five hundred thirteen of this subtitle shall be reported to the department which shall cause an investigation to be instituted. All alleged violations of section sixty-five hundred thirty-one of this article shall be reported to the department which shall cause an investigation to be instituted. If the investigation substantiates that violations exist, such violations shall be reported to the attorney general with a request for prosecution.

2. The attorney general shall prosecute such alleged offenses in the name of the state.

3. All criminal courts having jurisdiction over misdemeanors are hereby empowered to hear, try and determine alleged violations under this article, which constitute misdemeanors, without indictment and to impose applicable punishment of fines or imprisonments or both. It shall be necessary to prove in any prosecution under this title only a single prohibited act or a single holding out without proving a general course of conduct.

4. A proceeding before a committee on professional conduct shall not be deemed to be a criminal proceeding within the meaning of this section.

§ 6515. Restraint of unlawful acts. Where a violation of this article is alleged to have occurred, the attorney general, the department or, in the event of alleged violations of title nineteen of this article occurring in cities having a population of one million or more, the corporation counsel may apply to the supreme court within the judicial district in which such violation is alleged to have occurred for an order enjoining or restraining commission or continuance of the unlawful acts complained of. The remedy provided in this section shall be in addition to any other remedy provided by law or to the proceedings commenced against a licensee under this article.

§ 6516. Civil enforcement proceedings and civil penalties. 1. Issuance of cease and desist order. Whenever the department has reasonable cause to believe that any person has violated any provision of section sixty-five hundred twelve or sixty-five hundred thirteen of this subtitle, the department may issue and serve upon such person a notice to cease and desist from such violation. Such cease and desist order shall be served personally by the department. If personal service cannot be made after due diligence and such fact is certified under oath, a copy of the order shall be made by certified mail, return receipt requested, to the person's last known address by the department.

2. Contents of cease and desist order. The cease and desist order shall be in writing and shall describe with particularity the nature of the violation, including a reference of the specific provision or provisions of law alleged to have been violated and an order to the respondent to cease any unlawful activity. The cease and desist order shall advise the respondent:

a. of the right to contest the order by requesting a hearing within thirty days of the service of the cease and desist order before a hearing officer designated by the department;

b. of the right to request a stay of the cease and desist order at the time a hearing is requested; and

c. shall set forth the respondent's rights at such a hearing pursuant to subdivision five of this section.

3. Civil penalties. Civil penalties up to five thousand dollars may be imposed for each violation and the respondent may be ordered to make restitution to any person who has an interest in any money or property, either real or personal, acquired by the respondent as a result of a violation. Whenever the department concludes that civil penalties and/or restitution may be warranted because of the egregiousness of the unlawful activity, it may serve, along with the cease and desist order, a notice of a hearing on the allegations of unlawful activity and the department's intention to order the respondent to make restitution and/or impose a civil penalty. The notice should specify the civil penalty sought for each violation.

4. Request for hearing. If the respondent to a cease and desist order contests the cease and desist order, the respondent shall request a hearing conducted by the department within thirty days of the receipt of the cease and desist order. Such a hearing shall be scheduled, and the requesting party notified of the date, within fifteen days of the receipt of the request for a hearing. If the respondent requests a stay of the cease and desist order, the hearing officer shall determine whether the cease and desist order should be stayed in whole or in part within five working days of the request for a stay. The respondent may file a written answer to the cease and desist order prior to the hearing. A stenographic record of the hearing shall be made.

5. Conduct of hearing. The evidence in support of the cease and desist order shall be presented by an attorney for the department. The respondent may appear personally and may be represented by counsel at the hearing, may produce witnesses and evidence in his or her behalf at the hearing, may cross-examine witnesses and examine evidence produced against him or her at the hearing, and may issue subpoenas in accordance with section three hundred four of the state administrative procedure act. The hearing officer shall not be bound by the rules of evidence, but his or her determination that a violation of section sixty-five hundred twelve or sixty-five hundred thirteen of this subtitle has occurred shall be based on a preponderance of the evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity of the hearing officer. In the event of a hearing officer's death or incapacity to serve, a new hearing officer shall be designated by the department to continue the hearing. The new hearing officer shall affirm in writing that he or she has read and considered evidence and transcripts of the prior proceedings.

6. Results of hearing. The hearing officer designated by the department shall render a written report which shall include:

a. findings of fact;

b. a determination on each violation alleged in the cease and desist order;

c. a determination as to whether to accept, reject, or modify any of the terms of the cease and desist order in whole or in part; and

d. the civil penalty imposed, if any. A copy of the hearing officer's written report shall be served upon the respondent with a notice setting

forth the respondent's rights to an administrative appeal within ten days of the conclusion of the hearing.

7. Appeals. a. The decision of the hearing officer shall be final, except that it may be appealed to a regents review committee within twenty days of the receipt of the hearing officer's report. The initiation of an appeal shall not in and of itself affect the validity or terms of the cease and desist order. The regents review committee shall consist of three members, at least one of whom shall be a regent. The review shall be based on the transcript and the report of the hearing officer. The respondent may appear at the meeting, and the regents review committee may require the respondent to appear. The respondent may be represented by counsel. The department shall notify the respondent at least ten days before the meeting (i) of the time and place of the meeting, (ii) of the right to appear; (iii) of the right to be represented by counsel; (iv) whether or not the respondent is required to appear; and (iii) of such other information as may be considered appropriate.

b. After the meeting, the regents review committee shall transmit a written report of its review to the department. The department (i) shall consider the transcript, the report of the hearing officer, and the report of the regents review committee, (ii) shall decide whether the respondent has violated each charge in the cease and desist order, (iii) shall decide what penalties, if any, to impose as prescribed in this section, and (iv) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the department. The order shall be served upon the respondent personally or by certified mail to the respondent's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The decisions of the department under this section may be reviewed in a proceeding pursuant to article seventy-eight of the civil practice law and rules brought in the supreme court, Albany county. Such decisions shall not be stayed or enjoined except upon application to such supreme court pursuant to article sixty-three of the civil practice law and rules with notice to the department and to the attorney general.

8. General enforcement of cease and desist order. In any case where the cease and desist order is confirmed by the department or where the respondent does not request an administrative hearing within the allotted time or does not appeal the decision of the hearing officer within the allotted time, an action or proceeding may be filed in the name of the state of New York seeking a restraining order, injunction, appropriate writ, or judgment against any person who violates the terms of the cease and desist order.

9. a. Special enforcement of civil monetary penalties. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the department remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the respondent, a notice of impending default judgment shall be sent by first class mail to the respondent. The notice of impending default judgment shall advise the respondent:

(i) that a civil penalty was imposed on the respondent;

(ii) the date the penalty was imposed;

(iii) the amount of the civil penalty;

(iv) the amount of the civil penalty that remains unpaid as of the date of the notice;

(v) the violations for which the civil penalty was imposed; and

(vi) that a judgment by default will be entered in the supreme court, Albany county unless the department receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment.

b. If full payment shall not have been received by the department within thirty days of mailing of the notice of impending default judgment, the department shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.

TITLE 2
MEDICINE

Section 6520. Introduction.
6521. Definition of practice of medicine.
6522. Practice of medicine and use of title "physician".
6523. State board for medicine.
6524. Requirements for a professional license.
6525. Limited permits.
6526. Exempt persons.
6527. Special provisions.
6528. Qualification of certain applicants for licensure.
6529. Power of department regarding certain physicians.

§ 6520. Introduction. This title applies to the profession of medicine. The general provisions for all professions contained in Title one of this article apply to this title.

§ 6521. Definition of practice of medicine. The practice of the profession of medicine is defined as diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition.

§ 6522. Practice of medicine and use of title "physician". Only a person licensed or otherwise authorized under this title shall practice medicine or use the title "physician".

§ 6523. State board for medicine. A state board for medicine shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department and the commissioner on matters of professional licensing in accordance with section sixty-five hundred eight of this article. The state board of medicine shall be composed of not less than twenty physicians licensed in this state for at least five years, two of whom shall be doctors of osteopathy. To the extent such physician appointees are available for appointment, at least one of the physician appointees to the state board for medicine shall be an expert on reducing health disparities among demographic subgroups, and one shall be an expert on women's health. The state board for medicine shall also consist of not less than two physician's assistants licensed to practice in this state. The participation of physician's assistant members shall be limited to matters relating to title four of this article. An executive secretary to the state board of medicine shall be

appointed by the department on recommendation of the commissioner and shall be either a physician licensed in this state or a non-physician, deemed qualified by the commissioner and department.

§ 6524. Requirements for a professional license. To qualify for a license as a physician, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a degree of doctor of medicine, "M.D.", or doctor of osteopathy, "D.O.", or equivalent degree in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the state board of medicine and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the state board of medicine and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age; however, the commissioner may waive the age requirement for applicants who have attained the age of eighteen and will be in a residency program until the age of twenty-one;

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however that the department may grant a three year waiver for an alien physician to practice in an area which has been designated by the department as medically underserved, except that the department may grant an additional extension not to exceed six years to an alien physician to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued; and provided further that the department may grant an additional three year waiver, and at its expiration, an extension for a period not to exceed six additional years, for the holder of an H-1b visa, an O-1 visa, or an equivalent or successor visa thereto;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of two hundred sixty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred seventy-five dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of five hundred seventy dollars for any biennial registration period commencing August first, nineteen hundred ninety-six and thereafter. The comptroller is hereby authorized and directed to deposit the fee for each biennial registration period into the special revenue funds-other entitled "professional medical conduct account" for the purpose of offsetting any expenditures made pursuant to section two hundred thirty of this chapter in relation to the operation of the office of professional medical conduct within the department, provided that for each biennial registration fee paid by the licensee using a credit card, the amount of the administrative fee incurred by the department in processing such credit card transaction shall be deposited by the comptroller in the office of the professions account established by section ninety-seven-nnn of the state finance law. The amount of the funds expended as a result of such increase shall not be greater than such fees collected over the registration period.

9. For every license or registration issued after the effective date of this subdivision, an additional fee of thirty dollars shall be paid and deposited in the special revenue fund entitled "the professional medical conduct account" for the purpose of offsetting any expenditures

made pursuant to subdivision fifteen of section two hundred thirty of this chapter. The amount of such funds expended for such purpose shall not be greater than such additional fees collected over the licensure period or for the duration of such program if less than the licensure period.

10. A physician shall not be required to pay any fee under this section if he or she certifies to the department that for the period of registration or licensure, he or she shall only practice medicine without compensation or the expectation or promise of compensation. The following shall not be considered compensation for the purposes of this subdivision:

a. nominal payment solely to enable the physician to be considered an employee of a health care provider; or

b. providing liability coverage to the physician relating to the services provided.

11. No physician may be re-registered unless he or she, as part of the re-registration application, includes an attestation made under penalty of perjury, in a form prescribed by the commissioner, that he or she has, within the six months prior to submission of the re-registration application, updated his or her physician profile in accordance with subdivision four of section twenty-nine hundred ninety-five-a of this chapter.

§ 6525. Limited permits. Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility: The following persons shall be eligible for a limited permit:

a. A person who fulfills all requirements for a license as a physician except those relating to the examination and citizenship or permanent residence in the United States;

b. A foreign physician who holds a standard certificate from the educational council for foreign medical graduates or who has passed an examination satisfactory to the state board for medicine and in accordance with the commissioner's regulations; or

c. A foreign physician or a foreign intern who is in this country on a non-immigration visa for the continuation of medical study, pursuant to the exchange student program of the United States department of state.

2. Limit of practice. A permittee shall be authorized to practice medicine only under the supervision of a licensed physician and only in a public, voluntary, or proprietary hospital.

3. Duration. A limited permit shall be valid for two years. It may be renewed biennially at the discretion of the department.

4. Fees. The fee for each limited permit and for each renewal shall be one hundred five dollars.

§ 6526. Exempt persons. The following persons under the following limitations may practice medicine within the state without a license:

1. Any physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed physician;

2. Any physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such physician does not maintain an office or place to meet patients or receive calls within this state;

3. Any physician who is licensed in another state or country and who is meeting a physician licensed in this state, for purposes of consultation, provided such practice is limited to such consultation;

4. Any physician who is licensed in another state or country, who is visiting a medical school or teaching hospital in this state to receive medical instruction for a period not to exceed six months or to conduct medical instruction, provided such practice is limited to such instruction and is under the supervision of a licensed physician;

5. Any physician who is authorized by a foreign government to practice in relation to its diplomatic, consular or maritime staffs, provided such practice is limited to such staffs;

6. Any commissioned medical officer who is serving in the United States armed forces or public health service or any physician who is employed in the United States Veterans Administration, provided such practice is limited to such service or employment;

7. Any intern who is employed by a hospital and who is a graduate of a medical school in the United States or Canada, provided such practice is limited to such hospital and is under the supervision of a licensed physician;

8. Any medical student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a medical school which meets standards satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital;

9. Any dentist or dental school graduate eligible for licensure in the state who administers anesthesia as part of a hospital residency program established for the purpose of training dentists in anesthesiology; or

10. a. Any physician who is licensed and in good standing in another state or territory, and who has a written agreement to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team, may provide medical services to such athletes and team personnel at a discrete sanctioned team sporting event in this state as defined by the commissioner in regulations, provided such services are provided only to such athletes and team personnel at the discrete sanctioned team sporting event. Any such medical services shall be provided only five days before through three days after each discrete sanctioned team sporting event.

b. Any person practicing as a physician in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the department and the state board for professional medical conduct established pursuant to section two hundred thirty of this chapter as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of this article, this chapter, the rules of the department, the state board for professional medical conduct established pursuant to section two hundred thirty of this chapter, and the regulations of the commissioner and the commissioner of health, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

§ 6527. Special provisions. 1. A not-for-profit medical or dental expense indemnity corporation or a hospital service corporation organized under the insurance law may employ licensed physicians and enter into contracts with partnerships or medical corporations organized under article forty-four of this chapter, health maintenance organizations

possessing a certificate of authority pursuant to article forty-four of this chapter, professional corporations organized under article fifteen of the business corporation law or other groups of physicians to practice medicine on its behalf for persons insured under its contracts or policies.

2. Notwithstanding any inconsistent provision of any general, special or local law, any licensed physician who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physician. Nothing in this subdivision shall be deemed or construed to relieve a licensed physician from liability for damages for injuries or death caused by an act or omission on the part of a physician while rendering professional services in the normal and ordinary course of his practice.

3. No individual who serves as a member of:

a. a committee established to administer a utilization review plan of a hospital, including a hospital as defined in article twenty-eight of this chapter or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law;

b. a committee having the responsibility of the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law or the evaluation and improvement of the quality of care rendered in a hospital as defined in article twenty-eight of this chapter or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law;

c. any medical review committee or subcommittee thereof of a local, county or state medical, dental, podiatry or optometrical society, any such society itself, a professional standards review organization or an individual when such committee, subcommittee, society, organization or individual is performing any medical or quality assurance review function including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, either described in paragraphs a and b of this subdivision, required by law, or involving any controversy or dispute between (i) a physician, dentist, podiatrist or optometrist or hospital administrator and a patient concerning the diagnosis, treatment or care of such patient or the fees or charges therefor or (ii) a physician, dentist, podiatrist or optometrist or hospital administrator and a provider of medical, dental, podiatric or optometrical services concerning any medical or health charges or fees of such physician, dentist, podiatrist or optometrist;

d. a committee appointed pursuant to section twenty-eight hundred five-j of this chapter to participate in the medical and dental malpractice prevention program;

e. any individual who participated in the preparation of incident reports required by the department of health pursuant to section twenty-eight hundred five-l of this chapter; or

f. a committee established to administer a utilization review plan, or a committee having the responsibility of evaluation and improvement of the quality of care rendered, in a health maintenance organization

organized under article forty-four of this chapter or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with such a health maintenance organization, shall be liable in damages to any person for any action taken or recommendations made, by him or her within the scope of his or her function in such capacity provided that (i) such individual has taken action or made recommendations within the scope of his or her function and without malice, and (ii) in the reasonable belief after reasonable investigation that the act or recommendation was warranted, based upon the facts disclosed.

Neither the proceedings nor the records relating to performance of a medical or a quality assurance review function or participation in a medical and dental malpractice prevention program nor any report required by the department pursuant to section twenty-eight hundred five-l of this chapter described herein, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be subject to disclosure under article thirty-one of the civil practice law and rules except as hereinafter provided or as provided by any other provision of law. No person in attendance at a meeting when a medical or a quality assurance review or a medical and dental malpractice prevention program or an incident reporting function described herein was performed, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be required to testify as to what transpired thereat. The prohibition relating to discovery of testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting.

4. This title shall not be construed to affect or prevent the following:

a. The furnishing of medical assistance in an emergency;

b. The practice of the religious tenets of any church;

c. A physician from refusing to perform an act constituting the practice of medicine to which he or she is conscientiously opposed by reason of religious training and belief;

d. The organization of a medical corporation under article forty-four of this chapter, the organization of a university faculty practice corporation under section fourteen hundred twelve of the not-for-profit corporation law or the organization of a professional service corporation under article fifteen of the business corporation law; or

e. The physician's use of whatever medical care, conventional or non-conventional, which effectively treats human disease, pain, injury, deformity or physical condition.

5. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a physician, to any governmental agency, medical or specialists society, a hospital as defined in article twenty-eight of the public health law, a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or a health maintenance organization organized under article forty-four of this chapter or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with a health maintenance organization. The fore-

going shall not apply to information which is untrue and communicated with malicious intent.

6. A licensed physician may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, and consistent with this chapter, for:

a. administering immunizations.

b. the emergency treatment of anaphylaxis.

c. administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections.

d. administering tests to determine the presence of the human immunodeficiency virus.

e. administering tests to determine the presence of the hepatitis C virus.

f. the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose.

g. screening of persons at increased risk of syphilis, gonorrhea and chlamydia.

7. A licensed physician may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent with this chapter, for:

a. administering immunizations to prevent influenza to patients two years of age or older;

b. administering immunizations to prevent pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis to patients eighteen years of age or older; and

c. administering other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner determines that an immunization: (i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication as recommended by the advisory committee on immunization practices of the centers for disease control and prevention. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

8. A licensed physician may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant 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;

c. has attained a score satisfactory to a medical school approved by the Liaison Committee on Medical Education on a qualifying examination acceptable to the state board for medicine, and has satisfactorily completed one academic year of supervised clinical training under the direction of such medical school;

d. has completed the post-graduate hospital training required by the state board of medicine of all applicants for licensure; and

e. has passed the examination required by the state board of medicine of all applicants for licensure.

2. Satisfaction of the requirements of paragraphs a, b and c of subdivision one of this section shall be in lieu of the completion of any foreign internship and/or social service requirements, and no such

requirements shall be a condition of licensure as a physician in this State.

3. Satisfaction of the requirements of paragraphs a, b and c of subdivision one of this section shall be in lieu of certification by the Educational Council for Foreign Medical Graduates, and such certification shall not be a condition of licensure as a physician in this State for candidates who have completed the requirements of subdivision one of this section.

4. No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who has satisfied the requirements of paragraphs a, b and c of subdivision one of this section, and who at the time of his or her enrollment in a medical school outside the United States is a resident of the United States, to satisfy any further education or examination requirements prior to commencing an internship or residency.

5. A document granted by a medical school located outside the United States which is recognized by the World Health Organization issued after the completion of all the formal requirements of such foreign medical school except internship and/or social service shall, upon certification by the medical school in which such training was received of satisfactory completion by the person to whom such document was issued of the requirements listed in paragraph c of subdivision one of this section, be deemed the equivalent of a degree of doctor of medicine for purposes of licensure and practice as a physician in this State.

§ 6529. Power of department regarding certain physicians. Notwithstanding any provision of law to the contrary, the department is authorized, in its discretion, to confer the degree of doctor of medicine (M.D.) upon physicians who are licensed pursuant to section sixty-five hundred twenty-four or sixty-five hundred twenty-eight of this article. Each applicant shall pay a fee of three hundred dollars to the department for the issuance of such degree.

TITLE 3
DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS, PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS

Section 6530. Definitions of professional misconduct.
6531. Additional definition of professional misconduct, limited application.
6531-a. Additional definition of professional misconduct; mental health professionals.
6532. Enforcement, administration and interpretation of this 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 perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

25. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them;

25-a. With respect to any non-emergency treatment, procedure or surgery which is expected to involve local or general anesthesia, failing to disclose to the patient the identities of all physicians, except medical residents in certified training programs, podiatrists and

dentists, reasonably anticipated to be actively involved in such treatment, procedure or surgery and to obtain such patient's informed consent to said practitioners' participation;

26. Performing professional services which have not been duly authorized by the patient or his or her legal representative;

27. Advertising or soliciting for patronage that is not in the public interest. a. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that: (i) is false, fraudulent, deceptive, misleading, sensational, or flamboyant;

(ii) represents intimidation or undue pressure;

(iii) uses testimonials;

(iv) guarantees any service;

(v) makes any claim relating to professional services or products or the costs or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

(vi) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or

(vii) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.

b. The following shall be deemed appropriate means of informing the public of the availability of professional services: (i) informational advertising not contrary to the foregoing prohibitions; and

(ii) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.

c. (i) All licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or video tape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the department;

(ii) A licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

d. No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

28. Failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The period of thirty days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from the department by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of thirty days shall commence on the date of delivery to the licensee, as indicated by the return receipt;

29. Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of this chapter;

30. Abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the

continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

31. Willfully harassing, abusing, or intimidating a patient either physically or verbally;

32. Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, provided, however, that a physician who transfers an original mammogram to a medical institution, or to a physician or health care provider of the patient, or to the patient directly, as otherwise provided by law, shall have no obligation under this section to maintain the original or a copy thereof. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of eighteen years;

33. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;

34. Guaranteeing that satisfaction or a cure will result from the performance of professional services;

35. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

36. Claiming or using any secret or special method of treatment which the licensee refused to divulge to the department of health;

37. Failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to this chapter, while practicing as an employee or operator of a hospital, clinic, group practice or multi-professional facility, or at a commercial establishment offering health services to the public;

38. Entering into an arrangement or agreement with a pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

39. With respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article twenty-eight of this chapter or article thirteen of the mental hygiene law, failing to post conspicuously at the site of such practice the name and licensure field of all of the principal professional licensees engaged in the practice at that site (i.e., principal partners, officers or principal shareholders);

40. Failing to provide access by qualified persons to patient information in accordance with the standards set forth in section eighteen of this chapter, as added by chapter four hundred ninety-seven of the laws of nineteen hundred eighty-six;

41. Knowingly or willfully performing a complete or partial autopsy on a deceased person without lawful authority;

42. Failing to comply with a signed agreement to practice medicine in New York state in an area designated by the commissioner as having a shortage of physicians or refusing to repay medical education costs in lieu of such required service, or failing to comply with any provision of a written agreement with the state or any municipality within which the licensee has agreed to provide medical service, or refusing to repay funds in lieu of such service as consideration of awards made by the state or any municipality thereof for his or her professional education in medicine, or failing to comply with any agreement entered into to aid his or her medical education;

43. Failing to complete forms or reports required for the reimbursement of a patient by a third party. Reasonable fees may be charged for such forms or reports, but prior payment for the professional services to which such forms or reports relate may not be required as a condition for making such forms or reports available;

44. In the practice of psychiatry:

a. any physical contact of a sexual nature between licensee and patient except the use of films and/or other audiovisual aids with individuals or groups in the development of appropriate responses to overcome sexual dysfunction; and

b. in therapy groups, activities which promote explicit physical sexual contact between group members during sessions;

45. In the practice of ophthalmology, failing to provide a patient, upon request, with the patient's prescription including the name, address, and signature of the prescriber and the date of the prescription;

46. A violation of section two hundred thirty-nine of this chapter by a professional;

47. Failure to use scientifically accepted barrier precautions and infection control practices as established by the department of health pursuant to section two hundred thirty-a of this chapter;

48. A violation of section two hundred thirty-d of this chapter or the regulations of the commissioner enacted thereunder;

49. Except for good cause shown, failing to provide within one day any relevant records or other information requested by the state or local department of health with respect to an inquiry into a report of a communicable disease as defined in the state sanitary code, or HIV/AIDS; and

50. Performing a pelvic examination or supervising the performance of a pelvic examination in violation of subdivision seven of section twenty-five hundred four of this chapter.

§ 6531. Additional definition of professional misconduct, limited application. Notwithstanding any inconsistent provision of this title or any other provisions of law to the contrary, the license or registration of a person subject to the provisions of this title and title four of this article may be revoked, suspended, or annulled or such person may be subject to any other penalty provided in section two hundred thirty-a of this chapter in accordance with the provisions and procedures of this title for the following:

That any person subject to section sixty-five hundred thirty of this title that 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 percent 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, or university faculty practice corporations or groups by the individual members thereof, for professional services furnished by an individual professional member, or employee of such partnership, corporation, or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations, or groups, or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to and treatment under the workers' compensation law. Nothing contained in this chapter shall prohibit a corporation licensed pursuant to article forty-three of the insurance law pursuant to its contract with the subscribed from prorationing a medical or dental expenses indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the corporation licensed pursuant to article forty-three of the insurance law and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6531-a. Additional definition of professional misconduct; mental health professionals.

1. Definitions. For the purposes of this section:

a. "Mental health professional" means a person subject to the provisions of title two of this article.

b. "Sexual orientation change efforts" (i) means any practice by a mental health professional that seeks to change an individual's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same sex; and (ii) shall not include counseling for a person seeking to transition from one gender to another, or psychotherapies that: (A) provide acceptance, support and understanding of patients or the facilitation of patients' coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

2. It shall be professional misconduct for a mental health professional to engage in sexual orientation change efforts upon any patient under the age of eighteen years, and any mental health professional found guilty of such misconduct under the procedures prescribed in title two-A of article two of this chapter shall be subject to the penalties prescribed in section two hundred thirty-a of this chapter, as added by chapter six hundred six of the laws of nineteen hundred ninety-one.

§ 6532. Enforcement, administration and interpretation of this title. The board of professional medical conduct and the department shall enforce, administer and interpret this title. The commissioner may not promulgate any rules or regulations concerning this title.

TITLE 4
PHYSICIAN ASSISTANTS

Section 6540. Definitions.
6541. Requirements for license.
6542. Performance of medical services.
6543. Construction.
6544. Regulations.
6545. Emergency services rendered by physician assistant.
6546. Limited permits.

§ 6540. Definitions. As used in this title: 1. The term "physician assistant" means a person who is licensed as a physician assistant pursuant to this title.

2. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to title two of this article.

3. The term "approved program" means a program for the education of physician assistants which has been formerly approved by the department.

4. 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 department and health planning council.

§ 6541. Requirements for license. 1. To qualify for a license as a physician assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

a. at the time of application is at least twenty-one years of age;

b. is of good moral character;

c. has received an education including a bachelor's or equivalent degree in accordance with the commissioner's regulations;

d. has satisfactorily completed an approved program for the training of physician assistants. The approved program for the training of physician assistants shall include not less than forty weeks of supervised clinical training and thirty-two credit hours of classroom work. Applicants for a license as a physician assistant who have completed an approved program leading to a bachelor's degree or equivalent in physician assistant studies shall be deemed to have satisfied this paragraph. The commissioner is empowered to determine whether an applicant possesses equivalent education and training, such as experience as a nurse or military corpsman, which may be accepted in lieu of all or part of an approved program; and

e. in the case of an applicant for a license as a physician assistant, has obtained a passing score on an examination acceptable to the department.

2. The department shall furnish to each person applying for a license pursuant to this section an application form calling for such information as the department deems necessary and shall issue to each applicant who satisfies the requirements of subdivision one of this section a license as a physician assistant in a particular medical specialty for the period expiring December thirty-first of the first odd-numbered year terminating subsequent to the issuance of such license.

3. Every licensee shall apply to the department for a renewal of his or her license. The department shall mail to every licensed physician assistant an application form for renewal, addressed to the licensee's

post office address on file with the department. Upon receipt of such application properly executed, together with evidence of satisfactory completion of such continuing education requirements as may be established by the commissioner pursuant to section thirty-seven hundred one of this chapter, the department shall issue a renewal. Renewal periods shall be triennial and the renewal fee shall be forty-five dollars.

§ 6542. Performance of medical services. 1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are within the scope of practice of such supervising physician.

2. Supervision 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 title 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 title, 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.

7. Nothing in this title or in article thirty-seven of this chapter 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 this chapter.

§ 6543. Construction. Only a person licensed as a physician assistant by the department may use the title "physician assistant" or the letters "P.A." after his or her name.

§ 6544. Regulations. The commissioner may promulgate such other regulations as are necessary to carry out the purposes of this title.

§ 6545. Emergency services rendered by physician assistant. Notwithstanding any inconsistent provision of any general, special or local law, any physician assistant properly licensed in this state who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physician assistant. Nothing in this section shall be deemed or construed to relieve a licensed physician assistant from liability for damages for injuries or death caused by an act or omission on the part of a physician assistant while rendering professional services in the normal and ordinary course of his or her practice.

§ 6546. Limited permits. Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility. A person who fulfills all requirements to be licensed as a physician assistant except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a physician assistant only under the direct supervision of a physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for a license has been denied. A limited permit shall be extended upon application for one additional year, provided that the permittee's request for such extension is endorsed by a physician who either has supervised or will supervise the permittee, except that such extension may be denied by the department for cause which shall be stated in writing. If the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

TITLE 5
SPECIALIST ASSISTANTS

Section 6547. Definitions.
6548. Registration.
6549. Performance of medical services.
6549-a. Construction.
6549-b. Regulations.

§ 6547. Definitions. As used in this title:

1. The term "specialist assistant" means a person who is registered pursuant to this title as a specialist assistant for a particular medical specialty as defined by regulations promulgated by the commissioner of health pursuant to section thirty-seven hundred eleven of this chapter.

2. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to title two of this article.

3. The term "approved program" means a program for the education of specialist assistants which has been approved by the department.

4. 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 department and the health planning council.

§ 6548. Registration. 1. To qualify for registration as a specialist assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

a. at the time of application is at least twenty-one years of age;

b. is of good moral character;

c. has successfully completed a four-year course of study in a secondary school approved by the department or has passed an equivalency test; and

d. has satisfactorily completed an approved program for the training of specialist assistants.

2. The department shall furnish to each person applying for registration hereunder an application form calling for such information as the department deems necessary and shall issue to each applicant who satisfies the requirements of subdivision one of this section a certificate of registration as specialist assistant in a particular medical specialty for the period expiring December thirty-first of the first odd-numbered year terminating subsequent to such registration.

3. Every registrant shall apply to the department for a certificate of registration. The department shall mail to every registered specialist assistant an application form for registration, addressed to the registrant's post office address on file with the department. Upon receipt of such application properly executed, together with evidence of satisfactory completion of such continuing education requirements as may be established by the commissioner pursuant to section thirty-seven hundred eleven of this chapter, the department shall issue a certificate of registration. Registration periods shall be triennial and the registration fee shall be forty-five dollars.

§ 6549. Performance of medical services. 1. Notwithstanding any other provision of law, a specialist assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are related to the designated medical specialty for which he or she is registered and are within the scope of practice of his or her supervising physician.

2. Supervision 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 two specialist assistants in his or her private practice.

4. Nothing in this title shall prohibit a hospital from employing specialist 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 title, nothing shall prohibit a physician employed by or rendering services to the department of correctional services under contract from supervising no more than four specialist 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.

7. Nothing in this title or in article thirty-seven-A of this chapter, shall be construed to authorize specialist assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under this chapter.

§ 6549-a. Construction. Only a person registered as a specialist assistant by the department may use the title "registered specialist assistant" or the letters "R.S.A." after his or her name.

§ 6549-b. Regulations. The commissioner may promulgate such other regulations as are necessary to carry out the purposes of this title.

TITLE 6
CHIROPRACTIC

Section 6550. Introduction.
6551. Definition of practice of chiropractic.
6552. Practice of chiropractic and use of title "chiropractor".
6553. State board for chiropractic.
6554. Requirements for a professional license.
6554-a. Mandatory continuing education for chiropractors.
6555. Exempt persons.
6556. Special provisions.

§ 6550. Introduction. This title applies to the profession of chiropractic. The general provisions for all professions contained in title one of this article apply to this title.

§ 6551. Definition of practice of chiropractic. 1. The practice of the profession of chiropractic is defined as detecting and correcting by manual or mechanical means structural imbalance, distortion, or subluxations in the human body for the purpose of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column.

2. a. A license to practice as a chiropractor shall not permit the holder thereof to use radio-therapy, fluoroscopy, or any form of ionizing radiation except x-ray which shall be used for the detection of structural imbalance, distortion, or subluxations in the human body.

b. The requirements and limitations with respect to the use of x-ray by chiropractors shall be enforced by the commissioner and he or she is authorized to promulgate rules and regulations after conferring with the board to carry out the purposes of this subdivision.

c. Chiropractors shall retain, for a period of three years, all x-ray films taken in the course of their practice, together with the records pertaining thereto, and shall make such films and records available to the commissioner or his or her representative on demand.

3. A license to practice chiropractic shall not permit the holder thereof to treat for any infectious diseases such as pneumonia, any communicable diseases listed in the sanitary code of the state of New York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any surgical condition of the abdomen such as acute appendicitis, or diabetes, or any benign or malignant neoplasms; to operate; to reduce fractures or dislocations; to prescribe, administer, dispense or use in his or her practice drugs or medicines; or to use diagnostic or therapeutic methods involving chemical or biological means except diagnostic services performed by clinical laboratories which services shall be approved by the board as appropriate to the practice of chiropractic; or to utilize electrical devices except those devices approved by the board as being appropriate to the practice of chiropractic. Nothing herein shall be construed to prohibit a licensed chiropractor who has successfully completed a registered doctoral program in chiropractic, which contains courses of study in nutrition satisfactory to the department, from using nutritional counseling, including the dispensing of food concentrates, food extracts, vitamins, minerals, and other nutritional supplements approved by the board as being appropriate to, and as a part of, his or her practice of chiropractic. Nothing herein shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed chiropractor from engaging in nutritional counseling.

§ 6552. Practice of chiropractic and use of title "chiropractor". Only a person licensed or exempt under this title shall practice chiropractic or use the title "chiropractor".

§ 6553. State board for chiropractic. A state board for chiropractic shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than seven members, including at least four licensed chiropractors, one licensed physician who is a doctor of medicine, one licensed physician who is a doctor of osteopathy, and one educator who holds a doctorate or equivalent degree in either anatomy, physiology, pathology, chemistry or microbiology. An executive secretary to the board shall be appointed by the department on recommendation of the commissioner.

§ 6554. Requirements for a professional license. To qualify for a license as a chiropractor, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including two years of preprofessional college study and completion of a four-year resident program in chiropractic, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass examinations satisfactory to the board and in accordance with the commissioner's regulations, in clinical chiropractic analysis, the practice of chiropractic, x-ray as it relates to chiropractic analysis, and examinations satisfactory to the department in anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and the use and effect of x-ray;

5. Age: be at least twenty-one years of age;

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 6554-a. Mandatory continuing education for chiropractors. 1. a. Each chiropractor licensed pursuant to this title, required to register triennially with the department to practice in this state, shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs b and c of this subdivision. Chiropractors who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

b. Chiropractors shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an appropriate health care professional, for extended active duty with the armed

forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed chiropractor not engaged in chiropractic practice as an individual practitioner, a partner or a partnership, a shareholder of a professional service corporation, as an employee of such practice units, or as an employee of a facility operating pursuant to article twenty-eight of this chapter, or as otherwise determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of chiropractic during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be promulgated by regulation of the commissioner in consultation with the board.

d. Nothing in this section shall be construed as enabling or authorizing the department or state board for chiropractic to require or implement continuing competency testing or continued competency certification for chiropractors.

2. During each triennial registration period an applicant for registration shall complete thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional coursework as approved by the department in consultation with the board. Any chiropractor whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand four, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand four up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section. Continuing education hours taken during one triennium may not be carried over or otherwise credited or transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to complete the required continued education and who continues to practice chiropractic without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which are sponsored or presented by a New York state chiropractic professional organization, national chiropractic professional organization or higher educational institution, and which meet the following requirements: contain subject matter which contributes to the enhancement of professional and clinical skills of the chiropractor and is approved as acceptable continuing education by a chiropractic college recognized by the Commission on Accreditation

of the Council of Chiropractic Education to fulfill the mandatory continuing education requirements, and which meets the standards prescribed by regulations of the commissioner in consultation with the board to fulfill the mandatory continuing education requirement.

5. Chiropractors shall certify at each triennial registration as to having satisfied the mandatory continuing education requirements of this section, shall maintain adequate documentation of completion of acceptable formal continuing education to support such certification and shall provide such documentation to the department upon request. Failure to provide such documentation upon 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 in addition to the triennial registration fee required by section sixty-five hundred fifty-four of this title.

§ 6555. Exempt persons. Nothing in this title shall be construed to affect or prevent a student enrolled in a college of chiropractic in this state from engaging in all phases of clinical practice under supervision of a licensed chiropractor or physician in a curriculum registered by the department.

§ 6556. Special provisions. 1. Any chiropractor who holds a license stating that the holder is not authorized to use x-ray in his or her practice shall, on each registration, continue to obtain a license so marked. Any chiropractor holding such a license may obtain a license permitting the use of x-ray provided he or she first passes an examination in the use and effect of x-ray satisfactory to the board and the department.

2. An applicant who graduated from a school of chiropractic prior to January first, nineteen hundred sixty-eight need not meet the two-year preprofessional college study requirement provided for in subdivision two of section sixty-five hundred fifty-four of this title.

TITLE 7
DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING

Section 6600. Introduction.
6601. Definition of practice of dentistry.
6602. Practice of dentistry and use of title "dentist".
6603. State board for dentistry.
6604. Requirements for a license as a dentist.
6604-a. Mandatory continuing education for dentists.
6604-b. Restricted dental faculty license.
6605. Limited permits.
6605-a. Dental anesthesia certificate.
6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate.
6606. Definition of practice of dental hygiene.
6607. Practice of dental hygiene and use of title "dental hygienist".
6608. Definition of practice of registered dental assisting.
6608-a. Practice of registered dental assisting and use of title "registered dental assistant".
6608-b. Requirements for certification as a registered dental assistant.
6608-c. Exempt persons; registered dental assistant.
6608-d. Limited permits.

6609. Requirements for a license as a dental hygienist.
6609-a. Mandatory continuing education for dental hygienists.
6609-b. Limited permit to practice dental hygiene.
6610. Exempt persons; practice of dental hygiene.
6611. Special provisions.
6612. Identification of removable full or partial prosthetic devices.
6613. Nitrous oxide equipment.

§ 6600. Introduction. This title applies to the professions of dentistry, dental hygiene, and registered dental assisting. The general provisions for all professions contained in title one of this article apply to this title.

§ 6601. Definition of practice of dentistry. The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in conjunction with the provision of dental treatment.

§ 6602. Practice of dentistry and use of title "dentist". Only a person licensed or otherwise authorized to practice under this title shall practice dentistry or use the title "dentist".

§ 6603. State board for dentistry. A state board for dentistry shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than thirteen dentists licensed in this state for at least five years, not less than three dental hygienists licensed in this state for at least five years, and not less than one registered dental assistant licensed in this state for at least one year. An executive secretary to the board shall be appointed by the department on recommendation of the commissioner and shall be a dentist licensed in this state.

§ 6604. Requirements for a license as a dentist. To qualify for a license as a dentist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a doctoral degree in dentistry, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations, provided that such experience shall consist of satisfactory completion of a clinically-based postdoctoral general practice or specialty dental residency program, of at least one year's duration, in a hospital or dental facility accredited for teaching purposes by a national accrediting body approved by the department, provided, further that any such residency program shall include a formal outcome assessment evaluation of the resident's competence to practice dentistry acceptable to the department;

4. Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the department may grant a three-year waiver for an alien to practice in an area which has been designated a federal

dental health professions shortage area, except that the department may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

§ 6604-a. Mandatory continuing education for dentists. 1. a. Each dentist, licensed pursuant to this title, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs b and c of this subdivision. Dentists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

b. Dentists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed dentist not engaged in public practice as an individual practitioner, a partner of a partnership, a shareholder of a professional service corporation, or an employee of such practice units, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of dentistry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of sixty hours of acceptable formal continuing education, a maximum of eighteen hours of which may be self-instructional coursework as approved by the department. Beginning with the first registration renewal period for any dentist occurring on or after January first, two thousand two, and before the occurrence of the second registration renewal period following that date, a dentist shall have completed on a one-time basis, as part of the sixty hours of acceptable formal continuing education required by this section, no fewer than two hours of coursework and training regarding the chemical and related effects and usage of tobacco and tobacco products and the recognition, diagnosis, and treatment of the oral health effects, including but not limited to cancers and other diseases, caused by tobacco and tobacco products, provided that any dentist who provides written proof satisfactory to the department that the dentist has completed, at any time subsequent to the effective date of this section, an approved mandatory continuing education course of not less than two hours in the same or substantially similar subject matter shall be

deemed to have met this requirement, and further provided that dentists who are exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed shall also be exempt from this requirement for that period. Any dentist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight and before July first, two thousand eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. For any registration period beginning before July first, two thousand eight and ending on or after such date, each dentist shall complete continuing education hours on a pro rata basis at a rate of one and one-quarter hours per month for the period ending June thirtieth, two thousand eight and at a rate of one and two-thirds hours per month for the period beginning July first, two thousand eight up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dentistry without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors having at least one full-time employee and the facilities, equipment, and financial and physical resources to provide continuing education courses, approved by the department, pursuant to the regulations of the commissioner.

5. 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-six hundred four of this title.

6. On or after the effective date of this subdivision, and no later than the end of the first registration period commencing on or after such date during which he or she is required to comply with the continuing education requirements of this section, each dentist shall have completed on a one-time basis, as part of the mandatory hours of acceptable formal continuing education required by this section, no fewer than three hours in a course approved by the department in dental jurisprudence and ethics, which shall include the laws, rules, regulations and

ethical principles relating to the practice of dentistry in New York state, provided that postgraduate dental students enrolled in New York state dental residency programs may satisfy the requirements of this subdivision by taking such an approved course during the period of their dental residency prior to their initial licensure.

§ 6604-b. Restricted dental faculty license. 1. The department may issue a restricted dental faculty license to a full-time faculty member employed at an approved New York state school of dentistry. The holder of such restricted dental faculty license shall have the authority to practice dentistry, as defined in this title, but such practice of dentistry shall be limited to the school's facilities or the school's clinics, or facilities or clinics with relationships to the school confirmed by formal affiliation agreements. Nothing in this section shall be construed to authorize such holder of a restricted dental faculty license to engage in the private practice of dentistry at any other site.

2. To qualify for a restricted dental faculty license the applicant shall present satisfactory evidence of the following:

a. The completion of a total of no less than six academic years of pre-professional and professional education, including:

(i) courses in general chemistry, organic chemistry, biology or zoology and physics; and

(ii) not less than four academic years of professional dental education satisfactory to the department culminating in a degree, diploma or certificate in dentistry recognized by the appropriate civil authorities of the jurisdiction in which the school is located as acceptable for entry into practice in the jurisdiction in which the school is located.

b. Within the last five years, have two years of satisfactory practice as a dentist or have satisfactorily completed an advanced education program in general dentistry or in a dental specialty, provided such program is accredited by an organization accepted by the department as a reliable authority for the purpose of accrediting such programs (such as the commission on dental accreditation); and

c. Possesses good moral character as determined by the department.

3. The dean of the dental school shall notify the department in writing upon the submission of an initial license application and yearly thereafter that the holder of the dental faculty license is employed full-time at the dental school. Full-time employment means the holder of such dental faculty license devotes at least four full working days per week in teaching or patient care, research or administrative duties at the dental school where employed. The dean of the dental school and the holder of such dental faculty license shall each notify the department in writing within thirty days of the termination of full-time employment.

4. In order to continue to practice dentistry, the holder of a restricted dental faculty license shall apply for and hold a current triennial registration which shall be subject to the same registration requirements as apply to holders of unrestricted dental licenses, except that such registration shall be issued only upon the submission of documentation satisfactory to the department of the holder's continued status as a full-time dental faculty member, provided that such registration shall immediately terminate and the holder shall no longer be authorized to practice if the holder ceases to be a full-time dental faculty member at an approved New York state school of dentistry.

5. The holder of this restricted dental faculty license shall be subject to the professional misconduct provisions set forth in subtitle

three of title one of this article and in the regulations and rules of the department.

6. The fee for each restricted dental faculty license shall be three hundred dollars, and the fee for initial registration and each subsequent re-registration shall be three hundred dollars.

7. In order to be eligible for a restricted dental faculty license an applicant must be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the department may grant a three-year waiver for an alien who otherwise meets all other requirements for a restricted dental faculty license except that the department may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued. No current faculty member shall be displaced by the holder of a restricted dental faculty license.

§ 6605. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to a graduate of a dental college who meets the educational qualifications for admission to the licensing examination in dentistry for employment in a hospital or dental facility approved by an appropriate agency, while under the direction or supervision of a licensed dentist. No such permit shall be issued or renewed unless such graduate has a bona fide offer of a position in such a hospital or dental facility.

2. On recommendation of the board, the department may issue a limited permit for instructing in dentistry to a dentist not licensed under this title to be employed by a registered school of dentistry or dental hygiene to instruct and supervise clinical dentistry or dental hygiene for students in such a registered school in the state, and in so doing to practice dentistry as defined in this title, but only on the premises of such registered school or such other premises as may be used for instruction in the program of health conducted by such institution. No person shall be permitted or authorized to instruct and supervise clinical dentistry for students unless such person is licensed in this state or holds the foregoing limited permit for instructing in dentistry.

3. The holder of a limited permit under this section may practice dentistry, as defined in this title, but only in the performance of duties required by the position for which the limited permit is issued. Nothing in this section shall be construed to authorize such unlicensed dentist to engage in the private practice of dentistry.

4. A limited permit under this section shall be valid for one year or until ten days after notification of denial of an application for license. A limited permit may be renewed for one year, except if the applicant is serving in a residency program in a hospital or school of dentistry in this state. A limited permit may be renewed annually for the duration of such residency program. The fee for each limited permit and for each renewal shall be one hundred five dollars.

5. Notwithstanding subdivision one of this section, dental school graduates who meet the license requirement for education pursuant to subdivision two of section sixty-six hundred four of this title shall be deemed to be exempt persons pursuant to section sixty-six hundred ten of this title and shall not be required to obtain a limited permit, provided that they are employed in an approved residency program for the purpose of fulfilling initial licensure requirements pursuant to section sixty-six hundred four of this title. Not later than sixty days after entry into an approved residency program, the dental resident shall register on a form acceptable to the commissioner and pay to the depart-

ment a residency registration fee established by the department, which residency registration fee shall be reasonable and shall not exceed the limited permit fee specified in subdivision four of this section. All persons deemed exempt pursuant to this section shall be subject to all provisions of title one of this article, including but not limited to having disciplinary action taken against their residency registration status.

§ 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall not employ conscious sedation, deep sedation or general anesthesia in the practice of dentistry, at any location other than a general hospital, without a dental anesthesia certificate issued by the department.

2. The commissioner shall promulgate regulations, establishing standards and procedures for the issuance of certificates. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dentist is specifically trained in the use and administration of conscious sedation, deep sedation or general anesthesia and in the possible effects of such use, and in the recognition of and response to possible emergency situations. Such regulations may also establish standards and safeguards for the use of conscious sedation, deep sedation or general anesthesia.

3. Nothing in this section shall limit a dentist's use of local anesthesia, a dentist's use of nitrous oxide, or a dentist's use of any other substance or agent for a purpose other than achieving deep sedation, conscious sedation, or general anesthesia.

4. The fee for a dental anesthesia certificate shall be one hundred dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dentistry.

§ 6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist shall not administer or monitor nitrous oxide analgesia or local infiltration anesthesia in the practice of dental hygiene without a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate and except under the personal supervision of a dentist and in conjunction with the performance of dental hygiene procedures authorized by law and in accordance with regulations promulgated by the commissioner. Personal supervision, for purposes of this section, means that the supervising dentist remains in the dental office where the local infiltration anesthesia or nitrous oxide analgesia services are being performed, personally authorizes and prescribes the use of local infiltration anesthesia or nitrous oxide analgesia for the patient and, before dismissal of the patient, personally examines the condition of the patient after the use of local infiltration anesthesia or nitrous oxide analgesia is completed. It is professional misconduct for a dentist to fail to provide the supervision required by this section, and any dentist found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this article shall be subject to the penalties prescribed in section sixty-five hundred eleven of this article.

2. The commissioner shall promulgate regulations establishing standards and procedures for the issuance of such certificate. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dental hygienist is specifically trained in the administration and monitoring of nitrous oxide analgesia and local infiltration anesthesia, the possible effects

of such use, and in the recognition of and response to possible emergency situations.

3. The fee for a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate shall be twenty-five dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dental hygiene.

§ 6606. Definition of practice of dental hygiene. 1. The practice of the profession of dental hygiene is defined as the performance of dental services which shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the teeth which begin at the epithelial attachment and applying topical agents indicated for a complete dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing matrix band, providing patient education, applying topical medication, placing and exposing diagnostic dental x-ray films, performing topical fluoride applications and topical anesthetic applications, polishing teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing temporary restorations, administering and monitoring nitrous oxide analgesia and administering and monitoring local infiltration anesthesia, subject to certification in accordance with section sixty-six hundred five-b of this title, and any other function in the definition of the practice of dentistry as may be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner. The practice of dental hygiene may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done either under the supervision of a licensed dentist or, in the case of a registered dental hygienist working for a hospital as defined in article twenty-eight of this chapter, pursuant to a collaborative arrangement with a licensed and registered dentist who has a formal relationship with the same hospital in accordance with regulations promulgated by the department. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist. When dental hygiene services are provided pursuant to a collaborative agreement, such dental hygienist shall instruct individuals to visit a licensed dentist for comprehensive examination or treatment.

2. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform that are consistent with the training and qualifications for a license as a dental hygienist.

§ 6607. Practice of dental hygiene and use of title "dental hygienist". Only a person licensed under section sixty-six hundred nine of this title or exempt shall practice dental hygiene or use the title "dental hygienist".

§ 6608. Definition of practice of registered dental assisting. The practice of registered dental assisting is defined as providing supportive services to a dentist in his or her performance of dental services authorized under this title. Such support shall include providing patient education, taking preliminary medical histories and vital signs to be reviewed by the dentist, placing and removing rubber dams, selecting and prefitting provisional crowns, selecting and prefitting orthodontic bands, removing orthodontic arch wires and ligature ties, placing and removing matrix bands, taking impressions for study casts or diagnostic casts, removing periodontal dressings, and such other dental supportive services authorized by the dentist consistent with regulations promulgated by the commissioner, provided that such functions

are performed under the direct personal supervision of a licensed dentist in the course of the performance of dental services. Such services shall not include diagnosing and/or performing surgical procedures, irreversible procedures or procedures that would alter the hard or soft tissue of the oral and maxillofacial area or any other procedures determined by the department. The practice of registered dental assisting may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the direct personal supervision of a licensed dentist. Direct personal supervision, for purposes of this section, means supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the registered dental assistant. Nothing herein authorizes a registered dental assistant to perform any of the services or functions defined as part of the practice of dental hygiene in accordance with the provisions of subdivision one of section sixty-six hundred six of this title, except those functions authorized pursuant to this section. All dental supportive services provided in this section may be performed by currently registered dental hygienists either under a dentist's supervision, as defined in regulations of the commissioner, or, in the case of a registered dental hygienist working for a hospital as defined in article twenty-eight of this chapter, pursuant to a collaborative arrangement with a licensed dentist in accordance with subdivision one of section sixty-six hundred six of this title. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

§ 6608-a. Practice of registered dental assisting and use of title "registered dental assistant". Only a person certified under section sixty-six hundred eight-b of this title or exempt pursuant to section sixty-six hundred ten of this title shall practice registered dental assisting. Only a person certified pursuant to section sixty-six hundred eight-b of this title shall use the title "registered dental assistant".

§ 6608-b. Requirements for certification as a registered dental assistant. To qualify for certification as a registered dental assistant, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Age: be at least eighteen years of age;

3. Fees: pay a fee of forty-five dollars to the department for initial certification and a fee of fifty dollars for each triennial registration period;

4. Education and experience: a. have received a high school diploma, or its equivalent, and b. have successfully completed, in accordance with the commissioner's regulations: (i) an approved one-year course of study in dental assisting in a degree-granting institution or a board of cooperative educational services program which includes at least two hundred hours of clinical experience, or an equivalent approved course of study in dental assisting in a non-degree granting institution which shall not be a professional association or professional organization, or (ii) an alternate course of study in dental assisting acceptable to the department which shall be provided by a degree-granting institution or a board of cooperative educational services program which includes at least one thousand hours of relevant work experience;

5. Examination: pass an examination in dental assisting given by an organization which administers such examinations and which is acceptable to the department; and

6. Character: be of good moral character as determined by the department.

§ 6608-c. Exempt persons; registered dental assistant. Nothing in this title shall be construed to affect or prevent a student from engaging in any procedure authorized under section sixty-six hundred eight of this title in clinical practice as part of a course of study approved by the department pursuant to subdivision four of section sixty-six hundred eight-b of this title.

§ 6608-d. Limited permits. The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination. All practice under a limited permit shall be under the direct personal supervision of a licensed dentist. Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year. The fee for each limited permit and for each renewal shall be forty dollars.

§ 6609. Requirements for a license as a dental hygienist. To qualify for a license as a dental hygienist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation and completion of a program in dental hygiene, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least seventeen years of age;

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the department may grant a three-year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the department may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 6609-a. Mandatory continuing education for dental hygienists. 1. a. Each dental hygienist, licensed pursuant to this title and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs b and c of this subdivision. Dental hygienists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

b. Dental hygienists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the Armed Forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed dental hygienist not engaged in the practice of dental hygiene shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of dental hygiene during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education including currently mandated child abuse reporting instruction and infection control training as approved by the department. Of these twenty-four hours a maximum of ten hours may be self-instructional coursework as approved by the department. Any dental hygienist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dental hygiene without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee of thirty dollars shall be payable on or before the first day of each triennial registration peri-

od, and shall be paid in addition to the triennial registration fee required by section sixty-six hundred nine of this title.

§ 6609-b. Limited permit to practice dental hygiene. 1. A limited permit to practice dental hygiene may be granted to an individual who has, to the satisfaction of the department, met all the requirements of section sixty-six hundred nine of this title, but has not yet passed the examination required by subdivision four of such section.

2. A limited permit shall authorize the holder to practice dental hygiene as defined in section sixty-six hundred six of this title, but only under the personal supervision of a licensed dentist, as defined in regulations promulgated by the commissioner.

3. Limited permits shall be issued for a period of one year and may be renewed at the discretion of the department for one additional year.

4. The fee for a limited permit and for each renewal shall be fifty dollars.

§ 6610. Exempt persons; practice of dental hygiene. Nothing in this title shall be construed to affect or prevent:

1. An unlicensed person from performing solely mechanical work upon inert matter in a dental office or on a dental laboratory prescription of a dentist holding a license or limited permit.

2. A student from engaging in clinical practice as part of a registered program operated by a school of dentistry under supervision of a dentist holding a license or limited permit for instructing in dentistry in a school of dentistry.

3. A student from engaging in any procedure authorized under section sixty-six hundred six of this title in clinical practice as part of a registered program in dental hygiene under supervision of a dentist holding a license or a limited permit for instructing in dentistry in a school of dental hygiene.

4. An employee of a federal agency from using the title of and practicing as a dentist or dental hygienist insofar as such activities are required by his salaried position.

5. A dentist or a dental hygienist licensed in some other state or country from making a teaching clinical demonstration before a regularly organized dental or medical society or group, or from meeting licensed dentists in this state for consultation, provided such activities are limited to such demonstration or consultation.

6. A dentist licensed in another state or country who is employed on a full-time basis by a registered dental school as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as a part of such employment, under the supervision of a licensed dentist and on the premises of the school. No fee may be charged for the practice of dentistry authorized by this subdivision.

7. A dentist licensed in another state or country who is visiting an approved dental school or any other entity operating a residency program that has been accredited by a national accrediting body approved by the department to receive dental instruction for a period not to exceed ninety days from engaging in clinical practice, provided such practice is limited to such instruction and is under the direct supervision of a licensed dentist.

8. Any student matriculated in an accredited dental school located outside New York state from engaging in appropriately supervised clinical practice as part of the school's dental program in a teaching hospital which has a teaching affiliation agreement with the student's dental school.

§ 6611. Special provisions. 1. Except upon the written dental laboratory prescription of a licensed dentist and except by the use of impressions or casts made by a licensed dentist, no dental laboratory shall furnish, supply, construct, reproduce, place, adjust, or repair any dental prosthesis, device, or appliance. A dental laboratory prescription shall be made out in duplicate. It shall contain such data as may be prescribed by the commissioner's regulations. One copy shall be retained by the practitioner of dentistry for a period of one year. The other copy shall be issued to the person, firm or corporation engaged in filling dental laboratory prescriptions, who or which shall each retain and file in their respective offices or places of business their respective copies for a period of one year.

2. The department is empowered to inspect and to have access to all places, including the office or offices of a licensed dentist, where copies of dental laboratory prescriptions issued by him or her are retained as required by this section, and to all places where dental laboratory prescriptions are filled or to any workroom or workrooms in which prosthetic restorations, prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for natural teeth or tissue or for the correction of malocclusion or deformities are made, repaired or altered, with power to subpoena and examine records of dental laboratory prescriptions. A person who fails to grant access to such places or who fails to maintain prescriptions as required by this section shall be guilty of a class A misdemeanor.

3. The department may arrange for the conduct of clinical examinations in the clinic of any school of dentistry or dental hygiene within or outside the state for dental or dental hygiene candidates.

4. A not-for-profit dental or medical expense indemnity corporation or hospital service corporation organized under the insurance law or pursuant to special legislation may enter into contracts with dentists or partnerships of dentists to provide dental care on its behalf for persons insured under its contracts or policies.

5. Legally incorporated dental corporations existing and in operation prior to January first, nineteen hundred sixteen, may continue to operate through licensed dentists while conforming to the provisions of this title. Any such corporation which shall be dissolved or cease to exist or operate for any reason whatsoever shall not be permitted to resume operations. No such corporation shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department, and any corporation so changing its name or so transferring its franchise or corporate rights without such permission shall be deemed to have forfeited its rights to exist and may be dissolved by an action brought by the attorney general.

6. Notwithstanding any inconsistent provision of any general, special or local law, any licensed dentist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such dentist. Noth-

ing in this subdivision shall be deemed or construed to relieve a licensed dentist from liability for damages for injuries or death caused by an act or omission on the part of a dentist while rendering professional services in the normal and ordinary course of practice.

7. Any dentist or dental hygienist, who in the performance of dental services, x-rays the mouth or teeth of a patient shall during the performance of such x-rays shield the torso and thyroid area of such patient including but not limited to the gonads and other reproductive organs with a lead apron thyroid collar, or other similar protective garment or device. Notwithstanding the provisions of this subdivision, if in the dentist's professional judgment the use of a thyroid collar would be inappropriate under the circumstances, because of the nature of the patient, the type of x-ray being taken, or other factors, the dentist or dental hygienist need not shield the thyroid area.

8. An unlicensed person may provide supportive services to a dentist incidental to and concurrent with such dentist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of dentistry or dental hygiene as defined in this title.

9. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a dentist, to any governmental agency, dental or specialists society, or hospital as defined in article twenty-eight of this chapter. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

10. Each dentist and registered dental hygienist working for a hospital as defined in article twenty-eight of this chapter who practices in collaboration with a licensed dentist shall become certified in cardiopulmonary resuscitation (CPR) from an approved provider and thereafter maintain current certification, which shall be included in the mandatory hours of continuing education acceptable for dentists to the extent provided in the commissioner's regulations. In the event the dentist or registered dental hygienist cannot physically perform CPR, the commissioner's regulations shall allow the dentist or registered dental hygienist to make arrangements for another individual in the office to administer CPR. All dental facilities shall have an automatic external defibrillator or other defibrillator at the facility.

§ 6612. Identification of removable full or partial prosthetic devices. 1. Except as provided herein, every dentist licensed in this state making or directing to be made a removable prosthetic denture, bridge, appliance or other structure to be used and worn as a substitute for natural teeth, shall offer to the patient for whom the prosthesis is intended the opportunity to have such prosthesis marked with the patient's name or initials. Such markings shall be accomplished at the time the prosthesis is made and the location and methods used to apply or implant them shall be determined by the dentist or the person acting on behalf of the dentist. Such marking shall be permanent, legible and cosmetically acceptable.

2. Notwithstanding the foregoing, if in the judgment of the dentist or the person making the prosthesis, such identification is not practicable or clinically safe, the identification marks may be omitted entirely.

3. The commissioner shall adopt rules and regulations and provide standards necessary to carry out the provisions of this section.

§ 6613. Nitrous oxide equipment. Any machine used in a dental office for the administration of nitrous oxide to a patient shall be equipped with a scavenging system that appropriately minimizes leakage of nitrous oxide.

TITLE 8
LICENSED PERFUSIONISTS

Section 6630. Definitions.
6631. Practice of perfusion and use of title "licensed perfusionist".
6632. Requirements for licensure as a perfusionist.
6633. Special provisions.
6634. State committee for perfusion.
6635. Limited permits.
6636. Exempt persons.

§ 6630. Definitions. As used in this title: 1. The term "perfusionist" means a person who is licensed to practice perfusion pursuant to this title.

2. The term "registered program" means a program for the education of perfusionists which has been registered by the department or determined by the department to be the substantial equivalent.

3. a. The term "perfusion" means the provision of extracorporeal or intracorporeal patient care services to support or replace the circulatory or respiratory function of a patient, including the administration of pharmacological and therapeutic agents, and blood products, and the management, treatment and monitoring of the physiological status of a patient during the operation of extracorporeal circulation equipment or intracorporeal equipment that replaces or support circulatory or respiratory functions.

b. All perfusion services shall be pursuant to the order and direction of a physician. Perfusion services may be performed in a general hospital licensed pursuant to article twenty-eight of this chapter or during the transport of patients or organs supported by extracorporeal or intracorporeal equipment.

4. The term "committee" means the state committee for perfusion created by section sixty-six hundred thirty-four of this title.

§ 6631. Practice of perfusion and use of title "licensed perfusionist". Only a person licensed or exempt under this title shall practice perfusion. Only persons licensed as perfusionists may use the title "licensed perfusionist".

§ 6632. Requirements for licensure as a perfusionist. To qualify for licensure as a "licensed perfusionist", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education:

a. has successfully completed a baccalaureate or higher degree in perfusion registered by the department, or the substantial equivalent as determined by the department; or

b. has completed a baccalaureate or higher degree and a credit bearing certificate program in perfusion acceptable to the department; or

c. until two years from the effective date of this title, has completed a baccalaureate or higher degree and an accredited training program in perfusion acceptable to the department pursuant to regulations.

3. Examination: has obtained a passing score on an examination acceptable to the department;

4. Age: at the time of application is at least twenty-one years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for an initial license and for each triennial registration period.

§ 6633. Special provisions. An individual who meets the requirements for a license as a licensed perfusionist except for examination, experience and education and who meets the requirements enumerated under subdivisions one or two of this section may be licensed without meeting additional requirements provided that such individual submits an application to the department within two years of the effective date of this section.

1. Applicants may be licensed if they have been practicing as a perfusionist for five years in the past ten years in an inpatient unit that provides cardiac surgery services in a hospital approved by the department or a substantially equivalent accrediting body acceptable to the committee and the department at least three of such years of experience having occurred during the past five years.

2. Applicants who possess certification from a national certification organization acceptable to the committee and the department may be licensed if they have been employed as a perfusionist for three of the past five years.

§ 6634. State committee for perfusion. 1. A state committee for perfusion shall be appointed by the department upon the recommendation of the commissioner as a committee of the board for medicine to advise solely in matters relating to perfusion and shall assist on matters of licensure and professional conduct.

2. The committee shall consist of no fewer than eight individuals, to be composed of a minimum of the following:

a. four licensed perfusionists;

b. two licensed physicians; and

c. two representatives of the public at large.

§ 6635. Limited permits. 1. Eligibility. A person who fulfills all requirements for licensure as a perfusionist except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a perfusionist only under the supervision of a licensed perfusionist and pursuant to the order and direction of a physician.

3. Duration. A limited permit shall expire one year from the date of issuance. A limited permit may be extended for one additional year for good cause as determined by the department.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

§ 6636. Exempt persons. This title shall not prohibit:

1. The practice of perfusion by any student who is engaged in clinical training in a general hospital licensed pursuant to article twenty-eight of this chapter or during the transport of patients or organs supported by extracorporeal or intracorporeal equipment and who is enrolled in a perfusion program approved by the department, provided such practice is limited to such clinical training which shall be carried out under the direct supervision of a licensed perfusionist and pursuant to the order and direction of a physician; or

2. The performance of any of the tasks or responsibilities included in the definition of perfusion by any other person licensed under this article, provided that such tasks or responsibilities are authorized by the title governing the profession pursuant to which said person is licensed; or

3. The practice of perfusion by any legally qualified perfusionist 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.

TITLE 9
PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS

Section 6730. Introduction.
6731. Definition of physical therapy.
6732. Practice of physical therapy and the use of title "physical therapist".
6733. State board for physical therapy.
6734. Requirements for a professional license.
6735. Limited permits; physical therapist.
6736. Exempt persons.
6737. Non-liability of licensed physical therapists for first aid or emergency treatment.
6738. Definition of physical therapist assistant.
6739. Duties of physical therapist assistants and the use of title "physical therapist assistant".
6740. Requirements for certification as a physical therapist assistant.
6741. Exemption.
6741-a. Limited permits; physical therapist assistant.
6742. Special provisions.
6742-a. Mandatory continuing education.
6743. Validity of existing licenses.

§ 6730. Introduction. This title applies to the profession of physical therapy and provides for the licensing of physical therapists and for the certification of physical therapist assistants. The general provisions for all professions contained in title one of this article apply to this title.

§ 6731. Definition of physical therapy. Physical therapy is defined as:

1. The evaluation, treatment or prevention of disability, injury, disease, or other condition of health using physical, chemical, and mechanical means including, but not limited to heat, cold, light, air, water, sound, electricity, massage, mobilization, and therapeutic exercise with or without assistive devices, and the performance and interpretation of tests and measurements to assess pathophysiological, pathomechanical, and developmental deficits of human systems to determine treatment, and assist in diagnosis and prognosis.

2. The use of roentgen rays or radium, or the use of electricity for surgical purposes such as cauterization shall not be included in the practice of physical therapy.

3. Such treatment shall be rendered pursuant to a referral which may be directive as to treatment by a licensed physician, dentist, podiatrist, nurse practitioner or licensed midwife, each acting within his or her lawful scope of practice, and in accordance with their diagnosis, except as provided in subdivision four of this section.

4. Such treatment may be rendered by a licensed physical therapist for ten visits or thirty days, whichever shall occur first, without a referral from a physician, dentist, podiatrist, nurse practitioner or licensed midwife provided that:

a. The licensed physical therapist has practiced physical therapy on a full-time basis equivalent to not less than three years.

b. Each physical therapist licensed pursuant to this title shall provide written notice to each patient receiving treatment absent a referral from a physician, dentist, podiatrist, nurse practitioner or licensed midwife that physical therapy may not be covered by the patient's health care plan or insurer without such a referral and that such treatment may be a covered expense if rendered pursuant to a referral. The physical therapist 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, with one copy to be retained by the patient, signed and dated by both the physical therapist and the patient in such form as prescribed pursuant to regulations promulgated by the commissioner.

§ 6732. Practice of physical therapy and the use of title "physical therapist". Only a person licensed or otherwise authorized under this title shall practice physical therapy or use the title "physical therapist", "physiotherapist" or "mechanotherapist" or the abbreviation of "P.T." in connection with his or her name or with any trade name in the conduct of his or her profession. Only a person licensed or otherwise authorized under this title to practice physical therapy, and who has obtained a doctorate in physical therapy may use the title "doctor of physical therapy" or abbreviation "D.P.T." in connection with his or her name or with any trade name to indicate or imply that the person is licensed or otherwise authorized to practice physical therapy.

§ 6733. State board for physical therapy. A state board for physical therapy shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than eight licensed physical therapists and not less than one public representative. An executive secretary to the board shall be appointed by the department on recommendation of the commissioner.

§ 6734. Requirements for a professional license. To qualify for a license as a physical therapist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including completion of a master's degree or higher in physical therapy or determined to be equivalent, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license; a fee of eighty-five dollars for each reexamination; a fee of one hundred fifteen dollars for an initial license for persons

not requiring admission to a department conducted examination; and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 6735. Limited permits; physical therapist. 1. The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination.

2. All practice under a limited permit shall be under the supervision of a licensed physical therapist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, a recognized public or non-public school setting, the office of a licensed physical therapist, or in the civil service of the state or political subdivision thereof.

3. Limited permits shall be for six months and the department may for justifiable cause renew a limited permit provided that no applicant shall practice under any limited permit for more than a total of one year.

4. Supervision of a permittee by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision except that such supervision need not be on-site when the supervising physical therapist has determined, through evaluation, the setting of goals and the establishment of a treatment plan, that the program is one of maintenance as defined pursuant to title XVIII of the federal social security act.

5. The fee for each limited permit and for each renewal shall be seventy dollars.

§ 6736. Exempt persons. 1. This title shall not be construed to affect or prevent the administration of physical therapy or the use of modalities by a person employed by a licensed physician or physical therapist in his or her office, or in the civil service of the state or any political subdivision thereof, or in a hospital or clinic, or in an infirmary maintained by a person, firm or corporation employing one or more full-time licensed physicians or physical therapists, provided that such person was so employed for a period of at least two years prior to April tenth, nineteen hundred fifty, and has been issued a written authorization by the department.

2. This title shall not be construed to affect or prevent:

a. a physical therapy student from engaging in clinical practice under the supervision of a licensed physical therapist as part of a program conducted in an approved school of physical therapy or in a clinical facility or health care agency affiliated with the school of physical therapy and supervision of a physical therapy student by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision;

b. a physical therapist graduate of an approved program from engaging in clinical practice under the on-site, but not necessarily direct personal supervision of a licensed physical therapist provided the graduate has: (i) applied and paid a fee for the licensing and examination, (ii) applied and paid a fee for the temporary permit. This exemption shall not extend beyond ninety days after graduation;

c. a physical therapist licensed in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of physical therapy or in its affiliated clinical facility or health care agency, or before a group of licensed physical therapists who are members of a professional society;

d. a physical therapist who is serving in the armed forces or the public health service of the United States or is employed by the veterans administration from practicing the profession of physical therapy, provided such practice is limited to such service or employment.

§ 6737. Non-liability of licensed physical therapists for first aid or emergency treatment. Notwithstanding any inconsistent provision of any general, special or local law, any licensed physical therapist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary physical therapy equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physical therapist. Nothing in this section shall be deemed or construed to relieve a licensed physical therapist from liability for damages for injuries or death caused by an act or omission on the part of a physical therapist while rendering professional services in the normal and ordinary course of his or her practice.

§ 6738. Definition of physical therapist assistant. 1. A "physical therapist assistant" means a person certified in accordance with this title who works under the supervision of a licensed physical therapist performing such patient related activities as are assigned by the supervising physical therapist. Duties of physical therapist assistants shall not include evaluation, testing, interpretation, planning or modification of patient programs. Supervision of a physical therapist assistant by a licensed physical therapist shall be on-site supervision, but not necessarily direct personal supervision. The number of physical therapist assistants supervised by one licensed physical therapist shall not exceed the ratio of four physical therapist assistants to one licensed physical therapist as shall be determined by the commissioner's regulations insuring that there be adequate supervision in the best interest of public health and safety. Nothing in this section shall prohibit a hospital from employing physical therapist assistants, provided they work under the supervision of physical therapists designated by the hospital and not beyond the scope of practice of a physical therapist assistant. The numerical limitation of this section shall not apply to work performed in a hospital, provided that there be adequate supervision in the best interest of public health and safety.

2. Notwithstanding the provisions of subdivision one of this section, supervision of a physical therapist assistant by a licensed physical therapist, a. in a residential health care facility, as defined in article twenty-eight of this chapter, b. in a diagnostic and treatment center licensed under article twenty-eight of this chapter that provides, as its principal mission, services to individuals with developmental disabilities, c. in a facility, as defined in section 1.03 of the mental hygiene law, or d. under a monitored program of the office for people with developmental disabilities as defined in subdivision (a) of section 13.15 of the mental hygiene law, shall be continuous but not necessarily on site when the supervising physical therapist has determined, through evaluation, the setting of goals and the establishment of a treatment plan, that the program is one of maintenance as defined pursuant to title XVIII of the federal social security act. The

provisions of this subdivision shall not apply to the provision of physical therapy services when the condition requires multiple adjustments of sequences and procedures due to rapidly changing physiological status and/or response to treatment, or to children under five years of age.

3. For the purposes of the provision of physical therapist assistant services in a home care services setting, as such services are defined in article thirty-six of this chapter, except that the home care services setting shall not include early intervention services as defined in title two-A of article twenty-five of this chapter, whether such services are provided by a home care services agency or under the supervision of a physical therapist licensed pursuant to this title, continuous supervision of a physical therapist assistant, who has had direct clinical experience for a period of not less than two years, by a licensed physical therapist shall not be construed as requiring the physical presence of such licensed physical therapist at the time and place where such services are performed. For purposes of this subdivision "continuous supervision" shall be deemed to include: a. the licensed physical therapist's setting of goals, establishing a plan of care and determining whether the patient is appropriate to receive the services of a physical therapist assistant subject to the licensed physical therapist's evaluation; b. an initial joint visit with the patient by the supervising licensed physical therapist and the physical therapist assistant; c. periodic treatment and evaluation of the patient by the supervising licensed physical therapist, as indicated in the plan of care and as determined in accordance with patient need, but in no instance shall the interval between such treatment exceed every six patient visits or thirty days, whichever occurs first; and d. a final evaluation by the supervising licensed physical therapist to determine if the plan of care shall be terminated. For purposes of this subdivision, the number of physical therapist assistants supervised in the home care services setting by a licensed physical therapist shall not exceed the ratio of two physical therapist assistants to one licensed physical therapist.

4. a. For purposes of the provision of physical therapist assistant services in public primary or private primary or secondary schools and for preschool children, as that term is defined in paragraph i of subdivision one of section forty-four hundred ten of the education law, and receiving services thereunder, continuous supervision of a physical therapist assistant, who has direct clinical experience providing age appropriate physical therapy services for a period of not less than two years, by a licensed physical therapist shall not be construed as requiring the physical presence of such licensed physical therapist at the time and place where such services are performed. For purposes of this subdivision "continuous supervision" shall be deemed to include:

(i) the licensed physical therapist's setting of the goals, establishing a plan of care, determining on an initial and ongoing basis whether the patient is appropriate to receive the services of a physical therapist assistant, determining the frequency of joint visits with the patient by both the supervising licensed physical therapist and the physical therapist assistant, except that in no instance shall the interval between joint visits, be more than every ninety calendar days, subject to the licensed physical therapist's evaluation;

(ii) an initial joint visit with the patient by the supervising licensed physical therapist and physical therapist assistant;

(iii) periodic treatment and evaluation of the patient by the supervising licensed physical therapist as indicated in the plan of care and

as determined in accordance with patient need, except that in no instance shall the interval between such treatment exceed every twelfth visit or thirty days, whichever occurs first; and

(iv) notification of the supervising licensed physical therapist by the physical therapist assistant whenever there is a change in status, condition or performance of the patient.

b. This subdivision shall not apply to the provision of physical therapy services when a child's condition requires multiple adjustments of sequences and procedures due to rapidly changing physiologic status and/or response to treatment.

§ 6739. Duties of physical therapist assistants and the use of title "physical therapist assistant". Only a person certified or otherwise authorized under this title shall participate in the practice of physical therapy as a physical therapist assistant and only a person certified under this section shall use the title "physical therapist assistant".

§ 6740. Requirements for certification as a physical therapist assistant. 1. Application: file an application with the department;

2. Education: have received an education including completion of a two-year college program in a physical therapist assistant program or equivalent in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the state board for physical therapy in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department;

7. Registration: all certified physical therapist assistants shall register triennially with the department in accordance with the regulations of the commissioner; and

8. Fees: pay a fee for an initial certificate of forty-five dollars, and for the biennial registration period ending December thirty-first, nineteen hundred eighty-two a fee of twenty dollars and a fee of fifty dollars for each triennial registration period.

§ 6741. Exemption. 1. This title shall not be construed to affect or prevent a physical therapist assistant student from engaging in clinical assisting under the supervision of a licensed physical therapist as part of a program conducted in an approved program for physical therapist assistants or in a clinical facility or health care agency affiliated with the program for physical therapist assistants.

2. Supervision of a physical therapist assistant student by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision.

3. Nothing in this title is intended to affect the overall medical direction by a licensed physician of a physical therapist assistant.

§ 6741-a. Limited permits; physical therapist assistant. 1. The department shall issue a limited permit to an applicant who meets all requirements for admission to the certification examination.

2. All practice under a limited permit shall be under the supervision of a licensed physical therapist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, a recognized public or non-public school setting, the office of a licensed physical therapist, or in the civil service of the state or political subdivision thereof.

3. Limited permits shall be for six months and the department may for justifiable cause renew a limited permit provided that no applicant shall practice under any limited permit for more than a total of one year.

4. Supervision of a permittee by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision.

5. The fee for each limited permit and for each renewal shall be fifty dollars.

§ 6742. Special provisions. 1. Any person who is employed as a physical therapist assistant in a facility satisfactory to the state board for a period of not less than two years prior to the effective date of this title and who does not qualify for certification under subdivision two of section sixty-seven hundred forty of this title may be certified as a physical therapist assistant upon successful completion of an examination approved by the state board of physical therapy in accordance with the commissioner's regulations.

2. Application for examination for certification pursuant to this section must be submitted not later than January first, nineteen hundred eighty-five. The department shall provide a total of three such examinations. The third examination shall be given not later than April first, nineteen hundred eighty-five. The fee for examination or reexamination shall be twenty-five dollars for each examination. Any person who qualifies for admission to an examination pursuant to this section may practice as a physical therapist assistant in the course of his or her employment in a facility satisfactory to the state board until thirty days after notification of failure to qualify pursuant to this section.

3. Any person who was employed as a physical therapist assistant for at least two years prior to April first, nineteen hundred eighty-one, and who had attained permanent civil service status as a physical therapist assistant prior to that date, shall be issued written authorization from the department to continue working in that capacity without examination. This authorization shall remain in effect until the person leaves the position in which the civil service status had been granted.

§ 6742-a. Mandatory continuing education. 1. a. Each licensed physical therapist and certified physical therapist assistant required under this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs b and c of this subdivision. Licensed physical therapist and certified physical therapist assistants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a licensed physical therapist or certified physical therapist assistant may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Each licensed physical therapist and certified physical therapist assistant shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed physical therapist and certified physical therapist assistant not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of physical therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a licensed physical therapist or certified physical therapist assistant shall complete a minimum of thirty-six hours of acceptable formal continuing education, as specified in subdivision four of this section. Any licensed physical therapist or certified physical therapist assistant whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand ten, shall complete continuing education hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand ten up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in physical therapy and which meet the standards 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

Section 6800. Introduction.
6801. Definition of practice of pharmacy.
6801-a. Collaborative drug therapy management demonstration program.
6802. Definitions.
6803. Practice of pharmacy and use of title "pharmacist".
6804. State board of pharmacy.
6805. Requirements for a professional license.
6806. Limited permits.
6807. Exempt persons; special provisions.
6808. Registering and operating establishments.
6809. Identification of pharmacists.
6809-a. Registration of nonresident establishments.
6810. Prescriptions.
6811. Misdemeanors.
6812. Special provisions.
6813. Seizure.
6814. Records of shipment.
6815. Adulterating, misbranding and substituting.
6816. Omitting to label drugs, or labeling them wrongly.
6816-a. When substitution is required.
6819. Regulations making exceptions.
6820. Certification of coal-tar colors for drugs and cosmetics.
6821. Poison schedules; register.
6822. Examinations and investigations.
6823. Factory inspection.
6824. Injunction proceedings.
6825. Proof required in prosecution for certain violations.
6826. Drug retail price lists.
6826-a. Reducing certain copayments.
6827. Mandatory continuing education.
6828. Certificates of administration.
6829. Interpretation and translation requirements for prescription drugs and standardized medication labeling.
6830. Standardized patient-centered data elements.
6831. Special provisions relating to outsourcing facilities.
6832. Limitations on assistance of an unlicensed person.

§ 6800. Introduction. This title applies to the profession of pharmacy. The general provisions for all professions contained in title one of this article apply to this title.

§ 6801. Definition of practice of pharmacy. 1. The practice of the profession of pharmacy is defined as the administering, preparing, compounding, preserving, or the dispensing of drugs, medicines and therapeutic devices on the basis of prescriptions or other legal authority, and collaborative drug therapy management in accordance with the provisions of section sixty-eight hundred one-a of this title.

2. A licensed pharmacist may execute a non-patient specific regimen prescribed or ordered by a physician licensed in this state or nurse practitioner certified in this state, pursuant to rules and regulations promulgated by the commissioner. When a licensed pharmacist administers an immunizing agent, he or she shall:

a. report such administration by electronic transmission or facsimile to the patient's attending primary health care practitioner or practitioners, if any, and, to the extent practicable, make himself or herself available to discuss the outcome of such immunization, including any adverse reactions, with the attending primary health care practitioner, and to the statewide immunization registry or the citywide immunization registry, as established pursuant to and to the extent permitted by section twenty-one hundred sixty-eight of this chapter; and

b. provide information to the patient or, where applicable, the person legally responsible for the patient, on the importance of having a primary health care practitioner, developed by the commissioner; and

c. report such administration, absent of any individually identifiable health information, to the department in a manner required by the commissioner; and

d. prior to administering the immunization, inform the patient or, where applicable, the person legally responsible for the patient, of the total cost of the immunization or immunizations, subtracting any health insurance subsidization, if applicable. In the case the immunization is not covered, the pharmacist must inform the patient or, where applicable, the person legally responsible for the patient, of the possibility that the immunization may be covered when administered by a primary care physician or practitioner; and

e. administer the immunization or immunizations according to the most current recommendations by the advisory committee for immunization practices (ACIP), provided however, that a pharmacist may administer any immunization authorized under this section when specified by a patient specific order.

3. No pharmacist shall administer immunizing agents without receiving training satisfactory to the commissioner which shall include, but not be limited to, techniques for screening individuals and obtaining informed consent; techniques of administration; indications, precautions and contraindications in the use of agent or agents; record keeping of immunization and information; and handling emergencies, including anaphylaxis and needlesticks.

4. When administering an immunization in a pharmacy, the licensed pharmacist shall provide an area for the immunization that provides for a patient's privacy. The privacy area should include:

a. a clearly visible posting of the most current "Recommended Adult Immunization Schedule" published by the advisory committee for immunization practices (ACIP); and

b. education materials on influenza vaccinations for children as determined by the commissioner.

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 following a potential human immunodeficiency virus exposure.

6. A licensed pharmacist may execute a non-patient-specific regimen of insulin and related supplies to an individual who has a valid prescription for insulin and related supplies which has since expired within the last twelve months. The valid prescription must have been prescribed or ordered by a physician licensed in this state or nurse practitioner certified in this state. Execution of a non-patient-specific regimen shall be on an emergency basis provided the pharmacist:

a. first attempts to obtain an authorization from the prescriber of the patient-specific prescription and cannot obtain the authorization, and the prescriber does not object to dispensing to the patient under the non-patient-specific regimen;

b. provides a refill of the patient-specific prescription and the quantity of that refill is in conformity with the directions for use under the patient-specific prescription, but limited to an amount not to exceed a thirty-day emergency supply; and

c. notifies, within seventy-two hours of dispensing the refill or refills, the prescriber of the patient-specific prescription whose authorization could not be obtained, that an emergency prescription of insulin has been dispensed.

§ 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 title.

b. "Clinical services" shall mean the collection and interpretation of patient data for the purpose of initiating, modifying and monitoring 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 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. Such agreement or protocol as entered into by the physician and a pharmacist, may include, and shall be limited to:

(i) adjusting or managing a drug regimen of a patient, pursuant to a patient specific order or protocol made by the patient's physician, 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 authorized in the written order or protocol. 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 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;

(ii) evaluating and, only if specifically authorized by the 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 specified within the written agreement or protocol; and

(iii) only if specifically 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 this chapter; or (ii) a nursing home with an on-site pharmacy staffed by a licensed pharmacist; provided, however, for the purposes of this section the term "facility" shall not include dental clinics, dental dispensaries, residential health care facilities and rehabilitation centers. For the purposes of this section, a "teaching hospital" shall mean a hospital licensed pursuant to article twenty-eight of this chapter that is eligible to receive direct or indirect graduate medical education payments pursuant to article twenty-eight of this chapter.

e. "Physician" shall mean the physician selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient for the disease and associated disease states that are the subject of the collaborative drug therapy management.

f. "Written agreement or protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that addresses a specific disease or associated disease states and that describes the nature and scope of collaborative drug therapy management to be undertaken by the pharmacists, in collaboration with the participating physician in accordance with the provisions of this section.

2. a. A pharmacist who meets the experience requirements of paragraph b of this subdivision and who is employed by or otherwise affiliated with a facility shall be permitted to enter into a written agreement or protocol with a physician authorizing collaborative drug therapy management, subject to the limitations set forth in this section, within the 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.

§ 6802. Definitions. 1. "Pharmacy" means any place in which drugs, prescriptions or poisons are possessed for the purpose of compounding, preserving, dispensing or retailing, or in which drugs, prescriptions or poisons are compounded, preserved, dispensed or retailed, or in which such drugs, prescriptions or poisons are by advertising or otherwise offered for sale at retail.

3. "Formulary" means the latest edition of the official national formulary, and its supplement.

4. "Pharmacopeia", when not otherwise limited, means the latest edition of the official United States pharmacopeia, and its supplement.

5. "Homeopathic pharmacopeia" means the official homeopathic pharmacopeia of the United States, and its supplement.

6. "Official compendium" means the official United States pharmacopeia, official homeopathic pharmacopeia of the United States, official national formulary, or their supplements.

7. "Drugs" means:

a. Articles recognized in the official United States pharmacopeia, official homeopathic pharmacopeia of the United States, or official national formulary.

b. Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals.

c. Articles (other than food) intended to affect the structure or any function of the body of man or animals.

d. Articles intended for use as a component of any article specified in paragraph a, b, or c of this subdivision; but does not include devices or their components, parts or accessories.

8. "Cosmetics" means:

a. Articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

b. Articles intended for use as a component of any such articles; except that the term shall not include soap.

9. "Poison", where not otherwise limited, means any drug, chemical or preparation likely to be destructive to adult human life in quantity of sixty grains or less.

10. "Label" means a display of written, printed or pictorial matter upon the immediate container of any drug, device or cosmetic. Any requirement made by or under authority of this title, that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if there be any, of the retail package of such drug, device or cosmetic or is easily legible through the outside container or wrapper.

11. "Immediate container" does not include package liners.

12. "Labeling" means all labels and other written, printed or pictorial matter:

a. Upon any drug, device or cosmetic or any of its containers or wrappers, or

b. Accompanying such drug, device or cosmetic.

13. "Misbranding". If a drug, device or cosmetic is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the drug, device, or cosmetic to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising thereof or under such conditions of use as are customary or usual. No drug, device or cosmetic which is subject to, and complies with regulations promulgated under the provisions of the Federal Food, Drug, and Cosmetic Act, relating to adulteration and misbranding shall be deemed to be adulterated or misbranded in violation of the provisions of this title because of its failure to comply with the board's regulations, or the rules of the state board of pharmacy, insofar as the regulations are in conflict with

regulations relating to adulteration and misbranding under the Federal Food, Drug and Cosmetic Act.

14. "Antiseptic". The representation of a drug, device or cosmetic in its labeling, as an antiseptic, shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

15. "New drug" means:

a. Any drug not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested by the drug's labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to September first, nineteen hundred thirty-nine it was subject to the former federal food and drug act of June thirtieth, nineteen hundred six, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use;

b. Any drug, the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become recognized, but which has not otherwise than in such investigations been used to a material extent or for a material time under such conditions.

16. "Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended:

a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or

b. To affect the structure or any function of the body of man or animals.

17. The term "Federal Food, Drug and Cosmetic Act" means the Federal Food, Drug, and Cosmetic Act of the United States of America, approved June twenty-fifth, nineteen hundred thirty-eight, officially cited as public document number seven hundred seventeen--seventy-fifth congress (chapter six hundred seventy-five--third session), and all its amendments now or hereafter enacted.

18. "Wholesaler" means a person who bottles, packs or purchases drugs, devices or cosmetics for the purpose of selling or reselling to pharmacies or to other channels as provided in this title.

19. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics.

20. "Controlled substance" means any drug defined as a controlled substance by article thirty-three of this chapter.

21. "Manufacturer" means a person who compounds, mixes, prepares, produces, and bottles or packs drugs, cosmetics or devices for the purpose of distributing or selling to pharmacies or to other channels of distribution.

22. "Administer", for the purpose of section sixty-eight hundred one of this title, means:

a. the direct application of an immunizing agent to adults, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, for: immunizations to prevent influenza, pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-

la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis; and other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner of education in consultation with the commissioner determines that an immunization:

(i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication as recommended by the advisory committee on immunization practices of the centers for disease control and prevention. If the commissioner determines that there is an outbreak of disease, or that there is the imminent threat of an outbreak of disease, then the commissioner may issue a non-patient specific regimen applicable statewide.

b. the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, for immunization to prevent influenza and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner may issue a non-patient specific regimen applicable statewide.

23. "Electronic prescription" means a prescription created, recorded, or stored by electronic means; issued with an electronic signature; and transmitted by electronic means, in accordance with regulations of the commissioner and federal regulations; provided, however, that an original hard copy prescription that is created electronically or otherwise may be transmitted from the prescriber to the pharmacist by facsimile and must be manually signed. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with an electronic prescription and executed or adopted by a person with the intent to sign the prescription, in accordance with regulations of the commissioner and federal regulations.

24. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug with respect to an outsourcing facility under section 503B of the Federal Food, Drug and Cosmetic Act and further defined in this section.

25. "Outsourcing facility" means a facility that:

a. is engaged in the compounding of sterile drugs;

b. is currently registered as an outsourcing facility with the Secretary of Health and Human Services; and

c. complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

26. "Sterile drug" means a drug that is intended for parenteral administration, an ophthalmic or oral inhalation drug in aqueous format, or a drug that is required to be sterile under federal or state law.

27. "Biological product" means a biological product as defined in subsection (i) of section 351 of the Public Health Service Act, 42 U.S.C. Section 262(i).

28. "Interchangeable biological product" means a biological product licensed by the United States Food and Drug Administration pursuant to 42 U.S.C. Section 262(k)(4) as set forth in the latest edition or supplement of the United States Food and Drug Administration Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations, sometimes referred to as the "Purple Book", or a biological product determined by the United States Food and Drug Administration to be therapeutically equivalent as set forth in the latest edition or supplement of the United States Food and Drug Administration Approved Drug Products with Therapeutic Equivalence Evaluations, sometimes referred to as the "Orange Book".

§ 6803. Practice of pharmacy and use of title "pharmacist". Only a person licensed or otherwise authorized under this title shall practice pharmacy or use the title "pharmacist" or any derivative.

§ 6804. State board of pharmacy. A state board of pharmacy shall be appointed by the regents on recommendation of the commissioner for the purpose of assisting the regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than nine pharmacists licensed in this state for at least five years and two registered pharmacy technicians. The initial registered pharmacy technician members of the state board of pharmacy need not be licensed prior to their appointment but shall have met all other requirements of licensure pursuant to section sixty-eight hundred forty-four of this article except for filing an application and paying a fee. An executive secretary to the board shall be appointed by the regents on recommendation of the commissioner and shall be a pharmacist licensed in this state for at least five years. The board shall provide assistance to the department:

1. To regulate the practice of pharmacy, registered pharmacy technicians and the employment of interns and employees in pharmacies,

2. To regulate and control the sale, distribution, character and standard of drugs, poisons, cosmetics, devices and new drugs,

3. To prevent the sale or distribution of such drugs, poisons, cosmetics, devices and new drugs as do not conform to the provisions of this chapter,

4. To investigate alleged violations of the provisions of this title, and

5. To issue limited permits or registrations.

§ 6805. Requirements for a professional license. 1. To qualify for a pharmacist's license, an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including a bachelor's or equivalent degree in pharmacy, in accordance with the commissioner's regulations;

c. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

g. Character: be of good moral character as determined by the department; and

h. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

2. On or before April first, nineteen hundred seventy-two, any person who holds a valid license as "druggist" in this state shall make application and on the payment of fees specified in this title be licensed by the department as a pharmacist. Such person shall have all of the rights, privileges, duties and responsibilities of a pharmacist.

§ 6806. Limited permits. 1. The department may issue a limited permit for employment as a "pharmacy intern" to:

a. A student enrolled in the last two years of a registered program in pharmacy, or

b. A graduate of a program in pharmacy which meets standards established by the commissioner's regulations who is engaged in meeting the experience requirements or whose application for initial licensure is pending with the department.

2. A pharmacy intern may, as determined by the commissioner's regulations, practice as a pharmacist under the immediate personal supervision of a licensed pharmacist. A pharmacy intern may also receive a certificate of administration if he or she provides satisfactory evidence to the commissioner that he or she meets the requirements of subdivision three of this section.

3. No pharmacy intern shall administer immunizing agents without receiving training satisfactory to the commissioner, as prescribed in regulations of the commissioner, which shall include, but not be limited to: techniques for screening individuals and obtaining informed consent; techniques of administration; indications, precautions and contraindications in the use of an agent or agents; recordkeeping of immunization and information; and handling emergencies, including anaphylaxis and needlestick injuries. To receive a certification to administer immunizations, the pharmacy intern shall provide documentation, on a form prescribed by the department, from the dean or other appropriate official of the registered program that the intern has completed the required training, pursuant to regulations of the commissioner.

4. A limited permit issued to a pharmacy intern shall have an expiration date of five years from the date of issue. Limited permits may be renewed once for a period not to exceed two years.

5. The fee for each limited permit issued to a pharmacy intern shall 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

(ix) the dispensing of drugs pursuant to an oncological or AIDS protocol.

b. The commissioner may promulgate regulations to implement this subdivision and may, by regulation, establish additional renewable exemptions for a period not to exceed one year from the provisions of paragraph a of this subdivision.

3. A pharmacist may dispense drugs and devices to a registered professional nurse, and a registered professional nurse may possess and administer, drugs and devices, pursuant to a non-patient specific regimen prescribed or ordered by a licensed physician or certified nurse practi-

tioner, pursuant to regulations promulgated by the commissioner and by provisions of this chapter.

§ 6808. Registering and operating establishments. 1. Registration requirement. No person, firm, corporation or association shall possess drugs, prescriptions or poisons for the purpose of compounding, dispensing, retailing, wholesaling, or manufacturing, or shall offer drugs, prescriptions or poisons for sale at retail or wholesale unless registered by the department as a pharmacy, wholesaler, manufacturer or outsourcing facility.

2. Pharmacies. a. Obtaining a registration. A pharmacy shall be registered as follows:

(i) The application shall be made on a form prescribed by the department.

(ii) The application shall be accompanied by a fee of three hundred forty-five dollars.

(iii) To secure and retain a registration, a pharmacy must be equipped with facilities, apparatus, utensils and stocks of drugs and medicines sufficient to permit the prompt and efficient compounding and dispensing of prescriptions, as prescribed by regulation.

b. Renewal of registration. All pharmacy registrations shall be renewed on dates set by the department. The triennial registration fee shall be two hundred sixty dollars, or a prorated portion thereof as determined by the department. At the time of renewal, the owner of every pharmacy shall report under oath to the department any facts required by the state board of pharmacy.

c. Display of registration. The registration shall be conspicuously displayed at all times in the pharmacy. The names of the owner or owners of a pharmacy shall be conspicuously displayed upon the exterior of such establishment. The names so displayed shall be presumptive evidence of ownership of such pharmacy by such person or persons. In the event that the owner of a licensed pharmacy is not a licensed pharmacist, the pharmacy registration issued shall also bear the name of the licensed pharmacist having personal supervision of the pharmacy. In the event that such licensed pharmacist shall no longer have personal supervision of the pharmacy, the owner shall notify the department of such fact and of the name of the licensed pharmacist replacing the pharmacist named on the license and shall apply for an amended registration showing the change. The amended registration must be attached to the original registration and displayed in the same manner. Both the owner and the supervising pharmacist shall be responsible for carrying out the provisions of this title.

d. Change of location. In the event that the location of a pharmacy shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be fifty dollars, unless it appears to the satisfaction of the department that the change in location is of temporary nature due to fire, flood or other disaster.

e. Conduct of a pharmacy. Every owner of a pharmacy is responsible for the strength, quality, purity and the labeling thereof of all drugs, toxic substances, devices and cosmetics, dispensed or sold, subject to the guaranty provisions of this title and this chapter. Every owner of a pharmacy or every pharmacist in charge of a pharmacy shall be responsible for the proper conduct of their pharmacy. Every pharmacy shall be under the immediate supervision and management of a licensed pharmacist at all hours when open. No pharmacist shall have personal supervision of more than one pharmacy at the same time.

f. A pharmacy as a department. When a pharmacy is operated as a department of a larger commercial establishment, the area comprising the pharmacy shall be physically separated from the rest of the establishment, so that access to the pharmacy and drugs is not available when a pharmacist is not on duty. Identification of the area within the pharmacy by use of the words "drugs", "medicines", "drug store", or "pharmacy" or similar terms shall be restricted to the area licensed by the department as a pharmacy.

g. Limited pharmacy registration. (i) When, in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the registering of a pharmacy within a hospital, nursing home or extended care facility which does not meet all of the requirements for registration as a pharmacy, the department may waive any requirements pertaining to full-time operation by a licensed pharmacist, minimum equipment, minimum space and waiting area, provided that when the waiver of any of the above requirements is granted by the board, the pharmaceutical services to be rendered by the pharmacy shall be limited to furnishing drugs to patients registered for treatment by the hospital, and to in-patients for treatment by the nursing home or extended care facility.

(ii) When in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the registering of a pharmacy within a facility distributing dialysis solutions for patients suffering from end stage renal disease and where the pharmaceutical services to be rendered by the pharmacy shall be limited to furnishing dialysis solutions to patients for whom such has been prescribed by a duly authorized prescriber, the department may waive certain requirements, including, but not limited to, full-time operation by a licensed pharmacist, minimum equipment, and minimum space and waiting area. Such solutions shall only be dispensed by employees who have completed an approved training program and who have demonstrated proficiency to perform the task or tasks of assembling, labeling or delivering a patient order and who work under the general supervision of a licensed pharmacist who shall be responsible for the distribution, record keeping, labeling and delivery of all dialysis solutions dispensed by the distributor as required by the department.

(iii) The department shall promulgate such rules or regulations consistent with this paragraph as are necessary to ensure the safe distribution of such dialysis solutions, including establishment registration and proper record keeping, storage, and labeling.

(iv) The initial registration fee and renewal fee for a limited pharmacy shall be three hundred forty-five dollars for each triennial registration period.

h. Applicant registration. An applicant for registration as a pharmacy shall be of good moral character, as determined by the department. In the case of a corporate applicant, the requirement shall extend to all officers and directors and to stockholders having a ten percent or greater interest in the corporation.

3. Wholesaler's or manufacturer's registration. a. Obtaining a registration. A wholesaler or manufacturer shall be registered as follows:

(i) The application shall be made on a form prescribed by the department.

(ii) The application shall be accompanied by a fee of eight hundred twenty-five dollars.

b. Renewal of registration. All wholesalers' and manufacturers' registrations shall be renewed on dates set by the department. The triennial

registration fee shall be five hundred twenty dollars, or a prorated portion thereof as determined by the department.

c. Display of registration. The registration shall be displayed conspicuously at all times in the place of business.

d. Change of location. In the event that the location of such place of business shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be one hundred seventy dollars, unless it appears to the satisfaction of the department that the change in location is of a temporary nature due to fire, flood or other disaster.

4. Outsourcing facility's registration. a. Obtaining a registration. An outsourcing facility shall be registered as follows:

(i) An application for initial registration or renewal of registration shall be made on a form prescribed by the department.

(ii) An application for initial registration shall be accompanied by a fee of eight hundred twenty-five dollars.

b. Renewal of registration. All outsourcing facilities' registrations shall be renewed on a date set by the department. The triennial registration fee shall be five hundred twenty dollars, or a prorated portion thereof as determined by the department.

c. Display of registration. The registration shall be displayed conspicuously in the place of business.

d. Change of location. In the event that the location of such place of business shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be one hundred seventy-five dollars, unless it appears to the satisfaction of the department that the change in location is of a temporary nature due to fire, flood or other disaster.

e. Report. Upon initially registering as an outsourcing facility and every six months thereafter, each outsourcing facility shall submit to the executive secretary of the state board of pharmacy a report:

(i) identifying the drugs compounded by such outsourcing facility during the previous six-month period; and

(ii) with respect to each drug identified under subparagraph (i) of this paragraph, providing the active ingredient; the source of such active ingredient; the National Drug Code number of the source drug or bulk active ingredient, if available; the strength of the active ingredient per unit; the dosage form and route of administration; the package description; the number of individual units produced; and the National Drug Code number of the final product, if assigned.

f. Conduct of outsourcing facility. Every owner of an outsourcing facility is responsible for the strength, quality, purity and labeling thereof of all compounded drugs, subject to the guaranty provisions of this title and this chapter. Every outsourcing facility shall be under the immediate supervision and management of a pharmacist licensed to practice in New York state.

g. Applicant for registration. An applicant for registration of an outsourcing facility shall be of good moral character, as determined by the department. In the case of a corporate applicant, the requirement shall extend to all officers and directors and stakeholders having a ten percent or greater interest in the corporation.

5. Inspection. The state board of pharmacy and the department, and their employees designated by the commissioner, shall have the right to enter any pharmacy, wholesaler, manufacturer, outsourcing facility or

vehicle and to inspect, at reasonable times, such factory, warehouse, establishment or vehicle and all records required by this title, pertinent equipment, finished and unfinished materials, containers, and labels.

6. Penalties. A pharmacy, wholesaler, manufacturer or outsourcing facility registered under this section shall be under the supervision of the department and shall be subject to disciplinary proceedings and penalties in accordance with subtitle three of title one of this article in the same manner and to the same extent as individuals and professional service corporations with respect to their licenses and registrations, provided that failure to comply with the requirements of this section shall constitute professional misconduct.

7. Sale of drugs at auction. No controlled substance or substances and no poisonous or deleterious drugs or drugs in bulk or in opened containers shall be sold at auction unless the place where such drugs are sold at auction shall have been registered by the board, and unless such sale shall be under the personal supervision of a licensed pharmacist. Drugs in open containers shall not be sold at auction unless the seller shall have in his or her possession a certificate of the board showing that such drugs have been inspected and meet the requirements of this title. In the event that the drug so sold is one as to which this title or any federal statute or any regulation adopted pursuant to this title or an applicable federal statute require that the expiration date be stated on each package, such drug may not be sold at auction after such expiration date or when such expiration date will occur within a period of thirty days or less from the date of sale.

§ 6809. Identification of pharmacists. Every pharmacist on duty shall be identified by a badge designed by the state board of pharmacy, which shall contain his or her name and title.

§ 6809-a. Registration of nonresident establishments. 1. Definition. The term "nonresident establishment" shall mean any pharmacy, manufacturer, wholesaler, or outsourcing facility located outside of the state that ships, mails or delivers prescription drugs or devices to other establishments, authorized prescribers and/or patients residing in this state. Such establishments shall include, but not be limited to, pharmacies that transact business through the use of the internet.

2. Registration. All nonresident establishments that ship, mail, or deliver prescription drugs and/or devices to other registered establishments, authorized prescribers, and/or patients into this state shall be registered with the department; except that such registration shall not apply to intra-company transfers between any division, affiliate, subsidiaries, parent or other entities under complete common ownership and control. The provisions of this subdivision shall apply solely to nonresident establishments and shall not affect any other provision of this title.

3. Agent of record. Each nonresident establishment that ships, mails or delivers drugs and/or devices into this state shall designate a resident agent in this state for service of process pursuant to rule three hundred eighteen of the civil practice law and rules.

4. Conditions of registration. As a condition of registration, a nonresident establishment shall comply with the following requirements:

a. Be licensed and/or registered and in good standing with the state of residence;

b. Maintain, in readily retrievable form, records of drugs and/or devices shipped into this state;

c. Supply, upon request, all information needed by the department to carry out the department's responsibilities under the laws and rules and regulations pertaining to nonresident establishments;

d. Comply with all statutory and regulatory requirements of the state where the nonresident establishment is located, for prescription drugs or devices shipped, mailed or delivered into this state, except that for controlled substances shipped, mailed or delivered into this state, the nonresident pharmacy shall follow federal law and New York law relating to controlled substances;

e. The application shall be made in the manner and form prescribed by the department;

f. The application of establishments to be registered as a manufacturer, wholesaler or outsourcing facility of drugs and/or devices shall be accompanied by a fee as provided in section sixty-eight hundred eight of this title; and

g. The application of establishments to be registered as a nonresident pharmacy shall be accompanied by a fee of three hundred forty-five dollars and shall be renewed triennially at a fee of two hundred sixty dollars.

5. Additional requirements. Nonresident pharmacies registered pursuant to this section shall:

a. Provide a toll-free telephone number that is available during normal business hours and at least forty hours per week, to enable communication between a patient in this state and a pharmacist at the pharmacy who has access to the patient's records; and

b. Place such toll-free telephone number on a label affixed to each drug or device container.

6. Disciplinary action. Except in emergencies that constitute an immediate threat to public health, the department shall not prosecute a complaint or otherwise take formal action against a nonresident establishment based upon delivery of a drug into this state or a violation of law, rule, or regulation of this state if the agency having jurisdiction in the state where the nonresident establishment is based commences action on the violation complained of within one hundred twenty days from the date that the violation was reported; provided however, that the department may prosecute a complaint or take formal action against a nonresident establishment if it determines that the agency having jurisdiction in the state where the nonresident establishment is based has unreasonably delayed or otherwise failed to take prompt and appropriate action on a reported violation.

7. Revocation or suspension. A nonresident establishment that fails to comply with the requirements of this section shall be subject to revocation or suspension of its registration and other applicable penalties in accordance with the provisions of subtitle three of title one of this article.

8. Exception. The department may grant an exception from the registration requirements of this section on the application of a nonresident establishment that restricts its sale or dispensing of drugs and/or devices to residents of this state to isolated transactions.

9. Rules and regulations. The department shall promulgate rules and regulations to implement the provisions of this section.

§ 6810. Prescriptions. 1. No drug for which a prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner shall be distributed or dispensed to any person except upon a prescription written by a person legally authorized to issue such prescription. Such drug shall be compounded or dispensed by a licensed

pharmacist, and no such drug shall be dispensed without affixing to the immediate container in which the drug is sold or dispensed a label bearing the name and address of the owner of the establishment in which it was dispensed, the date compounded, the number of the prescription under which it is recorded in the pharmacist's prescription files, the name of the prescriber, the name and address of the patient, and the directions for the use of the drug by the patient as given upon the prescription. All labels shall conform to such rules and regulations as promulgated by the commissioner pursuant to section sixty-eight hundred twenty-nine of this title. The prescribing and dispensing of a drug which is a controlled substance shall be subject to additional requirements provided in article thirty-three of this chapter. The words "drug" and "prescription required drug" within the meaning of this title shall not be construed to include soft or hard contact lenses, eyeglasses, or any other device for the aid or correction of vision. Nothing in this subdivision shall prevent a pharmacy from furnishing a drug to another pharmacy which does not have such drug in stock for the purpose of filling a prescription.

2. a. A prescription may not be refilled unless it bears a contrary instruction and indicates on its face the number of times it may be refilled. A prescription may not be refilled more times than allowed on the prescription. The date of each refilling must be indicated on the original prescription. Prescriptions for controlled substances shall be refilled only pursuant to article thirty-three of this chapter.

b. A pharmacy registered with the department pursuant to section sixty-eight hundred eight or sixty-eight hundred nine-a of this title may not deliver a new or refilled prescription off premises without the consent of the patient or an individual authorized to consent on the patient's behalf. For the purposes of this section, consent may be obtained in the same manner and process by which consent is deemed acceptable under the federal Medicare Part D program.

c. Pharmacy providers who deliver medication without patient or authorized individual consent will be required to accept the return of the medication from the patient, provide that patient credit for any charges they may have paid, and will be required to destroy those medications sent without consent on delivery in accordance with applicable state and federal law. Nothing in this section shall be deemed to interfere with the requirements for refill reminder or medication adherence programs. Nothing in this section is intended to apply to long-term care pharmacy dispensing and delivery.

3. A copy of a prescription for a controlled substance shall not be furnished to the patient but may be furnished to any licensed practitioner authorized to write such prescription. Copies of other prescriptions shall be furnished to the patient at his or her request, but such copies are issued for the informational purposes of the prescribers only, and shall be so worded.

4. a. Oral prescriptions for controlled substances shall be filled pursuant to article thirty-three of this chapter. A pharmacist may fill an oral prescription for a drug, other than a controlled substance, made by a practitioner legally authorized to prescribe drugs. An oral authorization for the refill of a prescription, other than a prescription for a controlled substance, may be made by a practitioner legally authorized to prescribe drugs. The pharmacist receiving such oral authorization for the refill of a prescription shall write on the reverse side of the original prescription the date, time, and name of the practitioner authorizing the refill of the prescription. An oral

prescription or an oral authorization for the refill of a prescription for the drug, other than a controlled substance, may be communicated by an employee of the prescribing practitioner; provided, however, the pharmacist shall:

(i) contemporaneously reduce such prescription to writing;

(ii) dispense the substance in conformity with the labeling requirements applicable to a written prescription; and

(iii) make a good faith effort to verify the employee's identity if the employee is unknown to the pharmacist.

b. Oral prescriptions for patients in general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of this chapter, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, may be communicated to a pharmacist serving as a vendor of pharmaceutical services based upon a contractual arrangement by an agent designated by and under the direction of the prescriber or the institution. Such agent shall be a health care practitioner currently licensed and registered under this article.

5. Records of all prescriptions filled or refilled shall be maintained for a period of at least five years and upon request made available for inspection and copying by a representative of the department. Such records shall indicate date of filling or refilling, doctor's name, patient's name and address and the name or initials of the pharmacist who prepared, compounded, or dispensed the prescription. Records of prescriptions for controlled substances shall be maintained pursuant to requirements of article thirty-three of this chapter.

6. a. Every prescription written in this state by a person authorized to issue such prescription shall be on prescription forms containing one line for the prescriber's signature. The prescriber's signature shall validate the prescription. Every electronic prescription shall provide for the prescriber's electronic signature, which shall validate the electronic prescription. Imprinted conspicuously on every prescription written in this state in eight-point upper case type immediately below the signature line shall be the words: "THIS PRESCRIPTION WILL BE FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW". Unless the prescriber writes d a w in such box in the prescriber's own handwriting or, in the case of electronic prescriptions, inserts an electronic direction to dispense the drug as written, the prescriber's signature or electronic signature shall designate approval of substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of this chapter. No other letters or marks in such box shall prohibit substitution. No prescription forms used or intended to be used by a person authorized to issue a prescription shall have 'd a w' preprinted in such box. Such box shall be placed directly under the signature line and shall be three-quarters inch in length and one-half inch in height, or in comparable form for an electronic prescription as may be specified by regulation of the commissioner. Immediately below such box shall be imprinted in six point type the words "Dispense As Written". Notwithstanding any other provision of law, no state official, agency, board or other entity shall promulgate any regulation or guideline modifying those elements of the prescription form's contents specified in this subdivision. To the extent otherwise permitted by law, a prescriber may modify only those elements of the prescription form's contents not specified in this subdivision. Notwithstanding any other provision of this section or any

other law, when a generic drug is not available and the brand name drug originally prescribed is available and the pharmacist agrees to dispense the brand name product for a price that will not exceed the price that would have been charged for the generic substitute had it been available, substitution of a generic drug product will not be required. If the generic drug product is not available and a medical emergency situation, which for purposes of this section is defined as any condition requiring alleviation of severe pain or which threatens to cause disability or take life if not promptly treated, exists, then the pharmacist may dispense the brand name product at his or her regular price. In such instances the pharmacist must record the date, hour and nature of the medical emergency on the back of the prescription and keep a copy of all such prescriptions.

b. The prescriber shall inform the patient whether he or she has prescribed a brand name or its generic equivalent drug product.

c. The provisions of this subdivision shall not apply to a hospital as defined in article twenty-eight of this chapter.

d. No prescriber shall be subjected to civil liability arising solely from authorizing, in accordance with this subdivision, the substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of this chapter.

7. a. No prescription for a drug written in this state by a person authorized to issue such prescription shall be on a prescription form which authorizes the dispensing or compounding of any other drug. No drug shall be dispensed by a pharmacist when such prescription form includes any other drug.

b. With respect to drugs other than controlled substances, the provisions of this subdivision shall not apply to pharmacists employed by or providing services under contract to general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of this chapter, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, who dispense drugs in the course of said employment or in the course of providing such services under contract. With respect to such pharmacists, each prescription shall be transcribed on a patient specific prescription form.

8. Every prescription, whether or not for a controlled substance, written in this state by a person authorized to issue such prescription and containing the prescriber's signature shall, in addition to such signature, be imprinted or stamped legibly and conspicuously with the printed name of the prescriber who has signed the prescription. The imprinted or stamped name of the signing prescriber shall appear in an appropriate location on the prescription form and shall not be entered in or upon any space or line reserved for the prescriber's signature. The imprinted or stamped name shall not be employed as a substitute for, or fulfill any legal requirement otherwise mandating that the prescription be signed by the prescriber.

9. No person, corporation, association or other entity, not licensed to issue a prescription pursuant to this article, shall willfully cause prescription forms, blanks or facsimiles thereof to be disseminated to any person other than a person who is licensed to issue a prescription pursuant to this article. A violation of this subdivision shall be a class B misdemeanor punishable in accordance with the provisions of the penal law.

10. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which regulations establishing standards for electronic prescriptions are promulgated by the commissioner pursuant to subdivision three of section two hundred eighty-one of this chapter, no practitioner shall issue any prescription in this state, unless such prescription is made by electronic prescription from the practitioner to a pharmacy, except for prescriptions: a. issued by veterinarians; b. issued or dispensed in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation; c. issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the commissioner, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner; d. issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subdivision, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition, provided that if such prescription is for a controlled substance, the quantity that does not exceed a five-day supply if the controlled substance was used in accordance with the directions for use; or e. issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation.

10-a. A pharmacy that receives an electronic prescription from the person issuing the prescription may, if the prescription has not been dispensed and at the request of the patient or a person authorized to make the request on behalf of the patient, immediately transfer or forward such prescription to an alternative pharmacy designated by the requesting party.

11. In the case of a prescription issued by a practitioner under paragraph b of subdivision ten of this section, the practitioner shall be required to indicate in the patient's health record that the prescription was issued other than electronically due to temporary technological or electrical failure.

12. In the case of a prescription issued by a practitioner under paragraph d or e of subdivision ten of this section, the practitioner shall, upon issuing such prescription, indicate in the patient's health record either that the prescription was issued other than electronically because it: a. was impractical to issue an electronic prescription in a timely manner and such delay would have adversely impacted the patient's medical condition, or b. was to be dispensed by a pharmacy located outside the state.

13. The waiver process established in regulation pursuant to paragraph c of subdivision ten of this section shall provide that a practitioner prescribing under a waiver must notify the department in writing promptly upon gaining the capability to use electronic prescribing, and that a waiver shall terminate within a specified period of time after the practitioner gains such capability.

14. Notwithstanding any other provision of law to the contrary, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in

this state and meets all other applicable requirements of federal and state law.

15. Notwithstanding any other provisions of this section or any other law to the contrary, a practitioner shall not be required to issue prescriptions electronically if he or she certifies to the department, in a manner specified by the department, that he or she will not issue more than twenty-five prescriptions during a twelve-month period. Prescriptions in both oral and written form for both controlled substances and non-controlled substances shall be included in determining whether the practitioner will reach the limit of twenty-five prescriptions.

a. A certification shall be submitted in advance of the twelve-month certification period, except that a twelve-month certification submitted on or before July first, two thousand sixteen, may begin March twenty-seventh, two thousand sixteen.

b. A practitioner who has made a certification under this subdivision may submit an additional certification on or before the expiration of the current twelve-month certification period, for a maximum of three twelve-month certifications.

c. A practitioner may make a certification under this subdivision regardless of whether he or she has previously received a waiver under paragraph c of subdivision ten of this section.

§ 6811. Misdemeanors. It shall be a class A misdemeanor for:

1. Any person knowingly or intentionally to prevent or refuse to permit any board member or department representative to enter a pharmacy or any other establishment for the purpose of lawful inspection;

2. Any person whose license has been revoked to refuse to deliver the license;

3. Any pharmacist to display his or her license or permit it to be displayed in a pharmacy of which he or she is not the owner or in which he or she is not employed, or any owner to fail to display in his or her pharmacy the license of the pharmacist employed in such pharmacy;

4. Any holder of a license to fail to display the license;

5. Any owner of a pharmacy to display or permit to be displayed in his or her pharmacy the license of any pharmacist not employed in such pharmacy;

6. Any person to carry on, conduct or transact business under a name which contains as a part thereof the words "drugs", "medicines", "drug store", "apothecary", or "pharmacy", or similar terms or combination of terms, or in any manner by advertisement, circular, poster, sign or otherwise describe or refer to the place of business conducted by such person, or describe the type of service or class of products sold by such person, by the terms "drugs", "medicine", "drug store", "apothecary", or "pharmacy", unless the place of business so conducted is a pharmacy licensed by the department;

7. Any person to enter into an agreement with a physician, dentist, podiatrist or veterinarian for the compounding or dispensing of secret formula (coded) prescriptions;

8. Any person to manufacture, sell, deliver for sale, hold for sale or offer for sale of any drug, device or cosmetic that is adulterated or misbranded;

9. Any person to adulterate or misbrand any drug, device or cosmetic;

10. Any person to receive in commerce any drug, device or cosmetic that is adulterated or misbranded, and to deliver or proffer delivery thereof for pay or otherwise;

11. Any person to sell, deliver for sale, hold for sale, or offer for sale any drug, device or cosmetic in violation of this title;

12. Any person to disseminate any false advertisement;

13. Any person to refuse to permit entry or inspection as authorized by this title;

14. Any person to forge, counterfeit, simulate, or falsely represent, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by rules and regulations promulgated under the provisions of this title;

15. Any person to use for his or her own advantage, or reveal, other than to the commissioner or his or her duly authorized representative, or to the courts when relevant in any judicial proceedings under this title, any information acquired under authority of this title or concerning any method or process, which is a trade secret;

16. Any person to alter, mutilate, destroy, obliterate or remove the whole or any part of the labeling of, or the doing of any other act with respect to a drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded;

17. Any person to violate any of the provisions of section sixty-eight hundred ten of this title;

18. Any person to violate any of the provisions of section sixty-eight hundred sixteen of this title;

19. Any person, to sell at retail or give away in tablet form bichloride of mercury, mercuric chloride or corrosive sublimate, unless such bichloride of mercury, mercuric chloride or corrosive sublimate, when so sold, or given away, shall conform to the provisions of national formulary XII. Nothing contained in this paragraph shall be construed to prohibit the sale and dispensing of bichloride of mercury in any form, shape, or color, when combined or compounded with one or more other drugs or excipients, for the purposes of internal medication only, or when sold in bulk in powder form, or to any preparation containing one-tenth of a grain or less of bichloride of mercury;

20. Any pharmacy to fail to properly post the list required by section sixty-eight hundred twenty-six of this title;

21. Any pharmacy to change its current selling price without changing the listed price as provided by section sixty-eight hundred twenty-six of this title;

22. Any person to refuse to permit access to or copying of any record as required by this title;

23. Any manufacturer to sell or offer for sale any drug not manufactured, prepared or compounded under the personal supervision of a chemist or licensed pharmacist or not labeled with the full name of the manufacturer or seller; or

24. Any outsourcing facility to sell or offer to sell any drug that is not both compounded under the personal supervision of a licensed pharmacist and labeled with the full name of the outsourcing facility.

§ 6812. Special provisions. 1. Where any pharmacy, manufacturer, wholesaler or outsourcing facility registered by the department is damaged by fire the board shall be notified within a period of forty-eight hours, and the board shall have power to impound all drugs for analysis and condemnation, if found unfit for use. Where a pharmacy is discontinued, the owner of its prescription records shall notify the department as to the disposition of said prescription records, and in no case shall records be sold or given away to a person who does not currently possess a registration to operate a pharmacy.

2. Nothing in this title shall be construed as requiring the prosecution or the institution of injunction proceedings for minor violations of this title whenever the public interest will be adequately served by a suitable written notice of warning.

3. The executive secretary of the state board of pharmacy is authorized to conduct examinations and investigations for the purposes of this title through officers and employees of the United States, or through any health, food, or drug officer or employee of any city, county or other political subdivision of this state.

§ 6813. Seizure. 1. Any drug, device or cosmetic that is adulterated, misbranded or may not be sold under the provisions of this chapter, may be seized on petition or complaint of the board and condemned in the supreme court of any county in which it is found. Seizure shall be made:

a. by process pursuant to the petition or complaint, or

b. if the secretary or other officer designated by him or her has probable cause to believe that the article:

(i) is adulterated; or

(ii) is so misbranded as to be dangerous to health. The article shall be seized by order of such officer. The order shall describe the article to be seized, the place where the article is located, and the officer or employee making the seizure. The officer, in lieu of taking actual possession, may affix a tag or other appropriate marking to the article giving notice that the article has been quarantined and warning all persons not to remove or dispose of it by sale or otherwise until permission for removal or disposal is given by the officer or the court. In case of seizures or quarantine, pursuant to such order, the jurisdiction of such court shall attach upon such seizure or quarantine, and a petition or complaint for condemnation shall be filed promptly.

2. The procedure for cases under this section shall conform as much as possible to the procedure for attachment. Any issue of fact joined in any case under this section shall be tried by jury on the demand of either party. The court at any time after seizure and up to the time of trial shall allow by order any party or his or her agent or attorney to obtain a representative sample of the condemned material, a true copy of the analysis on which the proceeding was based, and the identifying marks or numbers, if any, on the packages from which the samples analyzed were obtained.

3. Any drug, device or cosmetic condemned under this section shall be disposed of by destruction or sale as the court may direct after the decree in accordance with the provisions of this section. The proceeds of the sale, if any, shall be paid into the state treasury after deduction for legal costs and charges. However, the drug, device or cosmetic shall not be sold contrary to the provisions of this title. After entry of the decree, if the owner of the condemned articles pays the costs of the proceeding and posts a sufficient bond as security that the articles will not be disposed of contrary to the provisions of this title, the court may by order direct that the seized articles be delivered to the owner to be destroyed or brought into conformance with this title under supervision of the secretary. The expenses of the supervision shall be borne by the person obtaining the release under bond. Any drug condemned by reason of its being a new drug which may not be sold under this title shall be disposed of by destruction.

4. When the decree of condemnation is entered, court costs and fees, storage and other expense shall be awarded against the person, if any, intervening as claimant of the condemned articles.

5. In any proceeding against the board, or the secretary, or an agent of either, because of seizure, or quarantine, under this section, the board, or the secretary, or such agent shall not be liable if the court finds that there was probable cause for the acts done by them.

§ 6814. Records of shipment. For the purpose of enforcing provisions of this title, carriers engaged in commerce, and persons receiving drugs, devices or cosmetics in commerce or holding such articles so received, shall, upon the request of an officer duly assigned by the secretary, permit such officer, at reasonable times, to have access to and to copy all records showing the movement in commerce of any drug, device or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of drug, device or cosmetic to which such request relates; provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained; provided further, that carriers shall not be subject to the other provisions of this title by reason of their receipt, carriage, holding or delivery of drugs, devices or cosmetics in the usual course of business as carriers.

§ 6815. Adulterating, misbranding and substituting. 1. Adultered drugs. A drug or device shall be deemed to be adulterated:

a. (i) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or (ii) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (iii) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (iv) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations provided in this title.

b. If it purports to be, or is represented as, a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or, in the absence or inadequacy of such tests or methods of assay, then in accordance with tests or methods of assay prescribed by regulations of the board of pharmacy as promulgated under this title. Deviations from the official assays may be made in the quantities of samples and reagents employed, provided they are in proportion to the quantities stated in the official compendium. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because (i) it exceeds the standard of strength therefor set forth in such compendium, if such difference is plainly stated on its label; or (ii) it falls below the standard of strength, quality, or purity therefor set forth in such compendium if such difference is plainly stated on its label, except that this subparagraph shall apply only to such drugs, or classes of drugs, as are specified in regulations which the board shall promulgate when, as applied to any drug, or class of drugs, the prohibition of such difference is not necessary for the protection of the public health. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United

States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

c. If it is not subject to the provisions of paragraph b of this subdivision and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

d. If it is a drug and any substance has been (i) mixed or packed therewith so as to reduce its quality or strength or (ii) substituted wholly or in part therefor.

e. If it is sold under or by a name not recognized in or according to a formula not given in the United States pharmacopoeia or the national formulary but that is found in some other standard work on pharmacology recognized by the board, and it differs in strength, quality or purity from the strength, quality or purity required, or the formula prescribed in, the standard work.

2. Misbranded and substituted drugs and devices. A drug or device shall be deemed to be misbranded:

a. If its labeling is false or misleading in any particular.

b. If in package form, unless it bears a label containing: (i) the name and place of business of the manufacturer, packer, or distributor, and (ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under subparagraph (ii) of this paragraph the board may establish reasonable variations as to quantity and exemptions as to small packages.

c. If any word, statement, or other information required by or under authority of this title to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the secretary, after investigation, found to be, and by regulations under this title, or by regulations promulgated by the board, designated as, habit forming; unless its label bears the name and quantity, or proportion, of such substance or derivative and in juxtaposition therewith the statement "Warning--May be habit forming".

e. If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears: (i) the common or usual name of the drug, if such there be, and (ii) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity by percentage or amount of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided that, to the extent that compliance with the requirements of subparagraph (ii) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the board.

f. Unless its labeling bears: (i) adequate directions for use, and

(ii) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that, where any requirement of subparagraph (i) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the board shall promulgate regulations exempting such drug or device from such requirement.

g. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that, the method of packing may be modified with the consent of the secretary in accordance with regulations promulgated by the board. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia.

h. (i) If it is a drug and its container is so made, formed or filled as to be misleading; (ii) if it is an imitation of another drug; (iii) if it is offered for sale under the name of another drug; or (iv) if it bears a copy, counterfeit, or colorable imitation of the trademark, label, container or identifying name or design of another drug.

i. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended or suggested in the labeling thereof.

j. Except as required by article thirty-three of this chapter, the labeling provisions of this title shall not apply to the compounding and dispensing of drugs on the written prescription of a physician, a dentist, a podiatrist or a veterinarian, which prescription when filled shall be kept on file for at least five years by the pharmacist or druggist. Such drug shall bear a label containing the name and place of business of the dispenser, the serial number and date of the prescription, directions for use as may be stated in the prescription, name and address of the patient and the name of the physician or other practitioner authorized by law to issue the prescription. In addition, such label shall contain the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription explicitly states on the prescription, in his or her own handwriting, that the name of the drug and the strength thereof should not appear on the label.

§ 6816. Omitting to label drugs, or labeling them wrongly. 1. a. Any person, who, in putting up any drug, medicine, or food or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicines, food or preparation puts any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug, medicine, food or preparation used in medical practice, or substitutes or dispenses a different article for or in lieu of any article prescribed, ordered, or demanded, except where required pursuant to section sixty-eight hundred sixteen-a of this title, or puts up a greater or lesser quantity of any ingredient specified in any such prescription, order or demand than that prescribed, ordered or demanded, except where required pursuant to paragraph (g) of subdivision two of section three hundred sixty-five-a of the social services law, or otherwise deviates from the terms of the prescription, order or demand by

substituting one drug for another, except where required pursuant to section sixty-eight hundred sixteen-a of this title, is guilty of a misdemeanor; provided, however, that except in the case of physicians' prescriptions, nothing herein contained shall be deemed or construed to prevent or impair or in any manner affect the right of an apothecary, druggist, pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such other article in place or in lieu of an article ordered, required or demanded, with the knowledge and consent of the purchaser. Upon a second conviction for a violation of this section the offender must be sentenced to the payment of a fine not to exceed one thousand dollars and may be sentenced to imprisonment for a term not to exceed one year. The third conviction of a violation of any of the provisions of this section, in addition to rendering the offender liable to the penalty prescribed by law for a second conviction, shall forfeit any right which he or she may possess under the law of this state at the time of such conviction, to engage as proprietor, agent, employee or otherwise, in the business of an apothecary, pharmacist, or druggist, or to compound, prepare or dispense prescriptions or orders for drugs, medicines or foods or preparations used in medical practice; and the offender shall be by reason of such conviction disqualified from engaging in any such business as proprietor, agent, employee or otherwise or compounding, preparing or dispensing medical prescriptions or orders for drugs, medicines, or foods or preparations used in medical practice.

b. The provisions of this section shall not apply to the practice of a practitioner who is not the proprietor of a store for the dispensing or retailing of drugs, medicines and poisons, or who is not in the employ of such a proprietor, and shall not prevent practitioners from supplying their patients with such articles as they may deem proper, and except as to the labeling of poisons shall not apply to the sale of medicines or poisons at wholesale when not for the use or consumption by the purchaser; provided, however, that the sale of medicines or poisons at wholesale shall continue to be subject to such regulations as from time to time may be lawfully made by the board of pharmacy or by any competent board of health.

c. The provisions of this section shall not apply to a limited pharmacy which prepares a formulary containing the brand names and the generic names of drugs and of manufacturers which it stocks, provided that it furnishes a copy of such formulary to each physician on its staff and the physician signs a statement authorizing the hospital to supply the drug under any generic or non-proprietary name listed therein and in conformity with the regulations of the commissioner.

2. For the purposes set forth in this section, the terms prescription, order or demand shall apply only to those items subject to provisions of subdivision one of section sixty-eight hundred ten of this title. The written order of a physician for items not subject to provisions of subdivision one of section sixty-eight hundred ten of this title shall be construed to be a direction, a fiscal order or a voucher.

§ 6816-a. When substitution is required. 1. A pharmacist shall substitute a less expensive drug product containing the same active ingredients, dosage form and strength as the drug product prescribed, ordered or demanded, provided that the following conditions are met:

a. The prescription is written on a form which meets the requirements of subdivision six of section sixty-eight hundred ten of this title and the prescriber does not prohibit substitution, or in the case of oral prescriptions, the prescriber must expressly state whether substitution

is to be permitted or prohibited. Any oral prescription that does not include such an express statement shall not be filled; and

b. The substituted drug product is contained in the list of drug products established pursuant to paragraph (o) of subdivision one of section two hundred six of this chapter; and

c. The pharmacist shall indicate on the label affixed to the immediate container in which the drug is sold or dispensed the name and strength of the drug product and its manufacturer unless the prescriber specifically states otherwise. The pharmacist shall record on the prescription form the brand name or the name of the manufacturer of the drug product dispensed.

2. In the event a patient chooses to have a prescription filled by an out of state dispenser, the laws of that state shall prevail.

3. A pharmacist shall substitute a less expensive biological product for a prescribed biological product provided that all of the following conditions are met:

a. the substituted biological product is either an interchangeable biological product for the prescribed product or the substituted biological product is one for which the prescribed product is an interchangeable biological product;

b. the prescriber does not designate that a substitution is prohibited as described in subdivision six of section sixty-eight hundred ten of this title; and

c. the pharmacist indicates on the label affixed to the immediate container in which the biological product is sold or distributed the name and strength of the product and its manufacturer unless the prescriber specifically states otherwise.

4. a. Within five business days following the dispensing of a substituted biological product, the dispensing pharmacist or the pharmacist's designee shall communicate to the prescriber the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed to the prescriber (i) by making an entry that is electronically accessible to the prescriber through an interoperable electronic medical records system, an electronic prescribing technology or a pharmacy record; or (ii) by using facsimile, electronic transmission or other electronic means. If an electronic means described in this paragraph is not available to the pharmacist at the time of communication, the dispensing pharmacist or the pharmacist's designee may communicate the information by telephone.

b. Communication under paragraph a of this subdivision shall not be required where:

(i) there is no FDA-approved interchangeable biological product for the product prescribed; or

(ii) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

5. The department shall maintain a link on its web site to the current list of all biological products determined by the Federal Food and Drug Administration to be an interchangeable biological product for a specific biological product.

§ 6819. Regulations making exceptions. The board shall promulgate regulations exempting from any labeling requirement of this title drugs, devices and cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs, devices and cosmetics are not adulterated

or misbranded under the provisions of this title upon removal from such processing, labeling, or repacking establishment.

§ 6820. Certification of coal-tar colors for drugs and cosmetics. The board shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

§ 6821. Poison schedules; register. 1. The following schedules shall remain in force until revised by the board and approved by the department.

Schedule A. Arsenic, atropine, corrosive sublimate, potassium cyanide, chloral hydrate, hydrocyanic acid, strychnine and all other poisonous vegetable alkaloids and their salts and oil of bitter almond containing hydrocyanic acid.

Schedule B. Aconite, belladonna, cantharides, colchicum, conium cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of savin, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloroform, creosote, croton oil, white precipitate, methyl or wood alcohol, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, or any drug, chemical or preparation which is liable to be destructive to adult human life in quantities of sixty grains or less.

2. It shall be unlawful for any person to sell at retail or to furnish any of the poisons of schedules A and B without affixing or causing to be affixed to the bottle, box, vessel or package, a label with the name of the article and the word "poison" distinctly shown and with the name and place of business of the seller all printed in red ink together with the name of such poisons printed or written thereupon in plain, legible characters.

3. Manufacturers and wholesale dealers in drugs, medicines, pharmaceutical preparations, chemicals or poisons shall affix or cause to be affixed to every bottle, box, parcel or outer enclosure of any original package containing any of the articles of schedule A, a suitable label or brand in red ink with the word "poison" upon it.

4. Every person who disposes of or sells at retail or furnishes any poisons included in schedule A shall, before delivering the same, enter in a book kept for that purpose the date of sale, the name and address of the purchaser, the name and the quantity of the poison, the purpose for which it is purchased and the name of the dispenser. The poison register shall be always open for inspection by the proper authorities and shall be preserved for at least five years after the last entry. Such person shall not deliver any of the poisons of schedule A or schedule B until he or she has satisfied himself or herself that the purchaser is aware of its poisonous character and that the poison is to be used for a legitimate purpose. The provisions of this subdivision do not apply to the dispensing of drugs or poisons on a doctor's prescription.

5. The board may add to or may delete from any of the schedules from time to time as such action becomes necessary for the protection of the public.

§ 6822. Examinations and investigations. The secretary is authorized to conduct examinations and investigations for the purposes of this title through officers and employees of the United States, or through any health, food, or drug officer or employee of any city, county or other political subdivision of this state, duly commissioned by the secretary as an officer of the board.

§ 6823. Factory inspection. For purposes of enforcement of this title, officers duly designated by the secretary are authorized:

1. to enter, at reasonable times, any factory, warehouse or establishment in which drugs, devices or cosmetics are manufactured, processed, packed, or held, for introduction into commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such drugs, devices or cosmetics in commerce; and

2. to inspect, at reasonable times, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

§ 6824. Injunction proceedings. In addition to the remedies hereinafter provided, the secretary is hereby authorized to apply to the court of the proper venue for an injunction to restrain any person from:

1. introducing or causing to be introduced into commerce any adulterated or misbranded drug, device or cosmetic; or

2. from introducing or causing to be introduced in commerce any new drug which does not comply with the provisions of this title; or

3. from disseminating or causing to be disseminated a false advertisement, without being compelled to allege or prove that an adequate remedy at law does not exist.

§ 6825. Proof required in prosecution for certain violations. 1. In an action or proceeding, civil or criminal, against a person for violating such provisions of this title which relate to the possession of, compounding, retailing or dispensing of misbranded, substituted or imitated drugs, poisons or cosmetics, when it shall be necessary that an analysis be made for the purpose of establishing the quality of such drug, poison or cosmetic so as to determine the fact of misbranding, substituting or imitating, then it shall be required to prove at the trial or hearing of such action or proceeding, that the person, taking the same for analysis separated it into two representative parts, hermetically or otherwise effectively and completely sealed, delivered one such sealed part to the seller, manufacturer, wholesaler, pharmacist, or druggist from whose premises such sample was taken and delivered the other part so sealed to the chemist designated by the state board of pharmacy; and the facts herein required to be proven shall be alleged in the complaint or information by which such action or proceeding was begun. The rules of the board shall be proven prima facie by the certificate of the secretary.

2. Any person accused of violation of any of the provisions of this title relating to adulterating, misbranding, substitution or imitation shall not be prosecuted or convicted or suffer any of the penalties, fines or forfeitures for such violation, if he or she establishes upon the hearing or trial that the drug, device or cosmetic alleged to be adulterated, misbranded, substituted or imitated was purchased by him or her under a written guaranty of the manufacturer or seller to the effect that said drug, device or cosmetic was not adulterated or misbranded, within the meaning of this title and proves that he or she has not adulterated, misbranded, substituted or imitated the same, provided the seller has taken due precaution to maintain the standard set for the drug, device or cosmetic. A guaranty, in order to be a defense to a prosecution or to prevent conviction or to afford protection, must state that the drug, device or cosmetic to which it refers is not adulterated, misbranded, substituted or imitated within the meaning of the provisions of this title and must state also the full name and place of business of the manufacturer, wholesaler, jobber or other person from whom the drug, device or cosmetic was purchased, and the date of purchase. The act,

omission or failure of any officer, agent or other employee acting for or employed by any person within the scope of his or her authority or employment shall in every case be the act, omission or failure of such person as well as that of the officer, agent or other employee, and such person shall be equally liable for violations of this title by a partnership, association or corporation, and every member of the partnership or association and the directors and general officers of the corporation and the general manager of the partnership, association or corporation shall be individually liable and any action, prosecution or proceeding authorized by this title may be brought against any or all of such persons. When any prosecution under this title is made on the complaint of the board, any fines collected shall be paid into the state treasury as provided by this title.

3. No publisher, radio-broadcast licensee, advertising agency, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be subject to the penalties provided by this title by reason of the dissemination by him or her of any false advertisement, unless he or she has refused, on the request of the secretary, to furnish the secretary the name and post-office address of the manufacturer, packer, distributor, seller or advertising agency, who caused him or her to disseminate such advertisement.

§ 6826. Drug retail price lists. 1. Every pharmacy shall compile a drug retail price list, which shall contain the names of the drugs on the list provided by the board, and the pharmacy's corresponding retail prices for each drug. Every pharmacy shall update its drug retail list at least weekly and provide the time and date that the list was updated. Every pharmacy shall provide the drug retail price list to any person upon request.

2. a. The list provided by the board shall be prepared at least annually by the board and distributed to each pharmacy in the state. The list shall be a compendium of the one hundred fifty most frequently prescribed drugs together with their usual dosages for which a prescription is required by the provisions of the "Federal Food, Drug, and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as amended, or by the commissioner. The board shall make the compendium list available to each pharmacy free of charge, both in printed form and in an electronic form that can be used to produce the pharmacy's drug retail list. The board shall provide the compendium list to the department.

b. The drug retail price list shall contain an advisory statement by the department alerting consumers to the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between drugs, if any. A pharmacy may include on its drug retail price list a statement: (i) concerning discounts from its listed retail prices that may be available to consumers and (ii) any limitations that the pharmacy may have as to what group or groups of customers it serves.

3. The pharmacy's corresponding retail price means the actual price to be paid by a retail purchaser to the pharmacy for any listed drug at the listed dosage. However, upon implementation of the prescription drug retail price list database by the department under this section, the pharmacy's corresponding retail price shall mean the price sent to it by the department under such section.

4. Pharmacies shall have a sign notifying people of the availability of the drug retail price list and the availability of the department

prescription drug retail price list database and the web address of that database, conspicuously posted at or adjacent to the place in the pharmacy where prescriptions are presented for compounding and dispensing, in the waiting area for customers, or in the area where prescribed drugs are delivered.

5. Nothing contained herein shall prevent a pharmacy from changing and charging the current retail price at any time, provided that the listed price is updated at least weekly to reflect the new retail price.

6. The commissioner shall make regulations necessary to implement this section, including how this section is applied to mail-order and internet pharmacies.

§ 6826-a. Reducing certain copayments. 1. Where an insured's copayment for a drug exceeds the corresponding retail price for the same drug on the pharmacy's drug retail price list, the pharmacist shall notify the insured of this occurrence and charge no greater than the pharmacy's corresponding retail price.

2. Where the drug being purchased is not on the drug retail price list, and the copayment for the drug exceeds the pharmacy's usual and customary price for that drug, the pharmacist shall notify the insured of this occurrence and charge the lesser of the insured's copayment and the pharmacy's usual and customary price for that drug.

§ 6827. Mandatory continuing education. 1. a. Each licensed pharmacist required under this title to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs b and c of this subdivision. Pharmacists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a pharmacist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed pharmacist not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of pharmacy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of forty-five hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than twenty-two hours of such continuing education shall consist of self-study courses. Any pharmacist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee

who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices pharmacy without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal courses of learning which contribute to professional practice in pharmacy and which meet the standards prescribed by 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, courses must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Pharmacists 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-eight hundred five of this title.

§ 6828. Certificates of administration. 1. No pharmacist shall administer immunizing agents without a certificate of administration issued by the department pursuant to regulations of the commissioner.

2. The fee for a certificate of administration shall be one hundred dollars and shall be paid on a triennial basis. A certificate may be suspended or revoked in the same manner as a license to practice pharmacy.

§ 6829. Interpretation and translation requirements for prescription drugs and standardized medication labeling. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Covered pharmacy" means any pharmacy that is part of a group of eight or more pharmacies, located within New York state and owned by the same corporate entity. For purposes of this section, "corporate entity" shall include related subsidiaries, affiliates, successors, or assignees doing business as or operating under a common name or trading symbol.

b. "Limited English proficient individual" or "LEP individual" means an individual who identifies as being, or is evidently, unable to speak, read or write English at a level that permits such individual to under-

stand health-related and pharmaceutical information communicated in English.

c. "Translation" shall mean the conversion of a written text from one language into an equivalent written text in another language by an individual competent to do so and utilizing all necessary pharmaceutical and health-related terminology. Such translation may occur, where appropriate, in a separate document provided to an LEP individual that accompanies his or her medication.

d. "Competent oral interpretation" means oral communication in which a person acting as an interpreter comprehends a message and re-expresses that message accurately in another language, utilizing all necessary pharmaceutical and health-related terminology, so as to enable an LEP individual to receive all necessary information in the LEP individual's preferred pharmacy primary language.

e. "Pharmacy primary languages" shall mean those languages spoken by one percent or more of the population, as determined by the U.S. Census, for each region, as established by regulations promulgated pursuant to this section, provided, however, that the regulations shall not require translation or competent oral interpretation of more than seven languages in any region.

f. "Mail order pharmacy" shall mean a pharmacy that dispenses most of its prescriptions through the United States postal service or other delivery system.

2. a. Every covered pharmacy shall provide free, competent oral interpretation services and translation services to each LEP individual requesting such services or filling a prescription that indicates that the individual is limited English proficient at such covered pharmacy in the LEP individual's preferred pharmacy primary language for the purposes of counseling such individual about his or her prescription medications or when soliciting information necessary to maintain a patient medication profile, unless the LEP individual is offered and refuses such services.

b. Every covered pharmacy shall provide free, competent oral interpretation services and translation services of prescription medication labels, warning labels and other written material to each LEP individual filling a prescription at such covered pharmacy, unless the LEP individual is offered and refuses such services or the medication label, warning labels and other written materials have already been translated into the language spoken by the LEP individual.

c. The services required by this section may be provided by a staff member of the pharmacy or a third-party contractor. Such services must be provided on an immediate basis but need not be provided in-person or face-to-face in order to meet the requirements of this section.

3. Every covered pharmacy shall conspicuously post, at or adjacent to each counter over which prescription drugs are sold, a notification of the right to free, competent oral interpretation services and translation services for limited English proficient individuals as provided for in subdivision two of this section. Such notifications shall be provided in the pharmacy primary languages. The size, style and placement of such notice shall be determined in accordance with rules promulgated pursuant to this section.

4. The commissioner shall promulgate regulations requiring that mail order pharmacies conducting business in the state provide free, competent oral interpretation services and translation services to persons filling a prescription through such mail order pharmacies whom are identified as LEP individuals. Such regulations shall take effect one year

after the effective date of this section; provided, however, that they shall be promulgated pursuant to the requirements of the state administrative procedure act, address the concerns of affected stakeholders, and reflect the findings of a thorough analysis of issues including:

a. how persons shall be identified as an LEP individual, in light of the manner by which prescriptions are currently received by such mail order pharmacies;

b. which languages shall be considered;

c. the manner and circumstances in which competent oral interpretation services and translation services shall be provided;

d. the information for which competent oral interpretation services and translation services shall be provided;

e. anticipated utilization, available resources, and cost considerations; and

f. standards for monitoring compliance with regulations and ensuring the delivery of quality competent oral interpretation services and translation services.

The commissioner shall provide a report on implementation, utilization, unanticipated problems, and corrective actions undertaken and planned to the temporary president of the senate and the speaker of the assembly no later than two years after the effective date of this section.

5. Covered pharmacies shall not be liable for injuries resulting from the actions of third-party contractors taken pursuant to and within the scope of the contract with the covered pharmacy as long as the covered pharmacy entered into such contract reasonably and in good faith to comply with this section, and was not negligent with regard to the alleged misconduct of the third-party contractor.

6. The regulations promulgated pursuant to this section shall establish a process by which covered pharmacies may apply and receive a waiver from compliance with subdivisions two and three of this section upon a showing that implementation would be unnecessarily burdensome when compared to the need for such services.

7. The commissioner shall promulgate regulations to effectuate the requirements of this section.

§ 6830. Standardized patient-centered data elements. 1. The commissioner shall develop rules and regulations requiring standardized patient-centered data elements consistent with existing technology and equipment to be used on all prescription medicine dispensed to patients in this state.

2. When developing the requirements for patient-centered data elements on prescription drug labels, the commissioner shall consider:

a. medical literacy research that identifies factors that improve understandability of labels and promotes increased compliance with a drug's intended use;

b. factors that improve the clarity of directions for use;

c. font types and sizes;

d. inclusion of only patient-centered information; and

e. the needs of special populations. To ensure public input, the commissioner shall solicit input from the state board of pharmacy and the state board of medicine, consumer groups, advocates for special populations, pharmacists, physicians, other health care professionals authorized to prescribe, and other interested parties.

§ 6831. Special provisions relating to outsourcing facilities. 1. Registration. Any outsourcing facility that is engaged in the compounding of sterile drugs in this state shall be registered as an outsourcing

facility under the Federal Food, Drug and Cosmetic Act and be registered as an outsourcing facility pursuant to this title.

2. New drugs. Sections 502(f)(1), 505 and 582 of the Federal Food, Drug and Cosmetic Act shall not apply to a drug compounded in an outsourcing facility registered under the Federal Food, Drug and Cosmetic Act.

3. Prescriptions. Notwithstanding any other provision of law to the contrary, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in this state and meets all other applicable requirements of federal and state law.

4. Restrictions. Any drugs compounded in an outsourcing facility registered pursuant to this title shall be compounded in accordance with all applicable federal and state laws.

5. Labeling. Notwithstanding any other provision of law to the contrary, the label of any drug compounded by an outsourcing facility shall include, but not be limited to the following:

a. a statement that the drug is a compounded drug or a reasonable comparable alternative statement that prominently identifies the drug as a compounded drug;

b. the name, address, and phone number of the applicable outsourcing facility; and

c. with respect to the drug:

(i) the lot or batch number;

(ii) the established name of the drug;

(iii) the dosage form and strength;

(iv) the statement of quantity or volume, as appropriate;

(v) the date that the drug was compounded;

(vi) the expiration date;

(vii) storage and handling instructions;

(viii) the National Drug Code number, if available;

(ix) the statement that the drug is not for resale, and the statement "Office Use Only"; and

(x) a list of the active and inactive ingredients, identified by established name, and the quantity or proportion of each ingredient.

6. Container. The container from which the individual units of the drug are removed for dispensing or for administration, such as a plastic bag containing individual product syringes, shall include:

a. a list of active and inactive ingredients, identified by established name, and the quantity or proportion of each ingredient; and

b. any other information required by regulations promulgated by the commissioner to facilitate adverse event reporting in accordance with the requirements established in section 310.305 of title 21 of the code of federal regulations.

7. Bulk drugs. A drug may only be compounded in an outsourcing facility that does not compound using bulk drug substances as defined in section 207.3(a)(4) of title 21 of the code of federal regulations or any successor regulation unless:

a. the bulk drug substance appears on a list established by the secretary of health and human services identifying bulk drug substances for which there is a clinical need;

b. the drug is compounded from a bulk drug substance that appears on the federal drug shortage list in effect at the time of compounding, distributing, and dispensing;

c. if an applicable monograph exists under the United States Pharmacopeia, the national formulary, or another compendium or pharmacopeia

recognized by the secretary of health and human services and the bulk drug substances each comply with the monograph;

d. the bulk drug substances are each manufactured by an establishment that is registered with the federal government.

8. Ingredients. If an outsourcing facility uses ingredients, other than bulk drug substances, such ingredients must comply with the standards of the applicable United States pharmacopeia or national formulary monograph, if such monograph exists, or of another compendium or pharmacopeia recognized by the secretary of health and human services for purposes of this subdivision, if any.

9. Unsafe or ineffective drugs. No outsourcing facility may compound a drug that appears on a list published by the secretary of health and human services that has been withdrawn or removed from the market because such drugs or components of such drugs have been found to be unsafe or not effective.

10. Prohibition on wholesaling. No compounded drug will be sold or transferred by any entity other than the outsourcing facility that compounded such drug. This does not prohibit the administration of a drug in a health care setting or dispensing a drug pursuant to a properly executed prescription.

11. Prohibition against copying an approved drug. No outsourcing facility may compound a drug that is essentially a copy of one or more approved drugs.

12. Prohibition against compounding drugs presenting demonstrable difficulties. No outsourcing facility may compound a drug:

a. that is identified, directly or as part of a category of drugs, on a list published by the secretary of health and human services that present demonstrable difficulties for compounding that are reasonably likely to lead to an adverse effect on the safety or effectiveness of the drug or category of drugs, taking into account the risks and benefits to patients; or

b. that is compounded in accordance with all applicable conditions identified on the drug list as conditions that are necessary to prevent the drug or category of drugs from presenting demonstrable difficulties.

13. Adverse event reports. Outsourcing facilities shall submit a copy of all adverse event reports submitted to the secretary of health and human services in accordance with the content and format requirements established in section 310.305 of title 21 of the code of federal regulations, or any successor regulation, to the executive secretary for the state board of pharmacy.

14. Reports. The commissioner shall prepare and submit a report to the governor and the legislature, due eighteen months from the effective date of this section, evaluating the effectiveness of the registration and oversight of outsourcing facilities related to compounding.

§ 6832. Limitations on assistance of an unlicensed person. 1. Subject to the limitations set forth in subdivision two of this section, an unlicensed person may assist a licensed pharmacist in the dispensing of drugs by:

a. receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;

b. typing prescription labels;

c. keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

d. getting drugs from stock and returning them to stock;

e. getting prescription files and other manual records from storage and locating prescriptions;

f. counting dosage units of drugs;

g. placing dosage units of drugs in appropriate containers;

h. affixing the prescription label to the containers;

i. preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

j. handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; and

k. performing other functions as defined by the commissioner's regulations.

2. Except for a licensed pharmacist employed by a facility licensed in accordance with article twenty-eight of this chapter or a pharmacy owned and operated by such a facility, no licensed pharmacist shall obtain the assistance of more than four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with the commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distribution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in paragraph b, c, d, e, f, g, h or i of subdivision one of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

TITLE 11
REGISTERED PHARMACY TECHNICIANS

Section 6840. Introduction.
6841. Definition of the practice of registered pharmacy technician.
6842. Definitions.
6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician".
6844. Requirements for licensure as a registered pharmacy technician.

§ 6840. Introduction. This title applies to the profession of registered pharmacy technician. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 6841. Definition of the practice of registered pharmacy technician. 1. A registered pharmacy technician may, under the direct personal supervision of a licensed pharmacist, assist such licensed pharmacist, as directed, in compounding, preparing, labeling, or dispensing of drugs used to fill valid prescriptions or medication orders or in compounding, preparing, and labeling in anticipation of a valid prescription or medication order for a patient to be served by the facility, in accordance with title ten of this article where such tasks require no professional judgment. Such professional judgment shall only be exercised by a licensed pharmacist. A registered pharmacy technician may only practice in a facility licensed in accordance with article twenty-eight of the public health law, or a pharmacy owned and operated by such a facility, under the direct personal supervision of a licensed pharmacist employed in such a facility or pharmacy. Such facility shall be responsible for ensuring that the registered pharmacy technician has received appropriate training to ensure competence before he or she begins assisting a licensed pharmacist in compounding, preparing, labeling, or dispensing of drugs, in accordance with this title and title ten of this article. For the purposes of this title, direct personal supervision means supervision of procedures based on instructions given directly by a supervising licensed pharmacist who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the registered pharmacy technicians and a supervising licensed pharmacist shall approve all work performed by the registered pharmacy technician prior to the actual dispensing of any drug.

2. In addition to the registered pharmacy technician services included in subdivision one of this section, registered pharmacy technicians may also assist a licensed pharmacist in the dispensing of drugs by performing the following functions that do not require a license under this title:

a. receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;

b. typing prescription labels;

c. keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

d. getting drugs from stock and returning them to stock;

e. getting prescription files and other manual records from storage and locating prescriptions;

f. counting dosage units of drugs;

g. placing dosage units of drugs in appropriate containers;

h. affixing the prescription label to the containers;

i. preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

j. handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; or

k. performing other functions as defined by the commissioner's regulations.

3. Under the direct personal supervision of a licensed pharmacist, unlicensed persons who are not registered pharmacy technicians may assist licensed pharmacists in performing tasks that do not require licensure in accordance with regulations promulgated by the commissioner and are also described in subdivision two of this section. Unlicensed persons who are not registered pharmacy technicians shall not engage in or assist in compounding.

4. No licensed pharmacist shall obtain the assistance of more than two registered pharmacy technicians in the performance of licensed tasks within their scope of practice or four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distribution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in subdivision one or paragraph b, c, d, e, f, g, h, or i of subdivision two of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

§ 6842. Definitions. As used in this title:

1. "Licensed pharmacist" means a person licensed to practice pharmacy pursuant to title ten of this article.

2. "Pharmacy intern" means a person practicing under a limited permit pursuant to section sixty-eight hundred six of this article.

3. "Professional judgment" means professional decision-making by a licensed pharmacist, including, but not limited to, such activities as:

a. interpreting a prescription or medication order for therapeutic acceptability and appropriateness or engaging in the calculations behind any such formulations;

b. interpreting and evaluating a prescription or medication order for conformance with legal requirements, authenticity, accuracy and interaction of the prescribed drug with other known prescribed and over-the-counter drugs;

c. receiving oral prescriptions from prescribers; or

d. counseling patients.

4. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug.

5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have the same definitions as set forth in section sixty-eight hundred two of this article.

§ 6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician". Only a person licensed to practice as a registered pharmacy technician under this title or otherwise

authorized shall practice as a registered pharmacy technician or use the title "registered pharmacy technician."

§ 6844. Requirements for licensure as a registered pharmacy technician. To qualify for licensure as a "registered pharmacy technician", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation or its equivalent, as determined by the department;

3. Certification from a nationally accredited pharmacy technician certification program acceptable to the department;

4. Age: at the time of application be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for initial license and for each triennial registration period.

TITLE 12
NURSING

Section 6900. Introduction.
6901. Definitions.
6902. Definition of practice of nursing.
6903. Practice of nursing and use of title "registered professional nurse" or "licensed practical nurse".
6904. State board for nursing.
6905. Requirements for a license as a registered professional nurse.
6906. Requirements for a license as a licensed practical nurse.
6907. Limited permits.
6908. Exempt persons.
6909. Special provision.
6910. Certificates for nurse practitioner practice.
6911. Certification as a clinical nurse specialist (CNS).

§ 6900. Introduction. This title applies to the profession of nursing. The general provisions for all professions contained in title one of this article apply to this title.

§ 6901. Definitions. As used in section sixty-nine hundred two of this title:

1. "Diagnosing" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. Such diagnostic privilege is distinct from a medical diagnosis.

2. "Treating" means selection and performance of those therapeutic measures essential to the effective execution and management of the nursing regimen, and execution of any prescribed medical regimen.

3. "Human Responses" means those signs, symptoms and processes which denote the individual's interaction with an actual or potential health problem.

§ 6902. Definition of practice of nursing. 1. The practice of the profession of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential health problems through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens prescribed by a licensed physician, dentist or other licensed health care provider legally

authorized under this title and in accordance with the commissioner's regulations. A nursing regimen shall be consistent with and shall not vary any existing medical regimen.

2. The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding, health teaching, health counseling, and provision of supportive and restorative care under the direction of a registered professional nurse or licensed physician, dentist or other licensed health care provider legally authorized under this article and in accordance with the commissioner's regulations.

3. a. (i) The practice of registered professional nursing by a nurse practitioner, certified under section six thousand nine hundred ten of this title, may include the diagnosis of illness and physical conditions and the performance of therapeutic and corrective measures within a specialty area of practice, in collaboration with a licensed physician qualified to collaborate in the specialty involved, provided such services are performed in accordance with a written practice agreement and written practice protocols except as permitted by paragraph b of this subdivision. The written practice agreement shall include explicit provisions for the resolution of any disagreement between the collaborating physician and the nurse practitioner regarding a matter of diagnosis or treatment that is within the scope of practice of both. To the extent the practice agreement does not so provide, then the collaborating physician's diagnosis or treatment shall prevail.

(ii) Prescriptions for drugs, devices and immunizing agents may be issued by a nurse practitioner, under this paragraph and section six thousand nine hundred ten of this title, in accordance with the practice agreement and practice protocols except as permitted by paragraph b of this subdivision. The nurse practitioner shall obtain a certificate from the department upon successfully completing a program including an appropriate pharmacology component, or its equivalent, as established by the commissioner's regulations, prior to prescribing under this paragraph. The certificate issued under section six thousand nine hundred ten of this title shall state whether the nurse practitioner has successfully completed such a program or equivalent and is authorized to prescribe under this paragraph.

(iii) Each practice agreement shall provide for patient records review by the collaborating physician in a timely fashion but in no event less often than every three months. The names of the nurse practitioner and the collaborating physician shall be clearly posted in the practice setting of the nurse practitioner.

(iv) The practice protocol shall reflect current accepted medical and nursing practice. The protocols shall be filed with the department within ninety days of the commencement of the practice and may be updated periodically. The commissioner shall make regulations establishing the procedure for the review of protocols and the disposition of any issues arising from such review.

(v) No physician shall enter into practice agreements with more than four nurse practitioners who are not located on the same physical premises as the collaborating physician.

b. Notwithstanding subparagraph (i) of paragraph a of this subdivision, a nurse practitioner, certified under section sixty-nine hundred ten of this title and practicing for more than three thousand six hundred hours may comply with this paragraph in lieu of complying with the requirements of paragraph a of this subdivision relating to collaboration with a physician, a written practice agreement and written prac-

tice protocols. A nurse practitioner complying with this paragraph shall have collaborative relationships with one or more licensed physicians qualified to collaborate in the specialty involved or a hospital, licensed under article twenty-eight of this chapter, that provides services through licensed physicians qualified to collaborate in the specialty involved and having privileges at such institution. As evidence that the nurse practitioner maintains collaborative relationships, the nurse practitioner shall complete and maintain a form, created by the department, to which the nurse practitioner shall attest, that describes such collaborative relationships. For purposes of this paragraph, "collaborative relationships" shall mean that the nurse practitioner shall communicate, whether in person, by telephone or through written (including electronic) means, with a licensed physician qualified to collaborate in the specialty involved or, in the case of a hospital, communicate with a licensed physician qualified to collaborate in the specialty involved and having privileges at such hospital, for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals as necessary. Such form shall also reflect the nurse practitioner's acknowledgement that if reasonable efforts to resolve any dispute that may arise with the collaborating physician or, in the case of a collaboration with a hospital, with a licensed physician qualified to collaborate in the specialty involved and having privileges at such hospital, about a patient's care are not successful, the recommendation of the physician shall prevail. Such form shall be updated as needed and may be subject to review by the department. The nurse practitioner shall maintain documentation that supports such collaborative relationships. Failure to comply with the requirements found in this paragraph by a nurse practitioner who is not complying with such provisions of paragraph a of this subdivision, shall be subject to professional misconduct provisions as set forth in title one of this article.

c. Nothing in this subdivision shall be deemed to limit or diminish the practice of the profession of nursing as a registered professional nurse under this title or any other law, rule, regulation or certification, nor to deny any registered professional nurse the right to do any act or engage in any practice authorized by this title or any other law, rule, regulation or certification.

d. The provisions of this subdivision shall not apply to any activity authorized, pursuant to statute, rule or regulation, to be performed by a registered professional nurse in a hospital as defined in article twenty-eight of this chapter.

§ 6903. Practice of nursing and use of title "registered professional nurse" or "licensed practical nurse". Only a person licensed or otherwise authorized under this title shall practice nursing and only a person licensed under section sixty-nine hundred five of this title shall use the title "registered professional nurse" and only a person licensed under section sixty-nine hundred six of this title shall use the title "licensed practical nurse". No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that the person is authorized to practice nursing unless the person is licensed or otherwise authorized under this title.

§ 6904. State board for nursing. A state board for nursing shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less

than fifteen members, eleven of whom shall be registered professional nurses and four of whom shall be licensed practical nurses all licensed and practicing in this state for at least five years. An executive secretary to the board shall be appointed by the department on recommendation of the commissioner and shall be a registered professional nurse registered in this state.

§ 6905. Requirements for a license as a registered professional nurse. To qualify for a license as a registered professional nurse, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, and a diploma or degree in professional nursing, in accordance with the commissioner's regulations, and in order to continue to maintain registration as a registered professional nurse in New York state, have attained a baccalaureate degree or higher in nursing within ten years of initial licensure in accordance with the commissioner's regulations. The department, in its discretion, may issue a conditional registration to a licensee who fails to complete the baccalaureate degree but who agrees to meet the additional requirement within one year. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be for one year and may be extended, with the payment of a fee, for no more than one additional year, unless the applicant can show good cause for non-compliance acceptable to the department. The department, in its discretion, may issue a temporary educational exemption to a licensee who is unable to complete the baccalaureate degree due to a lack of access to educational programs. Licensees seeking a temporary educational exemption shall provide evidence of applying on at least two occasions to a baccalaureate degree program or programs and subsequently being denied access to such program or programs on at least two occasions due to there being a limited number of seats. Such denials shall also be corroborated by the higher education institution or institutions that the licensee applied to. Temporary educational exemptions issued pursuant to this subdivision shall be for a single two-year period. Licensees shall only be eligible for either a conditional registration or a temporary educational exemption. The fee for such a temporary educational exemption shall be the same as, and in addition to, the fee for the triennial registration. Any licensee who is notified of the denial of a registration for failure to complete the additional educational requirements and who practices as a registered professional nurse without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article;

3. Experience: meet no requirement as to experience;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Citizenship: meet no requirement as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 6906. Requirements for a license as a licensed practical nurse. To qualify for a license as a licensed practical nurse, an applicant shall fulfill these requirements:

1. Application: file an application with the department;

2. Education: have received an education including completion of high school or its equivalent, and have completed a program in practical nursing, in accordance with the commissioner's regulations, or completion of equivalent study satisfactory to the department in a program conducted by the armed forces of the United States or in an approved program in professional nursing;

3. Experience: meet no requirement as to experience;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations, provided, however, that the educational requirements set forth in subdivision two of this section are met prior to admission for the licensing examination;

5. Age: be at least seventeen years of age;

6. Citizenship: meet no requirements as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

9. In conjunction with and as a condition of each triennial registration, the department shall ask and a licensed practical nurse shall indicate whether the licensed practical nurse is or has previously been authorized as an advanced home health aide pursuant to subdivision two of section sixty-nine hundred eight of this title. The department shall include such information in reports related to advanced home health aides.

§ 6907. Limited permits. 1. A permit to practice as a registered professional nurse or a permit to practice as a licensed practical nurse may be issued by the department upon the filing of an application for a license as a registered professional nurse or as a licensed practical nurse and submission of such other information as the department may require to:

a. graduates of schools of nursing registered by the department;

b. graduates of schools of nursing approved in another state, province, or country; or

c. applicants for a license in practical nursing whose preparation is determined by the department to be the equivalent of that required in this state.

2. Such limited permit shall expire one year from the date of issuance or upon notice to the applicant by the department that the application for license has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination.

3. A limited permit shall entitle the holder to practice nursing only under the supervision of a nurse currently registered in this state and with the endorsement of the employing agency.

4. Fees. The fee for each limited permit shall be thirty-five dollars.

5. Graduates of schools of nursing registered by the department may be employed to practice nursing under supervision of a professional nurse currently registered in this state and with the endorsement of the employing agency for ninety days immediately following graduation from a program in nursing and pending receipt of a limited permit for which an application has been filed as provided in this section.

§ 6908. Exempt persons. 1. This title shall not be construed:

a. As prohibiting (i) the domestic care of the sick, disabled or injured by any family member, household member or friend, or person employed primarily in a domestic capacity who does not hold himself or herself out, or accept employment as a person licensed to practice nursing under the provision of this title; provided that if such person is remunerated, the person does not hold himself or herself out as one who accepts employment for performing such care; or the administration of medications or treatment by child day care providers or employees or caregivers of child day care programs where such providers, employees or caregivers are acting under the direction and authority of a parent of a child, legal guardian, legal custodian, or an adult in whose care a child has been entrusted and who has been authorized by the parent to consent to any health care for the child and in compliance with the regulations of the office of children and family services pertaining to the administration of medications and treatment; or

(ii) any person from the domestic administration of family remedies; or

(iii) the providing of care by a person acting in the place of a person exempt under subparagraph (i) of this paragraph, but who does hold himself or herself out as one who accepts employment for performing such care, where nursing services are under the instruction of a licensed nurse, or under the instruction of a patient or family or household member determined by a registered professional nurse to be self-directing and capable of providing such instruction, and services are provided under section three hundred sixty-five-f of the social services law; or

(iv) the furnishing of nursing assistance in case of an emergency; or

(v) tasks provided by a direct support staff in programs certified or approved by the office for people with developmental disabilities, when performed under the supervision of a registered professional nurse and pursuant to a memorandum of understanding between the office for people with developmental disabilities and the department, in accordance with and pursuant to an authorized practitioner's ordered care, provided that: (1) a registered professional nurse determines, in his or her professional judgment, which tasks are to be performed based upon the complexity of the tasks, the skill and experience of the direct support staff, and the health status of the individual being cared for; (2) only a direct support staff who has completed training as required by the commissioner of the office for people with developmental disabilities may perform tasks pursuant to this subparagraph; (3) appropriate protocols shall be established to ensure safe administration of medications; (4) a direct support staff shall not assess the medication needs of an individual; (5) adequate nursing supervision is provided, including training and periodic inspection of performance of the tasks. The amount and type of nursing supervision shall be determined by the registered professional nurse responsible for supervising such task based upon the complexity of the tasks, the skill and experience of the direct support staff, and the health status of the individual being cared for; (6) a

direct support staff shall not be authorized to perform any tasks or activities pursuant to this subparagraph that are outside the scope of practice of a licensed practical nurse; (7) a direct support staff shall not represent himself or herself, or accept employment, as a person licensed to practice nursing under the provisions of this title; (8) direct support staff providing medication administration, tube feeding, or diabetic care shall be separately certified, and shall be recertified on an annual basis; (9) the registered professional nurse shall ensure that there is a consumer specific medication sheet for each medication that is administered; and (10) appropriate staffing ratios shall be determined by the office for people with developmental disabilities and the department to ensure adequate nursing supervision. No direct support staff shall perform tasks under this subparagraph until the office for people with developmental disabilities and the department have entered into a memorandum of understanding to effectuate the provisions of this subparagraph. The office for people with developmental disabilities shall complete a criminal background check pursuant to section 16.33 of the mental hygiene law and an agency background check pursuant to section 16.34 of the mental hygiene law on the direct support staff prior to the commencement of any provision of service provided under this subparagraph if such direct support staff is a new hire. Individuals providing supervision or direct support tasks pursuant to this subparagraph shall have protection pursuant to sections seven hundred forty and seven hundred forty-one of the labor law, where applicable;

b. As including services given by attendants in institutions under the jurisdiction of or subject to the visitation of the state department of mental hygiene if adequate medical and nursing supervision is provided;

c. As prohibiting such performance of nursing service by students enrolled in registered schools or programs as may be incidental to their course of study;

d. As prohibiting or preventing the practice of nursing in this state by any legally qualified nurse or practical nurse of another state, province, or country whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of such engagement provided such person does not represent or hold himself or herself out as a nurse or practical nurse registered to practice in this state;

e. As prohibiting or preventing the practice of nursing in this state during an emergency or disaster by any legally qualified nurse or practical nurse of another state, province, or country who may be recruited by the American National Red Cross or pursuant to authority vested in the state civil defense commission for such emergency or disaster service, provided such person does not represent or hold himself or herself out as a nurse or practical nurse registered to practice in this state;

f. As prohibiting or preventing the practice of nursing in this state, in obedience to the requirements of the laws of the United States, by any commissioned nurse officer in the armed forces of the United States or by any nurse employed in the United States veterans administration or United States public health service while engaged in the performance of the actual duties prescribed for him or her under the United States statutes, provided such person does not represent or hold himself or herself out as a nurse registered to practice in this state;

g. As prohibiting the care of the sick when done in connection with the practice of the religious tenets of any church; or

h. As prohibiting 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 nursing as defined in this title, by any not-for-profit corporation or education corporation providing services within the state 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.

2. This title shall not be construed as prohibiting advanced tasks provided by an advanced home health aide in accordance with regulations developed by the commissioner, in consultation with the commissioner of health. At a minimum, such regulations shall:

a. specify the advanced tasks that may be performed by advanced home health aides pursuant to this subdivision. Such tasks shall include the administration of medications which are routine and prefilled or otherwise packaged in a manner that promotes relative ease of administration, provided that administration of medications by injection, sterile procedures, and central line maintenance shall be prohibited. Provided, however, such prohibition shall not apply to injections of insulin or other injections for diabetes care, to injections of low molecular weight heparin, and to pre-filled auto-injections of naloxone and epinephrine for emergency purposes, and provided, further, that entities employing advanced home health aides pursuant to this subdivision shall establish a systematic approach to address drug diversion;

b. provide that advanced tasks performed by advanced home health aides may be performed only under the direct supervision of a registered professional nurse licensed in New York state, as set forth in this subdivision and subdivision eight of section sixty-nine hundred nine of this title, where such nurse is employed by a home care services agency licensed or certified pursuant to article thirty-six of this chapter, a hospice program certified pursuant to article forty of this chapter, or an enhanced assisted living residence licensed pursuant to article seven of the social services law and certified pursuant to article forty-six-B of this chapter. Such nursing supervision shall:

(i) include training and periodic assessment of the performance of advanced tasks;

(ii) be determined by the registered professional nurse responsible for supervising such advanced tasks based upon the complexity of such advanced tasks, the skill and experience of the advanced home health aide, and the health status of the individual for whom such advanced tasks are being performed;

(iii) include a comprehensive initial and thereafter regular and ongoing assessment of the individual's needs;

(iv) include as a requirement that the supervising registered professional nurse shall visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides no less than once every two weeks and include as a requirement that a registered professional nurse shall be available by telephone to the advanced home health aide twenty-four hours a day, seven days a week, provided that a registered professional nurse shall be available to visit an individual receiving services as necessary to protect the health and safety of such individual; and

(v) as shall be specified by the commissioner, be provided in a manner that takes into account individual care needs, case mix complexity and

geographic considerations and provide that the number of individuals served by a supervising registered professional nurse is reasonable and prudent.

c. establish a process by which a registered professional nurse may assign advanced tasks to an advanced home health aide. Such process shall include, but not be limited to:

(i) allowing assignment of advanced tasks to an advanced home health aide only where such advanced home health aide has demonstrated to the satisfaction of the supervising registered professional nurse competency in every advanced task that such advanced home health aide is authorized to perform, a willingness to perform such advanced tasks, and the ability to effectively and efficiently communicate with the individual receiving services and understand such individual's needs;

(ii) prohibiting assignment of advanced tasks to an advanced home health aide if the individual receiving services declines to be served by an advanced home health aide;

(iii) authorizing the supervising registered professional nurse to revoke any assigned advanced task from an advanced home health aide for any reason; and

(iv) authorizing multiple registered professional nurses to jointly agree to assign advanced tasks to an advanced home health aide, provided further that only one registered professional nurse shall be required to determine if the advanced home health aide has demonstrated competency in the advanced task to be performed;

d. provide that advanced tasks may be performed only in accordance with and pursuant to an authorized health practitioner's ordered care;

e. provide that only a certified home health aide may perform advanced tasks as an advanced home health aide when such aide has:

(i) at least one year of experience providing either home health or personal care services, or a combination of the same;

(ii) completed the requisite training and demonstrated competencies of an advanced home health aide as determined by the commissioner;

(iii) successfully completed competency examinations satisfactory to the commissioner; and

(iv) meets other appropriate qualifications as determined by the commissioner in consultation with the commissioner of health;

f. provide that only an individual who is listed in the home care services registry maintained by the department pursuant to section thirty-six hundred thirteen of this chapter as having satisfied all applicable training requirements and having passed the applicable competency examinations and who meets other requirements as set forth in regulations issued by the commissioner pursuant to subdivision seventeen of section thirty-six hundred two of this chapter may perform advanced tasks pursuant to this subdivision and may hold himself or herself out as an advanced home health aide;

g. establish minimum standards of training for the performance of advanced tasks by advanced home health aides, including didactic training, clinical training, and a supervised clinical practicum with standards set forth by the commissioner;

h. provide that advanced home health aides shall receive case-specific training on the advanced tasks to be assigned by the supervising nurse, provided that additional training shall take place whenever additional advanced tasks are assigned;

i. prohibit an advanced home health aide from holding himself or herself out, or accepting employment as, a person licensed to practice nursing under the provisions of this title;

j. provide that an advanced home health aide is not required nor permitted to assess the medication or medical needs of an individual;

k. provide that an advanced home health aide shall not be authorized to perform any advanced tasks or activities pursuant to this subdivision that are outside the scope of practice of a licensed practical nurse or any advanced tasks that have not been appropriately assigned by the supervising registered professional nurse;

l. provide that an advanced home health aide shall document all advanced tasks provided to an individual, including medication administration to each individual through the use of a medication administration record; and

m. provide that the supervising registered professional nurse shall retain the discretion to decide whether to assign advanced tasks to advanced home health aides under this program and shall not be subject to coercion, retaliation, or the threat of retaliation; in developing such regulations, the commissioner shall take into account the recommendations of a workgroup of stakeholders convened by the commissioner for the purpose of providing guidance on the foregoing.

§ 6909. Special provision. 1. Notwithstanding any inconsistent provision of any general, special, or local law, any licensed registered professional nurse or licensed practical nurse who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such registered professional nurse or licensed practical nurse. Nothing in this subdivision shall be deemed or construed to relieve a licensed registered professional nurse or licensed practical nurse from liability for damages for injuries or death caused by an act or omission on the part of such nurse while rendering professional services in the normal and ordinary course of her practice.

2. Nothing in this title shall be construed to confer the authority to practice medicine or dentistry.

3. An applicant for a license as a registered professional nurse or licensed practical nurse by endorsement of a license of another state, province or country whose application was filed with the department under the laws in effect prior to August thirty-first, nineteen hundred seventy-one shall be licensed only upon successful completion of the appropriate licensing examination unless satisfactory evidence of the completion of all educational requirements is submitted to the department prior to September one, nineteen hundred seventy-seven.

4. A certified nurse practitioner may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, consistent with subdivision three of section six thousand nine hundred two of this title, and consistent with this chapter, for:

a. administering immunizations;

b. the emergency treatment of anaphylaxis;

c. administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections;

d. administering tests to determine the presence of the human immunodeficiency virus;

e. administering tests to determine the presence of the hepatitis C virus;

f. the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose; or

g. screening of persons at increased risk for syphilis, gonorrhea and chlamydia.

5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

6. A registered professional nurse defined under subdivision one of section sixty-nine hundred two of this title may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

7. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent with this chapter, for:

a. administering immunizations to prevent influenza to patients two years of age or older;

b. administering immunizations to prevent pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis to patients eighteen years of age or older; and

c. administering other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner determines that an immunization: (i) (1) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (2) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended immunization for such patients who: (1) meet age requirements, (2) lack documentation of such immunization, (3) lack evidence of past infection, or (4) have an additional risk factor or another indication as recommended by the advisory committee on immunization practices of the centers for disease control and prevention. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

8. A registered professional nurse, while working for a home care services agency licensed or certified pursuant to article thirty-six of this chapter, a hospice program certified pursuant to article forty of this chapter, or an enhanced assisted living residence licensed pursuant to article seven of the social services law and certified pursuant to article forty-six-B of this chapter may, in accordance with this subdivision, assign advanced home health aides to perform advanced tasks for individuals pursuant to the provisions of subdivision two of section sixty-nine hundred eight of this title and supervise advanced home health aides who perform assigned advanced tasks.

a. Prior to assigning or modifying an assignment to perform an advanced task, the registered professional nurse shall:

(i) complete a nursing assessment to ascertain the client's current health status and care needs; and

(ii) provide to the advanced home health aide written, individual-specific instructions for performing the advanced task and criteria for identifying, reporting and responding to problems or complications.

b. The registered professional nurse shall not assign an advanced task unless:

(i) the advanced task to be assigned is consistent with an authorized health practitioner's ordered care;

(ii) the registered professional nurse provides case specific training to the advanced home health aide and personally verifies that the advanced home health aide can safely and competently perform the advanced task;

(iii) the registered professional nurse determines that the advanced home health aide is willing to perform such advanced task; and

(iv) the registered professional nurse determines that the advanced home health aide is able to effectively and efficiently communicate with the individual receiving services and understand such individual's needs.

c. The supervising registered professional nurse shall:

(i) visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides no less than once every two weeks; and

(ii) conduct regular and ongoing assessment of the individual's needs.

9. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner of health, 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.

10. A registered professional nurse may execute a standing order for newborn care in a hospital established under section twenty-eight hundred three-v of this chapter, as provided in that section. The commissioner may make regulations relating to implementation of this subdivision.

11. A certified nurse practitioner 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.

§ 6910. Certificates for nurse practitioner practice. 1. For issuance of a certificate to practice as a nurse practitioner under subdivision three of section six thousand nine hundred two of this title, the applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. License: be licensed as a registered professional nurse in the state;

c. Education: (i) have satisfactorily completed educational preparation for provision of these services in a program registered by the department or in a program determined by the department to be the equivalent; or

(ii) submit evidence of current certification by a national certifying body, recognized by the department; or

(iii) meet such alternative criteria as established by the commissioner's regulations;

d. Fees: pay a fee to the department of fifty dollars for each initial certificate authorizing nurse practitioner practice in a specialty area and a triennial registration fee of thirty dollars. Registration under

this section shall be coterminous with the nurse practitioner's registration as a professional nurse.

2. Only a person certified under this section shall use the title "nurse practitioner".

3. The provisions of this section shall not apply to any act or practice authorized by any other law, rule, regulation or certification.

4. The provisions of this section shall not apply to any activity authorized, pursuant to statute, rule or regulation, to be performed by a registered professional nurse in a hospital as defined in article twenty-eight of this chapter.

5. The commissioner is authorized to promulgate regulations to implement the provisions of this section.

§ 6911. Certification as a clinical nurse specialist (CNS). 1. For issuance of a certificate to practice as a clinical nurse specialist under section six thousand nine hundred two of this title, the applicant shall fulfill the following requirements:

a. file an application with the department;

b. be licensed as a registered professional nurse in this state;

c. (i) have satisfactorily completed an educational program registered by the department including a master's or doctoral degree, or a post-master's certificate from a program acceptable to the department which prepares graduates to practice as CNSs and which is accredited by a national nursing accredited body acceptable to the department, and (ii) meets all other requirements established by the department to practice as a clinical nurse specialist, or (iii) have received educational preparation determined by the department to be the substantial equivalent of subparagraphs (i) and (ii) of this paragraph; and

d. pay a fee to the department of fifty dollars for each initial certificate authorizing clinical nurse specialist practice and a triennial registration fee of thirty dollars. Registration under this section shall be coterminous with the clinical nurse specialist's registration as a professional nurse.

2. Only a person certified under this section shall use the title "clinical nurse specialist" or the designation "CNS".

TITLE 13
PROFESSIONAL MIDWIFERY PRACTICE ACT

Section 6950. Introduction.
6951. Definition of practice of midwifery.
6952. Practice of midwifery.
6953. Use of title "midwife".
6954. State board of midwifery.
6955. Requirements for a professional license.
6956. Prior nurse-midwifery certification.
6957. Exempt persons.
6958. Limited permit.

§ 6950. Introduction. This title applies to the profession of midwifery. The general provisions for all professions contained in title one of this article apply to this title.

§ 6951. Definition of practice of midwifery. 1. The practice of the profession of midwifery is defined as the management of normal pregnancies, child birth and postpartum care as well as primary preventive reproductive health care of essentially healthy women, and shall include newborn evaluation, resuscitation and referral for infants. A midwife shall have collaborative relationships with (i) a licensed physician who

is board certified as an obstetrician-gynecologist by a national certifying body, or (ii) a licensed physician who practices obstetrics and has obstetric privileges at a general hospital licensed under article twenty-eight of this chapter, or (iii) a hospital, licensed under article twenty-eight of this chapter, that provides obstetrics through a licensed physician having obstetrical privileges at such institution, that provide for consultation, collaborative management and referral to address the health status and risks of his or her patients and that include plans for emergency medical gynecological and/or obstetrical coverage. A midwife shall maintain documentation of such collaborative relationships and shall make information about such collaborative relationships available to his or her patients. Failure to comply with the requirements found in this subdivision shall be subject to professional misconduct provisions as set forth in title one of this article.

2. A licensed midwife shall have the authority, as necessary, and limited to the practice of midwifery, to prescribe and administer drugs, immunizing agents, diagnostic tests and devices, and to order laboratory tests, as established by the board in accordance with the commissioner's regulations. A midwife shall obtain a certificate from the department upon successfully completing a program including a pharmacology component, or its equivalent, as established by the commissioner's regulations prior to prescribing under this section.

3. Any reference to midwifery, midwife, certified nurse-midwifery or certified nurse-midwife, nurse-midwifery or nurse-midwife under the provisions of this title, this chapter or any other law, shall refer to and include the profession of midwifery and a licensed midwife, unless the context clearly requires otherwise.

§ 6952. Practice of midwifery. Only a person licensed or exempt under this title or authorized by any other section of law shall practice midwifery.

§ 6953. Use of title "midwife". Only a person licensed or exempt under this title shall use the title "midwife". Only a person licensed under both this title and title twelve of this article may use the title "nurse-midwife".

§ 6954. State board of midwifery. 1. The state board of midwifery shall be appointed by the department on recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of thirteen individuals. Initial appointments to the board shall be such that the terms shall be staggered. However, no members shall serve more than two terms.

2. a. (i) Seven members of the board shall be persons licensed or exempt under this section.

(ii) One member of the board shall be an educator of midwifery.

b. Two members of the board shall be individuals who are licensed physicians who are also certified as obstetrician/gynecologists by a national certifying body.

c. One member of the board shall be an individual licensed as a physician who practices family medicine including obstetrics.

d. One member of the board shall be an individual licensed as a physician who practices pediatrics.

e. One member of the board shall be an individual not possessing either licensure or training in medicine, midwifery, pharmacology or nursing and shall represent the public at large.

3. For purposes of this title, "board" means the state board of midwifery created under this section unless the context clearly indicates otherwise.

§ 6955. Requirements for a professional license. To qualify for a license as a midwife, an applicant shall fulfill the following requirements:

1. Application: file an application with the department.

2. Education: satisfactorily;

a. complete educational preparation (degree or diploma granting) for the practice of nursing, followed by or concurrently with educational preparation for the practice of midwifery in accordance with the commissioner's regulations, or

b. submit evidence of license or certification, the educational preparation for which is determined by the department to be equivalent to the foregoing, from any state or country, satisfactory to the department and in accordance with the commissioner's regulations, or

c. complete a program determined by the department to be equivalent to the foregoing and in accordance with the commissioner's regulations.

3. Examination: pass an examination satisfactory to the department and in accordance with the commissioner's regulations.

4. Age: be at least twenty-one years of age.

5. Character: be of good moral character as determined by the department.

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States.

7. Fee: pay a fee of one hundred ninety dollars to the department for admission to a department conducted examination for an initial license, a fee of one hundred dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of one hundred eighty dollars for each triennial registration period and a fee of seventy dollars for a limited permit.

§ 6956. Prior nurse-midwifery certification. Any individual who is certified as a nurse-midwife shall not practice pursuant to this title until after receiving approval from the commissioner and submitting the fee required by subdivision seven of section sixty-nine hundred fifty-five of this title.

§ 6957. Exempt persons. Nothing in this title shall be construed to affect, prevent or in any manner expand or limit any duty or responsibility of a licensed physician from practicing midwifery or affect or prevent a medical student or midwifery student in clinical practice under the supervision of a licensed physician or board certified obstetrician/gynecologist or licensed midwife practicing in pursuance of an educational program registered by the department from engaging in such practice.

§ 6958. Limited permit. 1. A limited permit to practice midwifery may be granted for a period not to exceed twelve months to an individual who has to the satisfaction of the department met all the requirements of section sixty-nine hundred fifty-five of this title, but has not yet passed the examination required by subdivision three of such section.

2. A limited permit shall entitle the holder to practice midwifery only under the direct supervision of a licensed physician who is authorized under section sixty-nine hundred fifty-one of this title or a licensed midwife.

TITLE 14
PODIATRY

Section 7000. Introduction.
7001. Definition of practice of podiatry.
7002. Practice of podiatry and use of title "podiatrist".
7003. State board for podiatry.
7004. Requirements for a professional license.
7005. Exempt persons.
7006. Special provision.
7007. Limited permits.
7008. Limited residency permits and limited fellowship permits.
7009. Podiatric ankle surgery privileges.
7010. Ankle surgery limited permits.

§ 7000. Introduction. This title applies to the profession of podiatry. The general provisions for all professions contained in title one of this article apply to this title.

§ 7001. Definition of practice of podiatry. 1. The practice of the profession of podiatry is defined as diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the foot, and may include performing physical evaluations in conjunction with the provision of podiatric treatment. For the purposes of wound care however, the practice of podiatry shall include the treatment of such wounds if they are contiguous with wounds relating, originating or in the course of treatment of a wound on the foot within the podiatric scope of practice. Wound care shall not, however, extend beyond the level ending at the distal tibial tuberosity. The practice of podiatry may also include diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the ankle and soft tissue of the leg below the tibial tuberosity if the podiatrist has obtained an issuance of a privilege to perform podiatric standard ankle surgery or advanced ankle surgery in accordance with section seven thousand nine of this title. Podiatrists may treat traumatic open wound fractures only in hospitals, as defined in article twenty-eight of this chapter. For the purposes of this title, the term "ankle" shall be defined as the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and talus, and the portions of skin, subcutaneous tissue, facia, muscles, tendons, ligaments and nerves at or below the level of the myotendinous junction of the triceps surae.

2. The practice of podiatry shall not include treating any part of the human body other than the foot, nor treating fractures of the malleoli or cutting operations upon the malleoli unless the podiatrist obtains an issuance of a privilege to perform podiatric standard ankle surgery or podiatric advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric standard ankle surgery may perform surgery on the ankle which may include soft tissue and osseous procedures except those procedures specifically authorized for podiatrists who have obtained an issuance of a privilege for advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric advanced ankle surgery may perform surgery on the ankle which may include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae, and insertion and removal of retrograde tibiotalo-

calcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae, but does not include the surgical treatment of complications within the tibial diaphysis related to the use of such external fixation pins. Podiatrists licensed to practice, but not authorized to prescribe or administer narcotics prior to the effective date of this subdivision, may do so only after certification by the department in accordance with the qualifications established by the commissioner. The practice of podiatry shall include administering only local anesthetics for therapeutic purposes as well as for anesthesia and treatment under general anesthesia administered by authorized persons. The practice of podiatry by any licensee shall not include partial or total ankle replacements nor the treatment of pilon fractures.

3. a. The department shall conduct a study to determine whether to make available to the public profiles on podiatrists who have obtained an issuance of a privilege to perform podiatric standard or advanced ankle surgery pursuant to subdivisions one and two of section seven thousand nine of this title. Such study shall include consideration of whether it would be appropriate and feasible for the department to make publicly available profiles for such podiatrists in a manner similar to physician profiles made available on the department's website in accordance with section twenty-nine hundred ninety-five-a of this chapter. The department shall consult with other departments as necessary on matters related to the operation of the department's physician profiles established pursuant to section twenty-nine hundred ninety-five-a of this chapter in conducting its study.

b. If the department determines that making podiatrist profiles available is appropriate and feasible, the department shall outline in such study an appropriate and cost-effective method of presenting relevant and appropriate podiatric profiling information to the general public. The department shall submit such study to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on or before November first, two thousand sixteen.

c. If the department makes podiatrist profiles available as set forth in paragraph b of this subdivision, the department shall include on its website containing the physician profiles established pursuant to section twenty-nine hundred ninety-five-a of this chapter a link to the website on which such podiatrist profiles may be accessed and a statement describing the purpose of such link.

§ 7002. Practice of podiatry and use of title "podiatrist". Only a person licensed or exempt under this title shall practice podiatry or use the title "podiatrist" or "chiropodist".

§ 7003. State board for podiatry. A state board for podiatry shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than seven podiatrists licensed in this state. An executive secretary to the board shall be appointed by the commissioner.

§ 7004. Requirements for a professional license. To qualify for a license as a podiatrist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a doctoral degree in podiatry, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Citizenship: meet no requirements as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

9. Continuing education: In accordance with the requirements of section sixty-five hundred two of this article, at the time of re-registration with the department, each applicant shall present satisfactory evidence to the state board for podiatry that in the years prior to the filing for re-registration he or she attended the education programs conducted by the podiatry society of the state of New York or the equivalent of such educational programs as approved by the state board for podiatry in accordance with the commissioner's regulations.

§ 7005. Exempt persons. Nothing in this title shall be construed to affect or prevent a student from engaging in clinical practice under supervision of a licensed podiatrist as part of the program of an approved school of podiatry.

§ 7006. Special provision. 1. No corporation, except a hospital corporation authorized under article forty-three of the insurance law or a corporation organized and existing under the laws of the state of New York which, on or before the first day of March, nineteen hundred forty-two, was legally incorporated to practice podiatry, shall practice podiatry, and then only through licensed podiatrists and shall conform to department rules. No corporation organized to practice podiatry shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department and any corporation so changing its name or so transferring its franchise or corporate rights without such permission or found guilty of violating a department rule shall be deemed to have forfeited its right to exist and shall be dissolved by a proceeding brought by the attorney general.

2. Any manufacturer or merchant may sell, advertise, fit, or adjust proprietary foot remedies, arch supports, corrective foot appliances or shoes.

3. Notwithstanding any inconsistent provision of any general, special or local law, any licensed podiatrist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such podiatrist.

Nothing in this subdivision shall be deemed or construed to relieve a licensed podiatrist from liability for damages for injuries or death caused by an act or omission on the part of a podiatrist while rendering professional services in the normal and ordinary course of practice.

4. An unlicensed person may provide supportive services to a podiatrist incidental to and concurrent with such podiatrist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of podiatry as defined in this title. An unlicensed person providing supportive services to a podiatrist may operate radiographic equipment under direct supervision for the sole purpose of foot radiography provided that such person completes a course of study acceptable to the department.

§ 7007. Limited permits. 1. Limited permits to practice podiatry may be issued by the department to graduates of a program of professional education in podiatry registered by the department or accredited by an accrediting agency acceptable to the department. Such permits shall authorize the practice of podiatry only under the supervision of a licensed podiatrist and only in:

a. a hospital or health facility licensed pursuant to article twenty-eight of this chapter; or

b. a clerkship for a period of two years or less conducted by a licensed podiatrist designated as a member of the faculty of an approved school of podiatry for purposes of a preceptorship program.

2. Limited permits shall be issued for a period of one year, and may be renewed at the discretion of the department for one additional year.

3. The fee for a limited permit shall be one hundred five dollars and the fee for a renewal shall be fifty dollars.

§ 7008. Limited residency permits and limited fellowship permits. 1. Limited residency permits and limited fellowship permits may be issued by the department to graduates of a program of professional education in podiatry registered by the department or accredited by an accrediting agency acceptable to the department.

2. Such permits shall allow a resident or fellow in podiatric medicine participating in an approved post-graduate residency or fellowship program to perform such duties, tasks and functions that are required for successful completion of such program under the administrative supervision of a licensed podiatrist serving as the residency or fellowship director, as applicable, in a hospital or health care facility licensed pursuant to article twenty-eight of this chapter. At any time during the residency or fellowship, a licensed physician or a licensed podiatrist may provide direct personal supervision of activities which he or she is authorized and competent to provide in the approved facility; provided, however, when the resident's or fellow's training involves 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 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 advanced midfoot, rearfoot and ankle procedures that has been approved by the department; or

(ii) 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 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 advanced ankle surgery.

3. Duration and registration of privileges. A privilege issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the department. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under this title. The holder of a privilege issued under this section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to section six thousand five hundred two of this article, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the privilege set forth in this section. The fee for such registration shall be two hundred ten dollars. The registration period for a privilege holder shall be coterminous with his or her registration as a podiatrist.

§ 7010. Ankle surgery limited permits. A limited permit to perform podiatric standard ankle surgery, as described in subdivision two of section seven thousand one of this title, may be issued by the department to a podiatrist who is licensed pursuant to this title and who has met the residency and board qualification/certification requirements set forth in subdivision one of section seven thousand nine of this title in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric standard ankle surgery privilege pursuant to subdivision one of section seven thousand nine of this title. Such permits shall authorize the performance of podiatric standard ankle surgery only under the direct personal supervision of a licensed podiatrist holding a podiatric standard ankle surgery privilege or a podiatric advanced ankle surgery privilege issued pursuant to 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.

2. A limited permit to perform podiatric advanced ankle surgery, as described in subdivision two of section seven thousand one of this title, may be issued by the department to a podiatrist who is licensed pursuant to this title and who has met the residency and board certification requirements set forth in subdivision two of section seven thousand nine of this title in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric advanced ankle surgery privilege pursuant to subdivision two of section seven thousand nine of this title. Such permits shall authorize the 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 authorized only in accordance with the provisions of this title and regulations promulgated by the commissioner.

§ 7101-a. Certification to use therapeutic drugs. 1. Definitions. As used in this section, the following terms shall have the following meanings:

a. Clinical training. Clinical training shall mean the diagnosis, treatment and management of patients with ocular disease and shall be comparable to that acquired by a current graduate of the State University College of Optometry.

b. Consultation. Consultation shall mean a confirmation of the diagnosis, a plan of co-management of the patient, and a periodic review of the patient's progress.

c. Education review committee. Education review committee shall mean the committee established pursuant to subdivision nine of this section.

d. Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean those drugs which shall be limited to topical applications to the surface of the eye for the purpose of diagnostic examination of the eye and shall be limited to:

(i) Anesthetic agents;

(ii) Mydriatics;

(iii) Cycloplegics;

(iv) Miotics;

(v) Disclosing agents and other substances used in conjunction with these drugs as part of a diagnostic procedure.

e. Topical therapeutic pharmaceutical agents. Topical therapeutic pharmaceutical agents shall mean those drugs which shall be limited to topical application to the surface of the eye for therapeutic purposes and shall be limited to:

(i) antibiotic/antimicrobials;

(ii) decongestants/anti-allergenics;

(iii) non-steroidal anti-inflammatory agents;

(iv) steroidal anti-inflammatory agents;

(v) antiviral agents;

(vi) hyperosmotic/hypertonic agents;

(vii) cycloplegics;

(viii) artificial tears and lubricants; and

(ix) immunosuppressive agents.

f. Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension shall mean those drugs which shall be limited to topical application to the surface of the eye and shall be limited to:

(i) beta blockers;

(ii) alpha agonists;

(iii) direct acting cholinergic agents;

(iv) prostaglandin analogs; and

(v) carbonic anhydrase inhibitors.

g. Oral therapeutic pharmaceutical agents. Oral therapeutic pharmaceutical agents shall mean those orally administered drugs used for therapeutic purposes solely for the treatment of diseases of the eye and adnexa and shall be limited to:

(i) the following antibiotics:

(1) amoxicillin/clavulanate potassium;

(2) cephalexin;

(3) azithromycin;

(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 examination within five years of the department's approval of the initial certification course or the initial examination, whichever is later provided, however, an optometrist who has commenced the oral therapeutic pharmaceutical agent certification course within the five year time period but has not yet passed an examination shall be allowed to take such examination and become certified after the five year time period provided for in this paragraph has ended.

(i) The curriculum for the oral therapeutic pharmaceutical agent certification course shall include, but not be limited to, instruction

in pharmacology and drug interaction in treating ocular disease and be taught through clinical case scenarios and emphasize clinical decision making and shall be no less than forty hours, of which no less than twenty-four hours shall be live instruction.

(ii) Such course shall qualify towards meeting the continuing education per triennial registration requirement pursuant to subdivision seven of this section.

(iii) The examination shall assess the knowledge of materials in the curriculum and reflect the oral therapeutic pharmaceutical agents described in paragraph g of subdivision one of this section, and shall be acceptable to the department.

(iv) The initial, and any subsequent, curriculum and examination shall be subject to review and approval by the department.

(v) The requirement for the oral therapeutic pharmaceutical agent certification course and examination shall not apply to those optometrists who graduated from an accredited college of optometry subsequent to January first, two thousand twenty-two and have taken and successfully passed the National Board of Examiners in Optometry examination or an examination acceptable to the department.

d. The clinical training required by this section may have been acquired prior to the enactment of this section not inconsistent with paragraphs a and b of this subdivision. Approval of the pre-acquired clinical training shall be in accordance with subdivision nine-a of this section.

e. The provisions of paragraphs a and b of this subdivision shall not apply to (i) graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic drugs and who graduated subsequent to January first, nineteen hundred ninety-three; or (ii) optometrists who have been certified for at least five years to use phase one and phase two drugs in another jurisdiction, have demonstrated such use in independently managed patients, and have been licensed in accordance with section seventy-one hundred four of this title. Provided, however, no optometrist exempt under this paragraph shall be permitted to use phase one therapeutic pharmaceutical agents or phase two therapeutic pharmaceutical agents prior to the general authorization provided to optometrists licensed in this state.

5. Suspension of certification. The department shall suspend the certification for the use and prescribing of topical therapeutic agents of any optometrist who fails to receive certification for therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension within three years of having been certified for topical therapeutic pharmaceutical agents.

6. Consultation with use of certain topical therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. a. After the initial diagnosis of glaucoma or ocular hypertension and before initiating treatment of any patient, an optometrist shall engage in a written consultation with a licensed physician specializing in diseases of the eye.

b. A consultation shall be required for a period of three years or until the optometrist has examined and diagnosed seventy-five patients having glaucoma or ocular hypertension which examinations require a written consultation in accordance with paragraph a of this subdivision, whichever occurs later.

c. The consultation provisions shall not apply to a graduate of an appropriate program approved by the department who successfully passed

an examination in the use of diagnostic and therapeutic pharmaceutical agents approved by the department and graduated such school subsequent to January first, nineteen hundred ninety-nine and who has had at least seventy-five documented examinations and diagnosis of patients with glaucoma or ocular hypertension which examinations were part of their training and were under physician supervision.

7. Continuing education. a. Each optometrist certified to use topical therapeutic pharmaceutical agents and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, shall complete a minimum of thirty-six hours of continuing education in the area of ocular disease and pharmacology per triennial registration period. Each optometrist certified to use oral therapeutic pharmaceutical agents shall, in addition to the minimum thirty-six hours of continuing education provided for in this subdivision, complete an additional minimum of eighteen hours of continuing education related to systemic disease and therapeutic treatment per triennial registration period. Such educational programs may include both didactic and clinical components and shall be approved in advance by the department. Beginning on January first, two thousand twenty-four, all sponsors of continuing education courses seeking advanced approval from the department shall file an application and pay a fee determined by the department in accordance with the regulations of the commissioner. An optometrist subject to the provisions of this subdivision whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-four, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twenty-four up to the first registration date thereafter. An optometrist who has not satisfied the mandatory continuing education requirement pursuant to this subdivision shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in paragraph b of this subdivision. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

b. The department, in its discretion, may issue a conditional registration to an optometrist who fails to meet the continuing education requirements established in paragraph a of this subdivision, but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department, but shall not exceed one year. Any optometrist who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

c. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

d. An optometrist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring

such status. Any licensee who returns to the practice of optometry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such continuing education requirements as shall be prescribed by regulations of the commissioner.

e. Optometrists subject to the provisions of this subdivision shall maintain adequate documentation of completion of acceptable continuing education credits 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.

f. 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 fee required by subdivision eight of section seventy-one hundred four of this title.

8. Notice to patient with the use or prescription of topical therapeutic pharmaceutical agents and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. a. (i) An optometrist prescribing topical steroids or antiviral medication shall inform each patient that in the event the condition does not improve within five days, a physician of the patient's choice will be notified.

(ii) An optometrist engaged in a written consultation with an ophthalmologist shall inform a patient diagnosed with glaucoma that the optometrist will have the diagnosis confirmed and co-managed with an ophthalmologist of the patient's choice, or one selected by the optometrist.

b. In addition, each optometrist certified to prescribe and use therapeutic drugs shall have posted conspicuously in the office reception area the following notice:

"Dr. (Name), O.D. is certified by New York State to use drugs to diagnose and treat diseases of the eye. In the event your condition requires the use of steroids or antiviral medication and your condition does not improve within five days, a physician of your choice will be notified.

In the event you are diagnosed with glaucoma, the optometrist will have your diagnosis confirmed and treatment co-managed with an ophthalmologist (MD) of your choice, or if you wish, one selected by Dr. (Name)."

The second paragraph of such notice shall only be required to be included during the period when the optometrist is engaged in a written consultation pursuant to subdivision six of this section.

9. Education review committee. An education review committee is hereby created to advise and assist the commissioner in evaluating pre-acquired clinical training. The members of the committee shall be appointed by the commissioner in consultation with the chancellor of the state university of New York. The committee shall consist of five members, two of whom shall be optometrists on the faculty of the SUNY college of optometry, two of whom shall be ophthalmologists who, in addition to being members of the faculty of any approved medical school in this state and not also faculty members of SUNY college of optometry, have surgical privileges at a New York state hospital. The fifth member who shall be designated as chair shall be an expert in the field of public health and shall be neither an ophthalmologist nor an optometrist.

The commissioner shall submit each application to the committee for its review and recommendation. In making such recommendation, the committee shall advise as to the number of hours of pre-acquired clinical training, if any, to be approved, based upon the information

submitted with the application. In evaluating such training, the committee shall be authorized to require the submission of such reasonable documentation needed to facilitate the committee's review of the adequacy and relevance of such training.

9-a. Pre-acquired clinical training. a. Each optometrist requesting approval of pre-acquired clinical training shall submit a written application to the department. The commissioner, in consultation with the education review committee may provide credit for the following:

(i) clinical training acquired at an institution accredited by a regional or professional accreditation organization which is recognized or approved by the United States Department of Education and the department;

(ii) clinical training acquired at a facility licensed by the state of New York in accordance with article twenty-eight of this chapter or at a comparable facility located in another state or country provided the licensing requirements or accreditation requirements of such institution are comparable to those of New York state;

(iii) hospital affiliations, including rounds and patient management for applicants having staff privileges at such facility;

(iv) consultation and co-management with ophthalmologists of patients with ocular disease and post-surgery recovery;

(v) postdoctoral accredited residency or fellowship programs;

(vi) experience at an accredited educational institution as a faculty instructor in clinical practice, ocular disease management and pharmacology;

(vii) experience in other states in which the applicant has been certified to use therapeutic pharmaceutical agents.

b. Any optometrist disagreeing with the recommendation of the education review committee shall have a right to appeal in writing to the commissioner. The decision of the commissioner shall be final and binding on all parties.

10. Pharmaceutical agents. Optometrists who have been approved and certified by the department shall be permitted to use the following drugs:

a. Diagnostic pharmaceuticals.

b. Those optometrists having been certified for topical therapeutic pharmaceutical agents shall be authorized to use and prescribe all topical therapeutic pharmaceutical agents specified in paragraph e of subdivision one of this section, which are FDA approved and commercially available for topical use.

In the event an optometrist treats a patient with topical antiviral or steroidal drugs and the patient's condition either fails to improve or worsens within five days, the optometrist shall notify a physician designated by the patient or, if none, by the treating optometrist.

c. Those optometrists having been certified for therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension shall be authorized to use and prescribe therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension specified in paragraph f of subdivision one of this section, which are FDA approved and commercially available.

d. Those optometrists having been certified for oral therapeutic pharmaceutical agents shall be authorized to use and prescribe oral therapeutic pharmaceutical agents specified in paragraph g of subdivision one of this section, which are FDA approved and commercially available and shall comply with all safety information and side-effect and warning advisories contained in the most current physicians' desk reference.

e. Those optometrists having been certified for topical therapeutic pharmaceutical agents, therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension or oral therapeutic pharmaceutical agents shall be authorized to use and recommend all nonprescription medications, whether intended for topical or oral use, appropriate for the treatment of the eye and adnexa.

11. Responsibilities of the commissioner. The commissioner shall adopt regulations a. providing for the certification of graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic pharmaceutical agents and who have graduated subsequent to January first, nineteen hundred ninety-three; and b. providing for the certification of optometrists who have graduated from other accredited colleges of optometry or who are licensed to practice in other jurisdictions, have demonstrated such use in independently managed patients and are seeking licensure and certification in New York.

12. Responsibilities of the commissioner. The commissioner may recommend additions or deletions to the department's regulations relating to optometric use of drugs except that such recommendations shall be limited only to additions which have been determined to be equivalent to those drugs already authorized or deletions based upon a finding that the drugs are no longer appropriate for their current use or for other similar reasons.

§ 7102. Practice of optometry and use of title "optometrist". Only a person licensed or exempt under this title shall practice optometry or use the title "optometrist".

§ 7103. State board for optometry. A state board for optometry shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than seven optometrists who shall have been residents of this state engaged in the practice of optometry for at least five years in this state. An executive secretary to the board shall be appointed by the commissioner.

§ 7104. Requirements for a professional license. To qualify for a license as an optometrist, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a degree of doctor of optometry or equivalent degree, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of two hundred ten dollars for each triennial registration period, for additional authorization for the purpose of utilizing diagnostic

pharmaceutical agents, a fee of sixty dollars, and for certification to use or prescribe oral therapeutic pharmaceutical agents, a fee of two hundred fifty dollars.

§ 7105. Exempt persons. Nothing in this title shall be construed to affect or prevent:

1. A student from engaging in clinical practice under supervision of a licensed optometrist or physician in a school of optometry in this state registered by the department; or

2. A person licensed to practice optometry from using a degree conferred in course after resident study by an educational institution lawfully authorized by the state in which it is located to confer such a degree.

3. An optometrist licensed in another state or country who is employed on a full-time basis by a registered school of optometry as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as part of such employment, under the supervision of a licensed optometrist and on the premises of the school. No fee may be charged for the practice of optometry authorized by this subdivision.

4. a. A person in training or appropriately trained and deemed qualified by the supervising licensed optometrist, to assist a licensed optometrist 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 optometrist;

(ii) at least eighteen years of age; and

(iii) complies with standards issued by the department.

b. The supervising licensed optometrist 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 optometrist'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 optometrist to the full disciplinary and regulatory authority of the department pursuant to this title. The licensed optometrist must notify the patient or the patient's designated health care surrogate that the licensed optometrist 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 optometrist's plan to utilize such person.

§ 7106. Special provisions. 1. The testimony and reports of a licensed optometrist shall be received by any official, board, commission or other agency of the state or of any of its subdivisions or municipalities as qualified evidence with respect to any matter defined in section seventy-one hundred one of this title; and no official, board, commission, or other agency of the state or any of its subdivisions or municipalities shall discriminate among the practitioners of optometry and any other ocular practitioners.

2. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail,

only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist or ophthalmic dispenser is in charge of and in personal attendance at the place of sale. This title shall not apply to binoculars, telescopes, or other lenses used for simple magnification; except, that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten point bold type permanently affixed in plain view to the top of any point of sale display or, if there is no display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

3. It shall be a class A misdemeanor to practice any fraud, deceit or misrepresentation in any advertising related to optometric services.

§ 7107. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses. 1. Any printed advertising for non-prescription ready-to-wear magnifying spectacles or glasses to be sold through the mail also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this section, "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. Any person, his or her agent or employee who shall violate any provision of this section shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation. For purposes of this section, the sale or offer for sale of each pair of non-prescription ready-to-wear magnifying spectacles or glasses which fail to meet the standards of this section shall constitute a violation.

TITLE 16
OPHTHALMIC DISPENSING

Section 7120. Introduction.
7121. Definition of practice of ophthalmic dispensing.
7122. Practice of ophthalmic dispensing and use of title "ophthalmic dispenser" or "optician".
7123. State board for ophthalmic dispensing.
7124. Requirements for a professional license.
7125. Exemptions.
7126. Special provisions.
7127. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses.
7128. Mandatory continuing education.

§ 7120. Introduction. This title shall apply to the profession of ophthalmic dispensing. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7121. Definition of practice of ophthalmic dispensing. The practice of the profession of "ophthalmic dispensing", for the purposes of this chapter, is defined as adapting and fitting lenses, for the correction of deficiencies, deformities, or anomalies, of the human eyes, or adapting and fitting non-corrective contact lenses, on written prescriptions from a licensed physician or optometrist. Replacements or duplicates of such lenses may be adapted and dispensed without prescription. Contact lenses may be fitted by an ophthalmic dispenser only under the personal supervision of a licensed physician or optometrist.

§ 7122. Practice of ophthalmic dispensing and use of title "ophthalmic dispenser" or "optician". Only a person licensed or exempt under this title or a corporation, partnership, or persons doing business under an assumed name and either composed of licensed ophthalmic dispensers or employing licensed ophthalmic dispensers shall practice ophthalmic dispensing or use the title "ophthalmic dispenser", "optician", "optical technician", "dispensing optician", or "optical dispenser".

§ 7123. State board for ophthalmic dispensing. A state board for ophthalmic dispensing shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. Such board shall be composed of not less than seven licensed ophthalmic dispensers who shall have been residents of this state engaged in the practice of ophthalmic dispensing for at least five years in this state. An executive secretary to such board shall be appointed by the commissioner. As used in this title, the term "the board" shall mean the state board for ophthalmic dispensing appointed pursuant to this section.

§ 7124. Requirements for a professional license. 1. To qualify for a license as an ophthalmic dispenser, an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including high school graduation and completion, in accordance with the commissioner's regulations, of either (i) a two-year program in ophthalmic dispensing; or (ii) two years of training and experience in ophthalmic dispensing under the supervision of a licensed ophthalmic dispenser, optometrist, or physician;

c. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least eighteen years of age;

f. Citizenship: meet no requirement as to United States citizenship;

g. Character: be of good moral character as determined by the department; and

h. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department-conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

2. A person licensed after July first, nineteen hundred seventy-three shall be permitted to fit contact lenses only if the licensee, in addi-

tion to the requirements of subdivision a of this section, shall (1) pass a separate examination satisfactory to the board and in accordance with the commissioner's regulations; and (2) have the requisite experience in the fitting of contact lenses satisfactory to the board and in accordance with the commissioner's regulations.

§ 7125. Exemptions. Nothing in this title shall be construed to affect or prevent:

1. An unlicensed person from performing merely mechanical work upon inert matter in an optical office, laboratory, or shop;

2. A student from engaging in clinical practice, under the supervision of a licensed ophthalmic dispenser or licensed optometrist, or licensed physician, in an ophthalmic dispensing school or college registered by the department; or

3. The department from issuing a limited permit to an applicant who meets all requirements for admission to the licensing examination required under section seventy-one hundred twenty-four of this title, provided, however, that:

a. Practice under a limited permit shall be under the supervision of a licensed physician, optometrist or ophthalmic dispenser.

b. A limited permit shall expire after two years, or upon notice to the applicant that the application for licensure has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting for the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination. A limited permit which has not expired as a result of notice of denial of licensure or of failure on the licensing examination may be renewed for a period of not more than one additional year, upon a showing satisfactory to the department that the applicant could not obtain a license within two years.

c. Supervision of a permittee by a licensed physician, optometrist, or ophthalmic dispenser shall be on-site supervision but not necessarily direct personal supervision.

d. The fee for each limited permit and for each renewal shall be thirty-five dollars. The fee for issuance of a training permit shall be thirty dollars.

§ 7126. Special provisions. 1. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail, only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist, or ophthalmic dispenser is in charge of and in personal attendance at the place of such sale. This title shall not apply to binoculars, telescopes, or other lenses used for simple magnification, except that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten-point bold type permanently affixed in plain view to the top of any point of sale display, or, if there is no display, in the area of sale: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision, "non-prescription, ready-to-wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are

encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. It shall be a class A misdemeanor to practice any fraud, deceit or misrepresentation in any advertising related to ophthalmic dispensing.

§ 7127. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses. 1. Any printed advertising for non-prescription ready-to-wear magnifying spectacles or glasses to be sold through the mail shall include the statement: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this section, "non-prescription, ready-to-wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. Any person or his or her agent or employee who violates any provision of this section shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each such violation. For purposes of this section, the sale or offer for sale of each pair of non-prescription ready-to-wear magnifying spectacles or glasses that fail to meet the standards of this section shall constitute a violation of this section.

§ 7128. Mandatory continuing education. 1. a. Each licensed ophthalmic dispenser required under this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section, except as otherwise set forth in paragraphs a and c of this subdivision. Ophthalmic dispensers who do not satisfy such mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that an ophthalmic dispenser may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Ophthalmic dispensers shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed ophthalmic dispenser not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of ophthalmic dispensing during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as an ophthalmic dispenser shall complete a minimum of eighteen hours of acceptable formal continuing education, as specified in subdivision four of this section; provided that three hours may be in recognized areas of study pertinent to the dispensing and fitting of contact

lenses. During each triennial registration period an applicant for registration as an ophthalmic dispenser and certified to fit contact lenses shall complete twenty hours of acceptable formal continuing education, as specified in subdivision four of this section; provided that ten hours shall be in recognized areas of study pertinent to the dispensing and fitting of contact lenses. Any ophthalmic dispenser whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-nine, shall complete continuing education hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, nineteen hundred ninety-eight up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require the fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in ophthalmic dispensing and which meet the standards 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, in its discretion and as needed to contribute to the health and welfare of the public, may require the completion of continuing education courses in specific subjects to fulfill such mandatory continuing education requirement. Courses must be taken from a sponsor approved by the department, pursuant to the regulations of the 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 department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than eleven psychologists licensed in this state. An executive secretary to the board shall be appointed by the commissioner and shall be a psychologist, licensed in this state. As used in this title, the term "the board" shall mean the state board for psychology appointed pursuant to this section.

§ 7603. Requirements for a professional license. To qualify for a license as a psychologist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a doctoral degree in psychology, granted on the basis of completion of a program of psychology registered with the department or the substantial equivalent thereof, in accordance with the commissioner's regulations;

3. Experience: have two years of supervised employment or engagement in appropriate psychology activities satisfactory to the board and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating pursuant to a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver with the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Citizenship: meet no requirement as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred seventy dollars to the department for admission to a department-conducted examination and for an initial license, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department-conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7604. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice as psychologist to an applicant holding a certificate or license to practice psychology issued by another state or country, and whose qualifications have been approved for admission to the examination for a license as psychologist and who has resided in this state for a period of not more than six months prior to the filing of such application. Such limited permit shall be valid for a period of not more than twelve months, or until ten days after notification to the applicant of failure of the professional licensing examination, or until the results of a licensing examination for which the applicant is eligible are officially released, whichever comes first.

2. On the recommendation of the board, the department may issue a limited permit valid for an aggregate of three years to a person who has completed the doctoral dissertation and other doctoral degree requirements and is gaining supervised experience to meet the experience requirements for licensure. Such permit may be re-issued for a maximum period of one year for good cause, as determined by the department.

3. Fees. The fee for each limited permit shall be seventy dollars.

§ 7605. Exempt persons. Nothing in this title shall be construed to affect or prevent:

1. The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting

educational institution insofar as such activities and services are a part of the duties of his or her salaried position; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of a preschool special education program approved pursuant to paragraph b of subdivision nine or subdivision nine-a of section forty-four hundred ten of the education law to provide activities, services and to use the title "certified school psychologist", so long as this shall not be construed to permit the use of the title "licensed psychologist", to students enrolled in such approved program or to conduct a multidisciplinary evaluation of a preschool child having or suspected of having a disability; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of an agency approved in accordance with title two-A of article twenty-five of this chapter to deliver early intervention program multidisciplinary evaluations, service coordination services and early intervention program services, each in the course of their employment. Nothing in this subdivision shall be construed to authorize a certified school psychologist or group of such school psychologists to engage in independent practice or practice outside of an employment relationship.

2. The activities and services required of a student, intern, or resident in psychology, pursuing a course of study leading to a doctoral degree in psychology in an institution approved by the department, provided that such activities and services constitute a part of his or her supervised course of study in psychology. Such persons shall be designated by the titles "psychological intern", "psychological trainee", or other such title which clearly indicates his or her training status.

3. The practice, conduct, activities or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to title two of this article or by any person registered to perform services as a physician assistant within the state pursuant to title three of this article.

4. The practice, conduct, activities, or services by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within the state pursuant to title twelve of this article or by any person licensed or otherwise authorized to practice social work within the state pursuant to title eighteen of this article, or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to title twenty-five of this article, or any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to title twenty-nine of this article or any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors, and certified substance abuse counselors from providing mental health services within their respective established authorities.

5. The conduct, activities, or services of any member of the clergy or Christian Science practitioner, in the provision of pastoral counseling

services within the context of his or her ministerial charge or obligation.

6. The conduct, activities, or services of individuals, churches, schools, teachers, organizations, or not-for-profit businesses in providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

7. The practice, conduct, activities, or services of an occupational therapist from performing work consistent with title twenty of this article.

8. The representation as a psychologist and the rendering of services as such in this state for a temporary period of a person who resides outside the state of New York and who engages in practice as a psychologist and conducts the major part of his or her practice as such outside this state, provided such person has filed with the department evidence that he or she has been licensed or certified in another state or has been admitted to the examination in this state pursuant to section seventy-six hundred three of this title. Such temporary period shall not exceed ten consecutive business days in any period of ninety consecutive days or in the aggregate exceed more than fifteen business days in any such ninety-day period.

9. 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 psychology, 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 psychology 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. A person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day-to-day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

b. A person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in-home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residen-

tial 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;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community-based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community-based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

d. Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

11. a. The conduct, activities, or services of a technician to administer and score standardized objective (non-projective) psychological or neuropsychological tests that have specific predetermined and manualized administrative procedures which entail observing and describing test behavior and test responses, and which do not require evaluation, interpretation or other judgments; provided, however, that such technician shall:

(i) hold no less than a bachelor's degree in psychology or a related field;

(ii) undergo a process of regular training by a licensed psychologist, which shall include, but not be limited to a minimum of eighty total hours of (1) professional ethics, (2) studying and mastering information from test manuals, and (3) direct observation of a licensed psychologist or trained technician administering and scoring tests, in addition to a minimum of forty total hours of administering and scoring tests in the presence of a licensed psychologist or trained technician, provided such interaction with the licensed psychologist equals or exceeds fifty percent of the total training time;

(iii) be under the direct and ongoing supervision of a licensed psychologist in no greater than a three-to-one ratio or the part time equivalent thereto;

(iv) not be employed within a school setting; and

(v) not select tests, analyze patient data, or communicate results to patients.

b. The supervising licensed psychologist must submit, pursuant to a form to be prescribed and developed within ninety days of the effective date of this subdivision by the department, a sworn statement detailing compliance with the above requirements. The licensed psychologist's use of such individual pursuant to the terms of this subdivision shall be

undertaken only with special care and professional judgment in order to ensure the safety and well-being of the patient considering the severity of the symptoms, the age of the patient and the length of the examination process, and shall include appropriate ongoing contact with the licensed psychologist at appropriate intervals. Such use shall be subject to the full disciplinary and regulatory authority of the department pursuant to this title. The licensed psychologist shall notify the patient or designated health care surrogate that the licensed psychologist may utilize the services of a technician to administer certain exams, and shall provide the patient or designated health care surrogate the opportunity to object to the licensed psychologist's plan to utilize a technician.

12. Notwithstanding any other provision of law to the contrary, nothing in this title shall be construed to prohibit or limit the activities or services provided under this title by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided, however, that any person who commences employment in such program or service after such date and performs services that are restricted under this title shall be appropriately licensed or authorized under this title. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

13. The activities or services provided by a person with a master's level degree in psychology or its equivalent, working under the supervision of a licensed psychologist in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local government unit as such term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

§ 7606. Prohibitions. Any individual whose license or authority to practice derives from the provisions of this title shall be prohibited from:

1. prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or

2. 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 surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 7607. Mandatory continuing education. 1. a. Each psychologist required under this title to register triennially with the department to practice in this state, shall comply with the provisions for mandatory continuing education prescribed in subdivision two of this section,

except as set forth in paragraphs b and c of this subdivision. Psychologists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and they have been issued a registration certificate, except that a psychologist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Each psychologist shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A psychologist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of psychology during the triennial registration period shall notify the department prior to reentering the profession and shall meet such continuing education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period, an applicant for registration as a psychologist shall complete a minimum of thirty-six hours of acceptable learning activities, a minimum of three hours of which shall be course work in the area of professional ethics, including the laws, rules and regulations for practice in New York. Any psychologist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-one, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twenty-one up to the first registration date thereafter. A psychologist who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium shall not be transferred to the subsequent triennium.

3. a. The department, in its discretion, may issue a conditional registration to a psychologist who fails to meet the continuing education requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department, but shall not exceed one year. Any psychologist who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

b. For purposes of this section:

(i) "acceptable learning activities" shall include, but not be limited to, formal courses of learning which contribute to professional practice

in psychology and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and

(ii) "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. Formal courses shall be taken from a sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.

c. 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 credits in specific subjects to fulfill this mandatory continuing education requirement.

d. Psychologists shall maintain adequate documentation of completion of acceptable continuing education credits 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.

e. 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 fee required by subdivision eight of section seventy-six hundred three of this title.

TITLE 18
SOCIAL WORK

Section 7700. Introduction.
7701. Definitions.
7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".
7703. State board for social work.
7704. Requirements for a license.
7705. Limited permits.
7706. Exempt persons.
7707. Special provisions.
7708. Boundaries of professional practice.
7709. Hospital privileges.
7710. Mandatory continuing education.

§ 7700. Introduction. This title applies to the profession and practice of social work, the practice of licensed master social work, and the practice of clinical social work, and to the use of the titles "licensed master social worker", and "licensed clinical social worker". The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7701. Definitions. 1. Practice of licensed master social work.

a. The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness

and injury experienced by individuals, couples, families, groups, communities, organizations, and society.

b. Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, counseling, consultation, research, administration and management, and teaching.

c. Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.

d. Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.

2. Practice of clinical social work. a. The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.

b. Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.

c. Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.

d. Development of assessment-based treatment plans in the context of licensed clinical social work practice refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

§ 7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker". 1. In addition to the licensed social work services included in subdivisions one and two of section seventy-seven hundred one of this title, licensed master social workers and licensed clinical social workers may perform the following social work functions that do not require a license under this title, including but not limited to:

a. Serve as a community organizer, planner, or administrator for social service programs in any setting.

b. Provide supervision and/or consultation to individuals, groups, institutions and agencies.

c. Serve as a faculty member or instructor in an educational setting.

d. Plan and/or conduct research projects and program evaluation studies.

e. Maintain familiarity with both professional and self-help systems in the community in order to assist the client in such services when necessary.

f. Provide advice and guidance and assist individuals or groups with difficult day-to-day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem.

g. Consult with other agencies on problems and cases served in common and coordinating services among agencies or providing case management.

h. Conduct data gathering on social problems.

i. Serve as an advocate for clients or groups of clients whose needs are not being met by available programs or by a specific agency.

j. Assess, evaluate, and formulate a plan of action based on client need.

k. Provide training to community groups, agencies, and other professionals.

l. Provide administrative supervision.

m. Provide peer services.

n. Collect basic information, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining the need for services.

2. a. Only a person licensed or exempt under this title shall practice "licensed master social work" as defined in subdivision one of section seventy-seven hundred one of this title.

b. Only a person licensed pursuant to subdivision one of section seventy-seven hundred four of this title shall use the title "licensed master social worker" or the designation "LMSW".

3. a. Only a person licensed or exempt under this title shall practice "licensed clinical social work" as defined in subdivision two of section seventy-seven hundred one of this title.

b. Only a person licensed pursuant to subdivision two of section seventy-seven hundred four of this title shall use the title "licensed clinical social worker" or the designation "LCSW".

§ 7703. State board for social work. A state board for social work shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing, practice, and conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than twelve members, of which five shall be licensed clinical social workers, five shall be licensed master social workers and two members of the public. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that four are appointed for three years, four are appointed for four years, and four are appointed for five years. An executive secretary to the board shall be appointed by the commissioner and shall be licensed pursuant to this title. As used in this title, "the board" shall mean the state board for social work as appointed pursuant to this section.

§ 7704. Requirements for a license. 1. To qualify for a license as a "licensed master social worker" an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, in accordance with the commissioner's regulations;

c. Experience: meet no requirement as to experience;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Character: be of good moral character as determined by the department; and

g. Fees: pay a fee of one hundred fifteen dollars to the department for an initial license, and a fee of one hundred fifty-five dollars for each triennial registration period. An additional surcharge in the amount of five dollars shall be paid with each triennial registration fee and shall be used for the marketing and evaluation of the regents licensed social worker loan forgiveness program established by section six hundred five of the education law.

2. To qualify for a license as a "licensed clinical social worker", an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, that includes completion of a core curriculum which includes at least twelve credit hours of clinical courses, in accordance with the commissioner's regulations; a person who has received a master's, or equivalent degree in social work, during which they did not complete a core curriculum which includes clinical courses, may satisfy this requirement by completing equivalent post-graduate clinical coursework, in accordance with the commissioner's regulations;

c. Experience: have at least three years full-time supervised post-graduate clinical social work experience in diagnosis, psychotherapy, and assessment-based treatment plans, or its part-time equivalent, obtained over a continuous period not to exceed six years, under the supervision, satisfactory to the department, of a psychiatrist, a licensed psychologist, or a licensed clinical social worker in a facility setting or other supervised settings approved by the department. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Character: be of good moral character as determined by the department; and

g. Fees: pay a fee of one hundred fifteen dollars to the department for an initial license and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7705. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice licensed clinical social work and use the title licensed clinical social worker, or to practice licensed master social work and use the title licensed master social worker to an applicant who has met all requirements for licensure as a licensed master social worker or a licensed clinical social worker except those relating to the examination and provided that the individual is under the general supervision of a licensed master social worker or a licensed clinical social worker, as determined by the department. This limited permit shall be valid for a period of not more than twelve months.

2. The fee for each limited permit shall be seventy dollars.

§ 7706. Exempt persons. Nothing contained in this title shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to title two of this article or by any person registered to perform services as a physician assistant within the state pursuant to title four of this article or by any person licensed or otherwise authorized to practice psychology within this state pursuant to title seventeen of this article or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to title twelve of this article or by any person licensed or otherwise authorized to practice occupational therapy within this state pursuant to title twenty of this article or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to title twenty-five of this article or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to title twenty-nine of this article; provided, however, that no physician, physician assistant, registered professional nurse, nurse practitioner, psychologist, occupational therapist, licensed mental health counselor, licensed marriage and family therapist, licensed creative arts therapist, licensed psychoanalyst, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed clinical social worker" or "licensed master social worker", unless licensed under this title.

2. Prevent or prohibit an individual possessing a baccalaureate of social work degree or its equivalent from the performance of activities and services within the scope of practice of licensed master social work as defined in paragraphs a and b of subdivision one of section seventy-seven hundred one of this title under supervision by a licensed master social worker, a licensed clinical social worker or in accordance with the commissioner's regulations.

3. Prevent or prohibit a licensed master social worker from the performance of activities and services within the scope of practice of licensed clinical social work as defined in subdivision two of section seventy-seven hundred one of this title in a facility setting and under supervision in accordance with the commissioner's regulations.

4. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work as defined in subdivision one of section seventy-seven hundred one of this title by

individuals, churches, schools, teachers, organizations, or not-for-profit businesses which are providing instruction, advice, support, encouragement or information to individuals, families, and relational groups.

5. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work or licensed clinical social work as defined in section seventy-seven hundred one of this title by the following:

a. any individual who is credentialed under any law, including attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors whose scope of practice includes the practices defined in section seventy-seven hundred one of this title from performing or claiming to perform work authorized by applicable provisions of this chapter and the mental hygiene law;

b. provision of pastoral counseling services by any member of the clergy or Christian science practitioner, from providing pastoral counseling services within the context of his or her ministerial charge or obligation;

c. students who are enrolled in a baccalaureate of social work or professional graduate level social work program of study, and which are required to perform as part of the field work component of such program, services provided under the supervision of a field work supervisor approved by the program;

d. on the part of a student or trainee who is enrolled in an institution or program registered by the department or accredited by an accrediting organization acceptable to the department to provide training in a discipline or profession, other than social work or clinical social work, that is licensed pursuant to this title, where such activities and services are authorized within the definition of the scope of practice of the profession, or discipline in which he or she is being trained as set forth in the education law or the commissioner's regulations, provided that such services are performed under the regular and ongoing supervision of a licensee in the profession or discipline in which he or she is being trained who assumes professional responsibility for the services performed under his or her supervision and that such activities and the provision of such services are a formal part of the professional training program in which he or she is enrolled;

e. any federal, state, county or municipal employee performing clinical social work services upon the effective date of this section for the period during which they maintain such employment with such governmental unit within the context of such employment and shall be limited to the services provided upon such effective date; and

f. any employee performing clinical social work services on the effective date of this section for the period during which they maintain such employment with such entity within the context of such employment, and shall be limited to the services provided prior to such effective date.

6. Prohibit the practice of licensed master social work or licensed clinical social work, to the extent permissible within the scope of practice of such professions, 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 licensed master social work or licensed clinical social work 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.

7. a. Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

b. Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in-home services and supports or home-delivered meals; 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) Prevent 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, seventeen 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 title.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operat-

ing pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community-based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community-based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

d. Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

8. Notwithstanding any other provision of law to the contrary, nothing in this title shall be construed to prohibit or limit the activities or services provided under this title by any person who is employed or who commences employment in a program or service operated, regulated, fund-

ed, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this title shall be appropriately licensed or authorized under this title. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

§ 7707. Special provisions. 1. Any person who is licensed as a certified social worker on the effective date of this title shall be licensed as a licensed master social worker without meeting any additional requirements.

2. Any person who possesses a master's of social work degree on the effective date of this section, who has five years of post-graduate social work employment and meets the requirements for a license pursuant to this title, except for examination, and who files with the department within one year of the effective date of this section shall be licensed as a licensed master social worker.

3. Any person who is licensed as a certified social worker on the effective date of this section and who has been authorized pursuant to section three thousand two hundred twenty-one or section four thousand three hundred three of the insurance law shall be licensed as a licensed clinical social worker without meeting any additional requirements.

4. Any person who is licensed as a certified social worker on the effective date of this section, but who has not received authorization pursuant to section three thousand two hundred twenty-one or four thousand three hundred three of the insurance law, who files with the department within one year of the effective date of this section an application pursuant to subdivision two of section seventy-seven hundred four of this title, who demonstrates to the satisfaction of the department that they meet the experience requirements for authorization pursuant to section three thousand two hundred twenty-one or four thousand three hundred three of the insurance law, shall be licensed as a licensed clinical social worker without meeting any further requirements.

5. Licensed master social workers and licensed clinical social workers may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

§ 7708. Boundaries of professional practice. Any individual whose license or authority to practice derives from the provisions of this title shall be prohibited from:

1. 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

2. 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 surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 7709. Hospital privileges. Nothing in this title shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this title.

§ 7710. Mandatory continuing education. 1. a. Each licensed master social worker or licensed clinical social worker required under this title to register triennially with the department to practice in this state, shall comply with the provisions of mandatory continuing education requirements prescribed in subdivision two of this section, except as set forth in paragraphs b and c of this subdivision. Licensed master social workers or licensed clinical social workers who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and they have been issued a registration certificate, except that a licensed master social worker or licensed clinical social worker may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Each licensed master social worker or licensed clinical social worker shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed master social worker or a licensed clinical social worker not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of social work during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

d. A licensed clinical social worker who is also licensed and registered to practice as a licensed master social worker in the same triennial registration period, shall not be required to complete more than thirty-six hours of continuing education in the triennial registration period, or one hour per month for a registration period other than thirty-six months.

2. During each triennial registration period an applicant for registration as a licensed master social worker or licensed clinical social worker shall complete a minimum of thirty-six hours of acceptable formal continuing education. Any licensed master social worker or licensed clinical social worker whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand fifteen, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand fifteen up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirement

shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium shall not be transferred to the subsequent triennium.

3. a. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

b. For purposes of this section "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in social work and which meet the standards 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. Continuing education courses shall 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 master social workers or licensed clinical social workers 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 fee required by paragraph g of subdivision one and paragraph g of subdivision two of section seventy-seven hundred four of this title.

TITLE 19
MASSAGE THERAPY

Section 7800. Introduction.
7801. Definition of practice of massage therapy.
7802. Practice of massage therapy and use of title "masseur", "masseuse" or "massage therapist" or the term "massage" or "massage therapy".
7803. State board for massage therapy.
7804. Requirements for a professional license.

7805. Exempt persons.
7806. Limited permits.
7807. Mandatory continuing education.

§ 7800. Introduction. This title applies to the profession of massage therapy. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7801. Definition of practice of massage therapy. As used in this chapter, the practice of the profession of massage therapy is defined as engaging in applying a scientific system of activity to the muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

§ 7802. Practice of massage therapy and use of title "masseur", "masseuse" or "massage therapist" or the term "massage" or "massage therapy". Only a person licensed or authorized pursuant to this title shall practice massage therapy and only a person licensed under this title shall use the title "masseur", "masseuse" or "massage therapist". No person, firm, partnership or corporation claiming to be engaged in the practice of massage or massage therapy shall in any manner describe, advertise, or place any advertisement for services as defined in section seventy-eight hundred one of this title unless such services are performed by a person licensed or authorized pursuant to this chapter.

§ 7803. State board for massage therapy. A state board for massage therapy shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven persons, four of whom shall have been engaged in the teaching, research, or practice of massage therapy for at least three years. The remaining three members of the board shall be physicians licensed in this state. An executive secretary to the board shall be appointed by the commissioner. As used in this title, "the board" shall mean the state board for massage therapy as appointed pursuant to this section.

§ 7804. Requirements for a professional license. To qualify for a license as a massage therapist, masseur or masseuse, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation and graduation from a school or institute of massage therapy with a program registered by the department, or its substantial equivalent in both subject matter and extent of training, provided that the program in such school or institute shall consist of classroom instruction of a total of not less than five hundred hours in subjects satisfactory to the department;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department-conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission

to a department-conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 7805. Exempt persons. Nothing contained in this title shall be construed to prohibit:

1. The practice of massage therapy by any person who is authorized to practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or podiatry in accordance with the provisions of this article.

2. The practice of a massage which is customarily given in barber shops or beauty parlors for the purpose of beautification by any licensed barber or beauty culturist.

3. The practice of massage therapy by any person employed in a medical institution licensed or chartered by the state of New York, provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by subdivision one of this section, or by any person enrolled in a program of a school or institute of massage therapy registered by the department, or enrolled in a program which satisfies the requirements of section seventy-eight hundred four of this title, provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by subdivision one of this section.

4. The practice of massage therapy by any person duly employed as a trainer by a professional athletic association, club or team, or as a member of the physical education department of an accredited university, college or high school.

5. The practice of massage therapy by any person employed by a corporation or association organized exclusively for the moral or mental improvement of men, women, or children.

6. A massage therapist licensed and in good standing in another state or country from conducting a teaching demonstration of modalities and techniques that are within the practice of massage therapy in connection with a program of continuing education that is conducted by approved sponsors of continuing education by the department. Any massage therapist conducting a teaching demonstration of modalities and techniques in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the department as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such massage therapist shall comply with the provisions of this title, the rules of the department, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

§ 7806. Limited permits. 1. The department may issue a limited permit to practice massage therapy as a licensed massage therapist, masseur or masseuse to a person who has not previously held such a permit and who fulfills all except the examination and citizenship requirements for a license, provided however that a permit shall not be issued to a person who has failed the state licensing examination.

2. The limited permit shall be valid for a period of not more than twelve months or until the results of the next licensing examination for which the person is eligible are officially available, whichever comes first.

3. A limited permit shall entitle the holder to practice massage therapy only under the personal supervision of a person currently licensed and registered to practice massage therapy in this state.

4. The fee for a limited permit shall be thirty-five dollars.

§ 7807. Mandatory continuing education. 1. a. Each massage therapist licensed pursuant to this title required to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs b and c of this subdivision. Massage therapists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a massage therapist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Massage therapists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed massage therapist not engaged in professional practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of massage therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a massage therapist shall complete a minimum of thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional course work acceptable to the department. Any massage therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twelve up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section, or until he or she has otherwise met the requirements of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice in massage therapy which are offered by sponsors of massage therapy continuing education approved by the department in consultation with the state board for massage therapy, to fulfill the mandatory continuing education requirement. Sponsors of massage therapy continuing education may include, but are not limited to, state or national professional associations established to further the massage therapy profession, and may include any affiliates of international massage therapy conferences at which professional continuing education is a major component of such conferences, as well as programs registered as licensure-qualifying for the profession of massage therapy by the department. Sponsors of massage therapy shall file an application with the department and pay a fee of nine hundred dollars. While presenters of didactic instruction may be provided by persons who are not licensed by the state of New York as massage therapists, the practical application of such modalities and techniques shall be done by licensed massage therapists, or those otherwise authorized, when such continuing education occurs in the state of New York.

5. Massage 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.

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 article.

TITLE 20
OCCUPATIONAL THERAPY

Section 7900. Introduction.
7901. Definition.
7902. Practice of occupational therapy and use of title "occupational therapist".
7902-a. Practice of occupational therapy assistant and use of the title "occupational therapy assistant".
7903. State board for occupational therapy.
7904. Requirements for a professional license.
7904-a. Requirements for license as an occupational therapy assistant.
7905. Limited permits.
7906. Exempt persons.
7907. Special conditions.
7908. Mandatory continuing competency.

§ 7900. Introduction. This title applies to the profession of occupational therapy. The general provisions for all professions contained in title one of this article shall apply to this title.

§ 7901. Definition. The practice of the profession of occupational therapy is defined as the functional evaluation of the client, the planning and utilization of a program of purposeful activities, the development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive and mental functioning

of the client associated with his or her activities of daily living and daily life tasks. A treatment program designed to restore function, shall be rendered on the prescription or referral of a physician, nurse practitioner, or other health care provider acting within his or her scope of practice pursuant to this title. However, nothing contained in this title shall be construed to permit any licensee under this title to practice medicine or psychology, including psychotherapy, or to otherwise expand such licensee's scope of practice beyond what is authorized by this article.

§ 7902. Practice of occupational therapy and use of title "occupational therapist". Only a person licensed or otherwise authorized to practice under this title shall practice occupational therapy or use the title "occupational therapist".

§ 7902-a. Practice of occupational therapy assistant and use of the title "occupational therapy assistant". Only a person licensed or otherwise authorized under this title shall participate in the practice of occupational therapy as an occupational therapy assistant or use the title "occupational therapy assistant". Practice as an occupational therapy assistant shall include the providing of occupational therapy and client-related services under the direction and supervision of an occupational therapist or licensed physician in accordance with the commissioner's regulations.

§ 7903. State board for occupational therapy. A state board for occupational therapy shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than six licensed occupational therapists, one licensed occupational therapy assistant, one physician, and two members of the public who are not licensed under this title. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner. As used in this title, "the board" shall mean the state board for occupational therapy appointed pursuant to this section.

§ 7904. Requirements for a professional license. To qualify for a license as an occupational therapist, an applicant shall fulfill the following requirements:

1. File an application with the department.

2. Have satisfactorily completed an approved occupational therapy curriculum in at least a baccalaureate or masters program, or its equivalent, as determined by the department in accordance with the commissioner's regulations.

3. Have a minimum of six months of supervised occupational therapy experience which supervision and experience shall be satisfactory to the board and in accordance with the commissioner's regulations.

4. Pass an examination satisfactory to the board and in accordance with the commissioner's regulations.

5. Be at least twenty-one years of age.

6. Meet no requirements as to United States citizenship.

7. Be of good moral character as determined by the department.

8. Pay a fee of one hundred forty dollars to the department for admission to a department-conducted examination and for an initial license, a fee of seventy dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department-conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7904-a. Requirements for license as an occupational therapy assistant. To qualify for a license as an occupational therapy assistant an applicant shall fulfill the following requirements:

1. file an application with the department;

2. have received an education as follows: completion of at least a two-year associate degree program for occupational therapy assistants registered by the department or accredited by a national accreditation agency which is satisfactory to the department, or its equivalent, as determined by the department in accordance with the commissioner's regulations;

3. have a minimum of sixteen weeks of clinical experience satisfactory to the board and in accordance with standards established by a national accreditation agency which is satisfactory to the department;

4. be at least eighteen years of age;

5. be of good moral character as determined by the department;

6. pay a fee for an initial license and a fee for each triennial registration period that shall be one-half of the fee for initial license and for each triennial registration period established for occupational therapists; and

7. except as otherwise provided by subdivision two of section seventy-nine hundred seven of this title, pass an examination acceptable to the department.

§ 7905. Limited permits. Permits limited as to eligibility, practice, and duration, shall be issued by the department to eligible applicants, as follows:

1. The following persons shall be eligible for a limited permit:

a. An occupational therapist who has graduated from an occupational therapy curriculum with a baccalaureate degree or certificate in occupational therapy which is substantially equivalent to a baccalaureate degree satisfactory to the board and in accordance with the commissioner's regulations; or

b. A foreign occupational therapist who is in this country on a non-immigration visa for the continuation of occupational therapy study, pursuant to the exchange student program of the United States department of state.

c. An occupational therapy assistant who has graduated from an accredited occupational therapy assistant curriculum with an associate's degree satisfactory to the board of occupational therapy and in accordance with the commissioner's regulations.

2. A limited permittee shall be authorized to practice occupational therapy, or in the case of a limited permit issued pursuant to paragraph c of subdivision one of this section, only under the direct supervision of a licensed occupational therapist or a licensed physician and shall practice only in a public, voluntary, or proprietary hospital, health care agency or in a preschool or an elementary or secondary school for the purpose of providing occupational therapy as a related service for a handicapped child. For purposes of this subdivision, supervision of an individual with a limited permit to practice occupational therapy issued by the department shall be direct supervision as defined by the commissioner's regulations.

3. A limited permit shall be valid for one year. A limited permit may be renewed once for a period not to exceed one additional year, at the discretion of the department, upon the submission of an explanation satisfactory to the department for an applicant's failure to become licensed within the original one-year period.

4. The fee for a limited permit shall be seventy dollars.

§ 7906. Exempt persons. This title shall not be construed to affect or prevent the following, provided that no title, sign, card or device shall be used in such manner as to tend to convey the impression that the person rendering such service is a licensed occupational therapist:

1. A licensed physician from practicing his or her profession under title one and title two of this article.

2. Qualified members of other licensed or legally recognized professions from performing work incidental to the practice of their profession, except that such persons may not hold themselves out under the title occupational therapist or as performing occupational therapy.

3. A student from engaging in clinical practice as part of an accredited program in occupational therapy, pursuant to subdivision three of section seventy-nine hundred four of this title.

4. An occupational therapy assistant student from engaging in clinical practice under the direction and supervision of an occupational therapist or an occupational therapy assistant who is under the supervision of an occupational therapist, as part of an accredited occupational therapy assistant program, as defined by the commissioner and in accordance with the commissioner's regulations.

5. The care of the sick by any person, provided such person is employed primarily in a domestic capacity. This shall not authorize the treatment of patients in a home care service of any hospital, clinic, institution or agency.

6. An employee of a federal agency from using the title or practicing as an occupational therapist insofar as such activities are required by his or her salaried position and the use of such title shall be limited to such employment.

7. The following people from working under the direct supervision of a licensed occupational therapist: An individual employed by the state or municipal government upon the effective date of this section who performs supportive services in occupational therapy solely for the time such person continues in such employment.

8. Any occupational therapist who is licensed in another state, United States possession or country or who has received at least a baccalaureate degree or its equivalent in occupational therapy and who is either in this state for the purposes of:

a. consultation, provided such practice is limited to such consultation;

b. an occupational therapist authorized to practice in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education or post graduate education in an approved school of occupational therapy or its affiliated clinical facility or health care agency or before a group of licensed occupational therapists; or

c. because he or she resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and said occupational therapist does not maintain an office or place to meet patients or receive calls in this state.

§ 7907. Special conditions. 1. A person who upon the effective date of this title:

a. submits evidence of a minimum of three years of experience with training satisfactory to the board in occupational therapy and in accordance with the regulations of the commissioner; or

b. a baccalaureate degree or its equivalent in occupational therapy, shall be licensed upon the filing of an application with the department within six months of the effective date of this title.

2. A person who on the effective date of this subdivision has a current registration with the department as an occupational therapy assistant, if such person meets the requirements for a license established within this title, except for examination, the department shall issue a license without examination.

§ 7908. Mandatory continuing competency. 1. a. Each licensed occupational therapist and occupational therapy assistant required under this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing competency requirements prescribed in subdivision two of this section, except as provided in paragraphs b and c of this subdivision. Occupational therapists and occupational therapy assistants who do not satisfy the mandatory continuing competency requirements shall not be authorized to practice until they have met such requirements, and they have been issued a registration certificate, except that an occupational therapist or occupational therapy assistant may practice without having met such requirements if he or she is issued a conditional registration pursuant to subdivision three of this section.

b. Occupational therapists and occupational therapy assistants shall be exempt from the mandatory continuing competency requirement for the triennial registration period during which they are first licensed. Adjustment to the mandatory continuing competency requirements may be granted by the department for reasons of health of the licensee where certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed occupational therapist or occupational therapy assistant not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing competency requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of occupational therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing competency requirements as shall be prescribed by regulations of the commissioner.

2. a. During each triennial registration period an applicant for registration as an occupational therapist shall complete a minimum of thirty-six hours of learning activities which contribute to continuing competence, as specified in subdivision four of this section, provided further that at least twenty-four hours shall be in areas of study pertinent to the scope of practice of occupational therapy. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium shall not be transferred to a subsequent triennium.

b. During each triennial registration period an applicant for registration as an occupational therapy assistant shall complete a minimum of thirty-six hours of learning activities which contribute to continuing competence as specified in subdivision four of this section, provided further that at least twenty-four hours shall be in recognized areas of study pertinent to the licensee's professional scope of practice of occupational therapy. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium shall not be transferred to a subsequent triennium.

c. Any occupational therapist or occupational therapy assistant whose first registration date following the effective date of this section occurs less than three years from such effective date but on or after January first, two thousand thirteen, shall complete continuing competency hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand thirteen up to the first registration date.

d. Thereafter, a licensee who has not satisfied the mandatory continuing competency requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing competency requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional learning activities which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing competency learning activities and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable learning activities" shall mean activities which contribute to professional practice in occupational therapy, and which meet the standards prescribed in the regulations of the commissioner. Such learning activities shall include, but not be limited to, collegiate level credit and non-credit courses, self-study activities, independent study, formal mentoring activities, publications in professional journals, professional development programs and technical sessions; such learning activities may be offered and sponsored by national, state and local professional associations and other organizations or parties acceptable to the department, and any other organized educational and technical learning activities 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 competency learning activities in specific subjects to fulfill this mandatory continuing competency requirement. Learning activities shall be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Occupational therapists and occupational therapy assistants shall maintain adequate documentation of completion of a. a learning plan that shall record current and anticipated roles and responsibilities but shall not require the records of peer review or self-assessment of competencies, and b. acceptable continuing competency learning activities and shall provide such documentation at the request of the department. Failure to provide such documentation upon request of the department shall be an act of misconduct subject to the disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

6. The mandatory continuing competency fee shall be forty-five dollars for occupational therapists and twenty-five dollars for occupational therapy assistants, 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-nine hundred four of this title.

TITLE 21
DIETETICS AND NUTRITION

Section 8000. Introduction.
8001. Definitions.
8002. Use of titles.
8003. State board for dietetics and nutrition.
8004. Requirements for certification.
8005. Special provisions.
8006. Special conditions.

§ 8000. Introduction. This title applies to the use of the titles "certified dietitian" and "certified nutritionist". The general provision for all professions contained in title one of this article shall apply to this title.

§ 8001. Definitions. 1. Dietetics and nutrition are each defined in this section as the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health.

2. Where the title "certified dietitian" or "certified nutritionist" is used in this article it shall mean "certified dietitian", "certified dietician", or "certified nutritionist".

3. A certified dietitian or certified nutritionist is one who engages in the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health, and who is certified as such by the department pursuant to section eight thousand four of this title. The primary function of a certified dietitian or certified nutritionist is the provision of nutrition care services that shall include:

a. Assessing nutrition needs and food patterns;

b. Planning for and directing the provision of food appropriate for physical and nutrition needs; and

c. Providing nutrition counseling.

§ 8002. Use of titles. Only a person certified under this title shall be authorized to use the title "certified dietitian", "certified dietician", or "certified nutritionist".

§ 8003. State board for dietetics and nutrition. 1. A state board for dietetics and nutrition shall be appointed by the commissioner, for the purpose of assisting the department on matters of certification and professional conduct in accordance with section sixty-five hundred eight 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 depart-

ment 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.

§ 8005. Special provisions. Nothing contained in this title shall be deemed to alter, modify or impair any conditions of employment relating to service in the federal government, the state of New York, its political subdivisions, including school districts, or special districts and authorities or any facilities or institutions under the jurisdiction of or subject to the certification of any agency of the state of New York or its political subdivisions.

§ 8006. Special conditions. A person shall be certified without examination provided that, within three years 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 registered as a dietitian or nutritionist by a national dietetic or national nutrition association having registration standards acceptable to the department;

b. meets the requirements of subparagraph one of paragraph a of subdivision two and subdivision five of section eight thousand four of this title and has been actively engaged in the provision of nutrition care services for a minimum of three years during the five years immediately preceding the effective date of this title; or

c. meets all the requirements of paragraph b of subdivision two and subdivision five of section eight thousand four of this title.

TITLE 22
SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Section 8100. Introduction.
8101. Definition of practice of speech-language pathology.
8102. Practice of speech-language pathology.
8103. Definition of practice of audiology.
8104. Practice of audiology.
8105. State board for speech-language pathology and audiology.
8106. Requirements for a professional license.
8106-a. Limited license.
8107. Exempt persons.
8108. Special provisions.
8109. Mandatory continuing competency.

§ 8100. Introduction. This title applies to the professions of speech-language pathology and audiology. The general provisions for all professions contained in title one of this article apply to this title.

§ 8101. Definition of practice of speech-language pathology. The practice of the profession of speech-language pathology shall mean the application of principles, methods and procedures of measurement, prediction, non-medical diagnosis, testing, counselling, consultation, rehabilitation and instruction related to the development and disorders of speech, voice, swallowing, and/or language for the purpose of preventing, ameliorating or modifying such disorder conditions in individuals and/or groups of individuals.

§ 8102. Practice of speech-language pathology. Only a person licensed or otherwise authorized under this title shall practice speech-language pathology or use the title of speech-language pathologist.

§ 8103. Definition of practice of audiology. The practice of the profession of audiology shall mean the application of principles, methods and procedures of measurement, testing, evaluation, consultation, counselling, instruction and habilitation or rehabilitation related to hearing and its disorders, related communication impairments and vestibular disorders for the purpose of non-medical diagnosis, prevention, identification, amelioration or modification of such disorders and conditions in individuals and/or groups of individuals.

§ 8104. Practice of audiology. Only a person licensed or otherwise authorized under this title shall practice audiology or use the title audiologist.

§ 8105. State board for speech-language pathology and audiology. A state board for speech-language pathology and audiology shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall consist of not less than seven members, three of whom shall be audiologists and four of whom shall be speech-language pathologists.

Each speech-language pathologist and audiologist on the board shall be licensed and have practiced in this state for at least five years, as provided under this title except that the members of the first board need not be licensed prior to their appointment to the board. An executive secretary to the board shall be appointed by the commissioner.

§ 8106. Requirements for a professional license. To qualify for a license as a speech-language pathologist or audiologist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have obtained at least a masters degree in speech-language pathology and/or audiology or its equivalent, as determined by the department, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred forty dollars to the department for admission to a department conducted examination and for an initial license, a fee of seventy dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 8106-a. Limited license. 1. The department shall issue a limited license to an applicant for a license as a speech-language pathologist who meets all requirements set forth in this section.

2. Any person engaging in clinical or academic practice under the supervision of a licensed speech-language pathologist for such period of time as may be necessary to complete an experience requirement for a professional license as a speech-language pathologist shall be eligible for a limited license.

3. A limited licensee shall be authorized to practice speech-language pathology only under the supervision of a licensed speech-language pathologist.

4. A limited license shall be valid for one year. It may be renewed for additional one year periods until such time as may be necessary to complete an experience requirement for a professional license as a speech-language pathologist.

5. The fee for a limited license shall be seventy dollars.

§ 8107. Exempt persons. This title shall not be construed as prohibiting:

1. The practice of any other professions licensed or registered under this title.

2. Any person employed by the federal, state or a local government or by a public or non-public elementary or secondary school or an institution of higher learning from performing the duties of a speech-language pathologist, an audiologist, a teacher of the speech and hearing handicapped, or a teacher of the deaf in the course of such employment.

3. Any person from engaging in clinical or academic practice under the supervision of a licensed speech-language pathologist or audiologist for such period of time as may be necessary to complete an experience requirement for a professional license, as provided in this title and in rules or regulations approved by the commissioner with the advice of the state board for speech-language pathology and audiology.

4. A person from another state from performing speech-language pathology or audiology services in this state provided such services are performed for no more than thirty days in any calendar year and provided that such services are performed in conjunction with and/or under the supervision of a speech-language pathologist or audiologist licensed under this title.

5. Any hearing aid dealer from performing hearing measurements by means of an audiometer or other testing equipment when used solely for the purpose of selecting, fitting, selling or dispensing an instrument designed to aid or improve human hearing, including the taking of impressions for the making and fitting of ear molds and the demonstration of use and instructions of persons in the use of such hearing aids and accessories thereto.

6. A student from engaging in clinical practice, under the supervision of a licensed audiologist or a licensed speech-language pathologist as part of a nationally accredited program or a state licensure qualifying program in speech-language pathology or audiology, pursuant to subdivision three of section eighty-one hundred six of this title.

§ 8108. Special provisions. 1. Every person regularly employed in teaching or working as a speech-language pathologist or audiologist for not less than two years prior to the effective date of this title shall be issued a license by the department, if he or she is a person of good moral character; twenty-one years or older, has been engaged in such practice in the state for at least two years in accordance with regulations of the commissioner, and possesses:

a. the American Speech-Language-Hearing Association certificate of clinical competence in speech-language pathology and/or audiology, or the equivalent thereof as determined by the board in accordance with the commissioner's regulations; or

b. a masters degree in speech-language pathology, audiology or communication disorders appropriate to the license being sought and a total of five years experience; or

c. a bachelors degree in speech-language pathology, audiology or communication disorders appropriate to the license being sought and thirty postgraduate semester hours in subjects satisfactory to the board and a total of five years experience; or

d. a bachelors degree and sufficient postgraduate study to be the equivalent of a masters degree in speech-language pathology, audiology or communication disorders as determined by the board in accordance with the commissioner's regulations and a total of five years experience. Applications for a license under this section shall be submitted by January first, nineteen hundred eighty and applicants shall have until that date to fulfill the requirements set forth by this chapter.

2. This title shall not prohibit the practice of speech-language pathology or audiology by a corporation provided that such practice is carried on by a licensed speech-language pathologist or audiologist or persons exempt under this title and a violation of this provision shall be a class A misdemeanor.

3. Any person or firm offering the services of a speech-language pathologist or audiologist shall employ only persons licensed or exempt under this title and a violation of this provision shall be a class A misdemeanor.

4. a. The commissioner, pursuant to the recommendation of the board shall promulgate regulations defining appropriate standards of conduct for the dispensing of hearing aids by licensed audiologists. Such regulations shall also define continuing education requirements which such

dispensing audiologist shall meet as a condition of maintaining registration pursuant to this title.

b. Audiologists engaged in the practice of dispensing hearing aids shall comply with the applicable provisions of article thirty-seven-A of the general business law.

§ 8109. Mandatory continuing competency. 1. a. Each licensed speech-language pathologist and audiologist required under this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing competency requirements prescribed in subdivision two of this section, except as provided in paragraphs b and c of this subdivision. Speech-language pathologists and audiologists who do not satisfy the mandatory continuing competency requirements shall not be authorized to practice until they have met such requirements, and they have been issued a registration certificate, except that a speech-language pathologist or audiologist may practice without having met such requirements if he or she is issued a conditional registration pursuant to subdivision three of this section.

b. Speech-language pathologists and audiologists shall be exempt from the mandatory continuing competency requirement for the triennial registration period during which they are first licensed. Adjustment to the mandatory continuing competency requirements may be granted by the department for reasons of health of the licensee where certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed speech-language pathologist or audiologist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing competency requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of speech-language pathology or audiology during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing competency requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as either a speech-language pathologist or audiologist shall complete a minimum of thirty hours of learning activities which contribute to continuing competence, as specified in subdivision four of this section, provided further that at least twenty hours shall be in recognized areas of study pertinent to the licensee's professional scope of practice of speech-language pathology and/or audiology. Any speech-language pathologist or audiologist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing competency hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand one up to the first registration date. Thereafter, a licensee who has not satisfied the mandatory continuing competency requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing competency hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing competency

requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional learning activities which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing competency learning activities and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable learning activities" shall mean activities which contribute to professional practice in speech-language pathology and/or audiology, and which meet the standards prescribed in the regulations of the commissioner. Such learning activities shall include, but not be limited to, collegiate level credit and non-credit courses, self-study activities, independent study, formal mentoring activities, publications in professional journals, professional development programs and technical sessions; such learning activities may be offered and sponsored by national, state and local professional associations and other organizations or parties acceptable to the department, and any other organized educational and technical learning activities 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 competency learning activities in specific subjects to fulfill this mandatory continuing competency requirement. For speech-language pathologists who are employed in school settings as teachers of the speech and hearing handicapped or as teachers of students with speech and language disabilities, acceptable learning activities shall also include professional development programs and technical sessions specific to teaching students with speech and language disabilities including those designed to improve methods for teaching such students, aligned with professional development plans in accordance with regulations of the commissioner and promoting the attainment of standards for such students. Learning activities must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Speech-language pathologists and audiologists shall maintain adequate documentation of completion of acceptable continuing competency learning activities 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 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 acupuncturist from engaging in the recommendation of traditional remedies and supplements as defined in this title, nor shall this section be construed to authorize an individual to practice pharmacy under title ten of this article.

2. "Board" is the state board for acupuncture as created by section eighty-two hundred three of this title.

§ 8202. Practice of acupuncture and use of title "licensed acupuncturist" or "certified acupuncturist". Only a person licensed or authorized pursuant to section eighty-two hundred four of this title or certified pursuant to section eighty-two hundred six of this title shall practice acupuncture. Only a person licensed pursuant to section eighty-two hundred four of this title shall use the title "licensed acupuncturist" and only a person certified pursuant to section eighty-two hundred six of this title shall use the title "certified acupuncturist".

§ 8203. State board for acupuncture. 1. There is hereby established within the department a state board for acupuncture. The board shall consist of not less than eleven members to be appointed by the department on the recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article, four of whom shall be licensed acupuncturists, four of whom shall be licensed physicians certified to use acupuncture and three of whom shall be public members representing the consumer and community. Of the acupuncturists first appointed to the board, one may be a registered specialist's assistant-acupuncture provided that the term of such registered specialist's assistant-acupuncture shall not be more than four years. Of the members first appointed, three shall be appointed for a one year term, three shall be appointed for a two year term and three shall be appointed for a three year term, and two shall be appointed for a four year term. Thereafter all members shall serve for five year terms. In the event that more than eleven members are appointed, a majority of the additional members shall be licensed acupuncturists. The members of the board shall select one of themselves as chairman to serve for a one year term.

2. An executive secretary to the board shall be appointed by the commissioner.

3. The commissioner shall promulgate such rules and regulations as they deem necessary and appropriate to effectuate the provisions of this title.

§ 8204. Requirements for a professional license. To qualify for a license as a licensed acupuncturist an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: provide evidence of satisfactory completion of a course of formal study or its substantial equivalent in accordance with the commissioner's regulations;

3. Experience: have experience in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations. Such examination shall be given at least once within twelve months of the effective date of this title, and at least once annually thereafter, and shall consist of both written and practical parts. Either part may be given at the discretion of the department in English and/or Chinese or other language. Nothing in this subdivision is to be construed to require the department to issue an exam in a language other than English. The practical part of the exam must be directly administered by an acupuncturist acceptable to the department, who may also be a member of the board. The cost of the initial examination or reexamination shall be borne by the applicant in accordance with a schedule established by the department and approved by the director of the budget;

5. Age: be at least twenty-one years of age;

6. Character: be of good moral character as determined by the department;

7. Fees: pay a fee of five hundred dollars to the department for initial licensure, and a fee of two hundred fifty dollars for each triennial registration; and

8. Registration: if a license is granted, register triennially with the department, including present home and business address and such other pertinent information as the department requires.

§ 8205. Limited permits. 1. The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination;

2. All practice under a limited permit shall be under the supervision of a licensed or certified acupuncturist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, the office of a licensed or certified acupuncturist or in the civil service of the federal or state government;

3. Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year;

4. Supervision of a permittee by a licensed or certified acupuncturist shall be on-site supervision and not necessarily direct personal supervision;

5. No practitioner shall supervise more than one permittee; and

6. The fee for each limited permit and for each renewal shall be determined by the department.

§ 8206. Exemptions; waiver. 1. A person who is validly registered as a "specialist's assistant-acupuncture" in accordance with section sixty-five hundred forty-one of this article and the commissioner's regulations shall not be subject to the provisions of this title.

2. Any person who is validly licensed under the provisions of the former chapter nine hundred fifty-nine of the laws of nineteen hundred seventy-four is deemed to be licensed pursuant to this title.

3. Any person who is validly certified under the provisions of the former chapter nine hundred fifty-nine of the laws of nineteen hundred seventy-four shall continue to be certified to practice acupuncture and may continue to use the title certified acupuncturist. The department may establish rules and regulations providing for the certification of physicians and dentists as acupuncturists, provided that such certified acupuncturists do not represent themselves as licensed acupuncturists. Certified acupuncturists seeking to become licensed acupuncturists shall be subject to all provisions of this title.

4. A person who does not otherwise possess the credentials or qualifications required for the practice of acupuncture prescribed by this title or the regulations promulgated hereunder or any other law but who is authorized by the office of addiction services and supports or the department to provide treatment for alcoholism, substance dependence, or chemical dependency in a hospital or clinical program which has been approved for such treatment by the office of addiction services and supports or the department and who has been trained to practice acupuncture for the treatment of alcoholism, substance dependence, or chemical dependency through an educational program acceptable to the education department may nevertheless practice acupuncture provided such practice is limited to the treatment of alcoholism, substance dependence, or chemical dependency in such clinical or hospital programs, or in a program that if statutorily exempt from such approval meets standards approved by the office of addiction services and supports or the department, and further provided that such practice is done in accordance with regulations promulgated by the office of addiction services and supports, or the department. Such person shall work only under the general supervision of a physician or dentist certified to practice acupuncture or an individual licensed to practice acupuncture in the state of New York pursuant to this title. Notwithstanding any other law, rule or regulation to the contrary, persons authorized on or before the effective date of this title to practice acupuncture for the treatment

of alcoholism, substance dependence, or chemical dependency within a hospital or clinical program which has been approved for such treatment by the office of addiction services and supports or the department may nevertheless continue to practice acupuncture under the provisions of this subdivision.

5. Any person who is pursuing qualification for licensure through a course of formal study pursuant to this title may practice acupuncture without a license, provided such practice is limited to such study.

6. Any person who has completed a formal course of study or a tutorial apprenticeship acceptable to the department and in accordance with the commissioner's regulations, prior to the effective date of this title, and presents satisfactory proof of such completion, shall be exempt from the education requirements set forth in subdivision two of section eighty-two hundred four of this title provided an application pursuant to subdivision one of section eighty-two hundred four of this title is filed with the department not later than one year from the effective date of this title, and in no event shall participation in such tutorial apprenticeship or formal course of study constitute a violation of this chapter.

7. Any person who is pursuing qualification for certification through a formal course of study in a registered program and any person appointed to the faculty of such program may practice acupuncture without a license, provided that such practice is limited to such research, study and training.

8. Any person who is licensed and in good standing to practice acupuncture in another state or country may practice acupuncture in this state without a license solely for the purpose of conducting clinical training, practice demonstrations or clinical research that is within the practice of acupuncture in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of acupuncture or in its affiliated clinical facility or health care agency, or before a group of licensed acupuncturists who are members of a professional society. Any person practicing acupuncture in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the department as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with the provisions of this title, the rules of the department, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional 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 committee need not be certified prior to their appointment to the committee.

§ 8305. Requirements and procedure for professional certification. For certification as a certified athletic trainer under this title, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including a bachelor's, its equivalent or higher degree in accordance with the commissioner's regulations;

3. Experience: have experience in accordance with the commissioner's regulations;

4. Examination: pass an examination in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age; and

6. Fees: pay a fee for an initial certificate of one hundred dollars to the department; and a fee of fifty dollars for each triennial registration period.

§ 8306. Special provisions. A person shall be certified without examination provided that, within three years from the effective date of regulations implementing the provisions of this title, the individual:

1. files an application and pays the appropriate fees to the department; and

2. meets the requirements of subdivisions two and five of section eight thousand three hundred five of this title and who in addition:

a. has been actively engaged in the profession of athletic training for a minimum of four years during the seven years immediately preceding the effective date of this title; or

b. is certified by a United States certifying body acceptable to the department.

§ 8307. Non-liability of certified athletic trainers for first aid or emergency treatment. Notwithstanding any inconsistent provision of any general, special or local law, any certified athletic trainer who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary athletic training equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such athletic trainer. Nothing in this section shall be deemed or construed to relieve a certified athletic trainer from liability for damages for injuries or death caused by an act or omission on the part of an athletic trainer while rendering professional services in the normal and ordinary course of his or her practice.

§ 8308. 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 25
MENTAL HEALTH PRACTITIONERS

Section 8400. Introduction.
8401. Definitions.
8402. Mental health counseling.
8403. Marriage and family therapy.
8404. Creative arts therapy.
8405. Psychoanalysis.
8406. State board for mental health practitioners.
8407. Boundaries of professional competency.
8408. Hospital privileges.
8409. Limited permits.
8410. Exemptions.
8411. Special provisions.
8412. Mandatory continuing education.

§ 8400. Introduction. This title applies to the professions of mental health counseling, marriage and family therapy, creative arts therapy, and psychoanalysis and provides for the licensing of such practitioners.

The general provisions for all professions contained in title one this article apply to this title.

§ 8401. Definitions. For purposes of this title, the following terms shall have the following meanings:

1. "Board" means the state board for mental health practitioners authorized by section eighty-four hundred six of this title.

2. "Psychotherapy" means the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

§ 8402. Mental health counseling. 1. The practice of the profession of mental health counseling is defined as:

a. the evaluation, assessment, amelioration, treatment, modification, or adjustment to a disability, problem, or disorder of behavior, character, development, emotion, personality or relationships by the use of verbal or behavioral methods with individuals, couples, families or groups in private practice, group, or organized settings; and

b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services.

2. Only a person licensed or exempt under this title shall practice mental health counseling or use the title "mental health counselor". Only a person licensed under this title shall use the title "licensed mental health counselor" or any other designation tending to imply that the person is licensed to practice mental health counseling.

3. Requirements for a professional license. To qualify for a license as a "licensed mental health counselor", an applicant shall fulfill the following requirements:

a. Application: File an application with the department;

b. Education: Have received an education, including a master's or higher degree in counseling from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

(i) human growth and development;

(ii) social and cultural foundations of counseling;

(iii) counseling theory and practice and psychopathology;

(iv) group dynamics;

(v) lifestyle and career development;

(vi) assessment and appraisal of individuals, couples and families and groups;

(vii) research and program evaluation;

(viii) professional orientation and ethics;

(ix) foundations of mental health counseling and consultation;

(x) clinical instruction; and

(xi) completion of a minimum one year supervised internship or practicum in mental health counseling;

c. Experience: An applicant shall complete a minimum of three thousand hours of post-master's supervised experience relevant to the practice of mental health counseling satisfactory to the board and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been

obtained prior to the effective date of such section sixty-five hundred three-a of this article and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: Pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: Be at least twenty-one years of age;

f. Character: Be of good moral character as determined by the department; and

g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8403. Marriage and family therapy. 1. The practice of the profession of marriage and family therapy is defined as:

a. the assessment and treatment of nervous and mental disorders, whether affective, cognitive or behavioral, which results in dysfunctional interpersonal family relationships including, but not limited to familial relationships, marital/couple relationships, parent-child relationships, pre-marital and other personal relationships;

b. the use of mental health counseling, psychotherapy and therapeutic techniques to evaluate and treat marital, relational, and family systems, and individuals in relationship to these systems;

c. the use of mental health counseling and psychotherapeutic techniques to treat mental, emotional and behavioral disorders and ailments within the context of marital, relational and family systems to prevent and ameliorate dysfunction; and

d. the use of assessment instruments and mental health counseling and psychotherapy to identify and evaluate dysfunctions and disorders for purposes of providing appropriate marriage and family therapy services.

2. Only a person licensed or exempt under this title shall practice marriage and family therapy or use the title "marriage and family therapist". Only a person licensed under this title shall use the titles "licensed marriage and family therapist", "licensed marriage therapist", "licensed family therapist" or any other designation tending to imply that the person is licensed to practice marriage and family therapy.

3. Requirements for a professional license. To qualify for a license as a "licensed marriage and family therapist", an applicant shall fulfill the following requirements:

a. Application: File an application with the department;

b. Education: Have received a master's or doctoral degree in marriage and family therapy from a program registered by the department, or determined by the department to be the substantial equivalent, in accordance with the commissioner's regulations or a graduate degree in an allied field from a program registered by the department and graduate level coursework determined to be equivalent to that required in a program registered by the department. This coursework shall include, but not be limited to:

(i) the study of human development, including individual, child and family development;

(ii) psychopathology;

(iii) marital and family therapy;

(iv) family law;
(v) research;
(vi) professional ethics; and
(vii) a practicum of at least three hundred client contact hours;
c. Experience: The completion of at least one thousand five hundred client contact hours of supervised clinical experience, by persons holding a degree from a master's or doctoral program, or the substantial equivalent, in accordance with the commissioner's regulations or the completion of at least one thousand five hundred client hours of supervised post-master's clinical experience in marriage and family therapy satisfactory to the department in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a of this article and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;
d. Examination: Pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
e. Age: Be at least twenty-one years of age;
f. Character: Be of good moral character as determined by the department; and
g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.
§ 8404. Creative arts therapy. 1. The practice of the profession of creative arts therapy is defined as:
a. the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and
b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.
2. Only a person licensed or exempt under this title shall practice creative arts therapy or use the title "creative arts therapist". Only a person licensed under this title shall use the title "licensed creative arts therapist" or any other designation tending to imply that the person is licensed to practice creative arts therapy.
3. Requirements for a professional license. To qualify for a license as a "licensed creative arts therapist", an applicant shall fulfill the following requirements:
a. Application: File an application with the department;
b. Education: Have received an education, including a master's or higher degree in creative arts therapy from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:
(i) human growth and development;

(ii) theories in therapy;
(iii) group dynamics;
(iv) assessment and appraisal of individuals and groups;
(v) research and program evaluation;
(vi) professional orientation and ethics;
(vii) foundations of creative arts therapy and psychopathology; and
(viii) clinical instruction;

c. Experience: Have completed at least fifteen hundred hours of post-master's supervised experience in one or more creative arts therapies satisfactory to the department and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a of this article and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: Pass an examination in creative arts therapy satisfactory to the department and in accordance with the commissioner's regulations;

e. Age: Be at least twenty-one years of age;

f. Character: Be of good moral character as determined by the department; and

g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8405. Psychoanalysis. 1. The practice of the profession of psychoanalysis is defined as:

a. the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and

b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.

2. Only a person licensed or exempt under this title shall practice psychoanalysis or use the title "psychoanalyst". Only a person licensed under this title shall use the title "licensed psychoanalyst" or any other designation tending to imply that the person is licensed to practice psychoanalysis.

3. Requirements for a professional license. To qualify for a license as a "licensed psychoanalyst", an applicant shall fulfill the following requirements:

a. Application: File an application with the department;

b. Education: Have received a master's degree or higher from a degree-granting program registered by the department or the substantial equivalent and have completed a program of study registered by the department in a psychoanalytic institute chartered by the department or

the substantial equivalent as determined by the department. The program of study in a psychoanalytic institute shall include coursework substantially equivalent to coursework required for a master's degree in a health or mental health field of study. The coursework shall include, but not be limited to, the following areas:

(i) personality development;

(ii) psychoanalytic theory of psychopathology;

(iii) psychoanalytic theory of psychodiagnosis;

(iv) sociocultural influence on growth and psychopathology;

(v) practice technique (including dreams and symbolic processes);

(vi) analysis of resistance, transference, and countertransference;

(vii) case seminars on clinical practice;

(viii) practice in psychopathology and psychodiagnosis;

(ix) professional ethics and psychoanalytic research methodology; and

(x) a minimum of three hundred hours of personal analysis and one hundred fifty hours of supervised analysis;

c. Experience: Have completed a minimum of fifteen hundred hours of supervised clinical practice satisfactory to the department and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this article may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

d. Examination: Pass an examination in psychoanalysis satisfactory to the department and in accordance with the commissioner's regulations;

e. Age: Be at least twenty-one years of age;

f. Character: Be of good moral character as determined by the department; and

g. Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8406. State board for mental health practitioners. A state board for mental health practitioners shall be appointed by the commissioner for the purpose of assisting the department on matters of licensing and regulation. The board shall be composed of at least three licensed members from each profession licensed pursuant to this title and at least three public representatives who do not hold interests in the organization, financing, or delivery of mental health services. Additionally, the board shall contain one physician who shall be a psychiatrist. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that five are appointed for three years, five are appointed for four years, and six are appointed for five years. An executive secretary to the board shall be appointed by the commissioner.

§ 8407. Boundaries of professional competency. 1. It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this title, in the case of treatment of any serious mental illness, to provide any mental health service for

such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness. For purposes of this section, "serious mental illness" means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism.

2. 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 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 surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 8408. Hospital privileges. Nothing in this title shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this title.

§ 8409. Limited permits. The following requirements for a limited permit shall apply to all professions licensed pursuant to this title:

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, in accordance with regulations promulgated therefor.

2. Limited permits shall be for two years; such limited permits may be renewed, at the discretion of the department, for up to two additional one year periods.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

§ 8410. Exemptions. Nothing contained in this title shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to title two of this article or by any person registered to perform services as a physician assistant within the state pursuant to title four of this article or by any person licensed or otherwise authorized to practice psychology within this state pursuant to title seventeen of this article or by any person licensed or otherwise authorized to practice social work within this state pursuant to title eighteen of this article, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to title twelve of this article or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to title twenty-nine of this article; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, licensed clinical social worker, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", or "licensed psychoanalyst", unless licensed under this article;

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism coun-

selors and certified substance abuse counselors from providing mental health services within their respective established authorities;

3. Prohibit or limit the practice of a profession licensed pursuant to this title by a student, intern or resident in, and as part of, a supervised educational program in an institution approved by the department;

4. Prohibit or limit the provision of pastoral counseling services by any member of the clergy or Christian Science practitioner, within the context of his or her ministerial charge or obligation;

5. Prohibit or limit individuals, churches, schools, teachers, organizations, or not-for-profit businesses, from providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups;

6. Prohibit or limit an occupational therapist from performing work consistent with title twenty of this article;

7. Prohibit the practice of mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis, to the extent permissible within the scope of practice of such professions, 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 title, provided that such entities offering mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis 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;

8. a. Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

b. Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; 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, perman-

ency 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) Prevent 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, seventeen or eighteen 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 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 chapter.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(A) helping an individual with the completion of forms or questionnaires;

(B) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(C) 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;

(D) 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;

(E) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(F) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(G) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(H) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(I) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based

services, housing, employment, transportation, child care, vocational training, or health care;

(J) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(K) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(L) using de-escalation techniques consistent with appropriate training;

(M) performing assessments using standardized, structured interview tools or instruments;

(N) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(O) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

d. Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

9. Notwithstanding any other provision of law to the contrary, nothing in this title shall be construed to prohibit or limit the activities or services provided under this title by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this title shall be appropriately licensed or authorized under this title. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

10. The activities or services provided by a person with a master's level degree required for licensure pursuant to this title, working under the supervision of a professional licensed pursuant to title seventeen or eighteen of this article in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

§ 8411. Special provisions. 1. This section shall apply to all professions licensed pursuant to this title, unless otherwise provided.

2. Any nonexempt person practicing a profession to be licensed pursuant to this title shall apply for a license of said profession within one year of the effective date of the specified profession.

a. If such person does not meet the requirements for a license established within this title, such person may meet alternative criteria determined by the department to be the substantial equivalent of such criteria.

b. If such person meets the requirements for a license established within this title, except for examination, and has been certified or registered by a national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination.

c. If such person meets the requirements for a license established within this title, except for examination, and there exists no national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination if the applicant submits evidence satisfactory to the department of having been engaged in the practice of the specified profession for at least five of the immediately preceding eight years.

3. Any person licensed pursuant to this title may use accepted classifications of signs, symptoms, dysfunctions and disorders, as approved in accordance with regulations promulgated by the department, in the practice of such licensed profession.

§ 8412. Mandatory continuing education. 1. a. Each licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist required under this title to register triennially with the department to practice in this state, shall comply with the provisions of mandatory continuing education requirements prescribed in subdivision two of this section, except as set forth in paragraphs b and c of this subdivision. Licensed mental health counselors, marriage and family therapists, psychoanalysts, and creative arts therapists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Each licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of mental health counseling, marriage and family therapy, psycho-

analysis, and creative arts therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist shall complete a minimum of thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional course work acceptable to the department. Any licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand seventeen, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand seventeen up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

3. a. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

b. For purposes of this section "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in mental health counseling, marriage and family therapy, psychoanalysis, or creative arts therapies and which meet the standards 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. 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 the performance of cardiopulmonary evaluation, respiratory therapy treatment techniques, and education of the patient, family and public.

1. Evaluation shall include the acquisition, analysis and interpretation of data obtained from physiological specimens, performing diagnostic tests, studies and research of the cardiopulmonary system and neurophysiological studies related to respiratory care.

2. Therapy shall include the application and monitoring of medical gases (excluding anesthetic gases) and environmental control systems, mechanical ventilatory support, artificial airway care, bronchopulmonary hygiene, pharmacologic agents related to respiratory care procedures, and cardiopulmonary rehabilitation related and limited to respiratory care.

3. Respiratory therapy services may be performed pursuant to a prescription of a licensed physician or certified nurse practitioner.

§ 8502. Practice of respiratory therapy and use of the title "respiratory therapist". 1. Only a person licensed or exempt under this title shall practice respiratory therapy or use the title "respiratory therapist".

2. A licensed respiratory therapist may supervise respiratory therapy technicians in the practice of their profession in such capacities as are prescribed by law and as from time to time may be set by the commissioner.

§ 8503. State board for respiratory therapy. A state board for respiratory therapy shall be appointed by the recommendation of the commissioner for the purpose of assisting the department on matters of professional licensing and conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of not less than five licensed respiratory therapists, two licensed respiratory therapy technicians, and four additional members who shall include at least one licensed physician and at least one public member. Members of the first board who are respiratory therapy practitioners need not be licensed prior to appointment on the board, provided, however, that the first appointed respiratory therapists shall be registered by a national certifying or accrediting board, acceptable to the department and the first appointed respiratory therapy technicians shall be certified by a national certifying or accrediting board, acceptable to the department. An executive secretary to the board shall be appointed by the commissioner.

§ 8504. Requirements for licensure as a respiratory therapist. To qualify for a license as a respiratory therapist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including completion of an approved associate degree program in respiratory therapy or in a program determined by the department to be the equivalent;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license; a fee of eighty-five dollars for each re-examination; a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination and a fee of one hundred fifty-five dollars for each triennial registration period commencing on and after June first, nineteen hundred ninety-three.

§ 8504-a. Mandatory continuing education for respiratory therapists. 1. a. Each licensed respiratory therapist required under this title to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs b and c of this subdivision. Respiratory therapists who do not satisfy the mandatory continuing education requirement shall not practice until they have met such requirements, and have been issued a registration certificate, except that a respiratory therapist may practice without having met such requirements if he or she is issued a

conditional registration certificate pursuant to subdivision three of this section.

b. Respiratory therapists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed respiratory therapist not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to their respective practice as a respiratory therapist during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a respiratory therapist shall complete a minimum of thirty hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than fifteen hours of such continuing education shall consist of self-study courses. Any respiratory therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing education hours on a prorated basis at the rate of five-sixths of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours completed during the registration period immediately preceding the effective date of this section, continuing education hours completed during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices as a respiratory therapist without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal continuing education" for respiratory therapy shall mean formal courses of learning which contribute to professional practice in respiratory therapy and which meet the standards prescribed by 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.

5. Respiratory therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee for respiratory therapists shall be thirty 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-five hundred four of this title.

§ 8505. Exempt persons. This title shall not prohibit:

1. The practice of respiratory therapy as an integral part of a program of study by students enrolled in approved respiratory therapy education programs;

2. The performance of any of the modalities included in the definition of respiratory therapy by any other duly licensed, certified or registered health care provider, provided that such modalities are within the scope of his or her practice;

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;

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.

5. The provision of polysomnographic technology services, as defined by the commissioner, by an individual, under the direction and supervision of a licensed physician, who has obtained authorization issued by the department. Such authorization shall be issued to individuals who have met standards, including those relating to education, experience, examination and character, as promulgated in regulations of the commissioner. Such authorization shall be subject to the full disciplinary and regulatory authority of the department, pursuant to this title, as if such authorization were a professional license issued under this title. The application fee for such authorization shall be three hundred dollars. Each authorization holder shall register with the department every three years and shall pay a registration fee of three hundred dollars.

§ 8506. Limited permits. Permits limited as to eligibility, practice and duration shall be issued by the department to eligible applicants as follows:

1. Eligibility. A person who fulfills all requirements for registration as a respiratory therapist except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. All practice under a limited permit shall be under the direct supervision of a licensed respiratory therapist physician specializing in pulmonary medicine, an anesthesiologist or an otherwise legally authorized physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for licensure has been denied, or ten days after notification to the permittee of failure on the professional licensing examination, whichever first occurs; provided, however, that if the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten

days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be seventy dollars.

§ 8507. 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 registered by a national certifying or accrediting board for respiratory therapy acceptable to the department, or

(b) has practiced respiratory therapy in a hospital, as defined in article twenty-eight of this chapter, in the state for not less than three years within the last five years prior to the effective date of this title, 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 therapist for at least one year in such hospital.

§ 8508. Definition of the practice of respiratory therapy technician. A respiratory therapy technician means a person licensed in accordance with this title who works under the supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician performing tasks and responsibilities within the framework of the practice of respiratory therapy.

§ 8509. Duties of respiratory therapy technicians and use of the title "respiratory therapy technician". Only a person licensed or otherwise authorized under this title shall participate in the practice of respiratory therapy as a respiratory therapy technician and only a person licensed under this title shall use the title "respiratory therapy technician".

§ 8510. Requirements for licensure as a respiratory therapy technician. To qualify for a license as a respiratory therapy technician an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including completion of high school or its equivalent and have completed an approved one-year certificate respiratory therapy education program, or a program determined equivalent, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of ninety dollars to the department for admission to a department conducted examination and for an initial license; a fee of sixty dollars for each re-examination; a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination and a fee of ninety dollars for each triennial registration period commencing on and after June first, nineteen hundred ninety-three.

§ 8510-a. Mandatory continuing education for respiratory therapy technicians. 1. a. Each licensed respiratory therapy technician required under this title to register triennially with the department to practice

in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs b and c of this subdivision. Respiratory therapy technicians who do not satisfy the mandatory continuing education requirement shall not practice until they have met such requirements, and have been issued a registration certificate, except that a respiratory therapy technician may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

b. Respiratory therapy technicians shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. A licensed respiratory therapy technician not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to their respective practice as a respiratory therapy technician during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a respiratory therapy technician shall complete a minimum of twenty-four hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than twelve hours of such continuing education shall consist of self-study courses. Any respiratory therapy technician whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing education hours on a prorated basis at the rate of two-thirds of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours completed during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices as a respiratory therapy technician without

such registration, may be subject to the disciplinary proceedings pursuant to section sixty-five hundred ten of this article.

4. As used in subdivision two of this section, "acceptable formal continuing education" for respiratory therapy technicians shall mean formal courses of learning which contribute to professional practice as a respiratory therapy technician and which meet the standards prescribed by 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.

5. Respiratory therapy technicians shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee for respiratory therapy technicians shall be twenty-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 eighty-five hundred ten of this title.

§ 8511. Limited permits. 1. Eligibility. The department may issue a limited permit to an applicant for respiratory therapy technician who meets all requirements for admission to the licensing examination.

2. Limit of practice. All practice under a limited permit shall be under the direct supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for registration has been denied, or ten days after notification to the permittee of failure on the professional licensing examination, whichever first occurs; provided, however, that if the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be fifty dollars.

§ 8512. Exempt persons. This title shall not prohibit:

1. a respiratory therapy student or a respiratory therapy technician student from engaging in clinical assistance under the supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician as an integral part of a program of study by students enrolled in an approved respiratory therapy technician program or in a clinical facility or health care agency affiliated with the 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 general provisions for all professions contained in title one of this article shall apply to this title.

§ 8601. Definition of the practice of clinical laboratory technology and clinical laboratory technology practitioner. 1. "Clinical laboratory technology" means the performance of microbiological, virological, serological, chemical, immunohematological, hematological, biophysical, cytogenetical, cytological or histological procedures and examinations and any other test or procedure conducted by a laboratory as defined by 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.

2. A "clinical laboratory technology practitioner" means clinical laboratory technologists, cytotechnologists, clinical laboratory technicians, and histological technicians as such terms are defined in this

subdivision, who practice clinical laboratory technology in a licensed clinical laboratory. For the purposes of this title, a licensed clinical laboratory does not include a laboratory operated by any licensed physician, dentist, podiatrist, midwife or certified nurse practitioner who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients.

a. "Clinical laboratory technologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department of health, performs clinical laboratory procedures and examinations and any other tests or procedures conducted by a clinical laboratory, including maintaining equipment and records, and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

b. "Cytotechnologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department, performs cytological procedures and examinations and any other such tests including maintaining equipment and records and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

c. "Clinical laboratory technician" means a clinical laboratory practitioner who performs clinical laboratory procedures and examinations pursuant to established and approved protocols of the department, which require limited exercise of independent judgment and which are performed under the supervision of a clinical laboratory technologist, laboratory supervisor, or director of a clinical laboratory.

d. "Histological technician" means a clinical laboratory practitioner who pursuant to established and approved protocols of the department performs slide based histological assays, tests, and procedures and any other such tests conducted by a clinical histology laboratory, including maintaining equipment and records and performing quality assurance activities relating to procedure performance on histological testing of human tissues and which requires limited exercise of independent judgment and is performed under the supervision of a laboratory supervisor, designated by the director of a clinical laboratory or under the supervision of the director of the clinical laboratory.

e. "Director of a clinical laboratory" means a director as that term is defined in section five hundred seventy-one of this chapter.

f. "Laboratory supervisor" means an individual who, under the general direction of the laboratory director, supervises technical personnel and reporting of findings, performs tests requiring special scientific skills, and, in the absence of the director, is responsible for the proper performance of all laboratory procedures.

§ 8602. Practice of clinical laboratory technology and cytotechnology and use of the titles "licensed clinical laboratory technologist" and "licensed cytotechnologist". No person shall practice clinical laboratory technology or hold himself or herself out as a clinical laboratory technologist or a cytotechnologist in this state unless he or she is licensed or exempt pursuant to this title.

§ 8603. Practice as a clinical laboratory technician and histological technician and the use of the titles "clinical laboratory technician" and "histological technician". No person shall practice as a clinical laboratory technician or as a histological technician or hold himself or herself out as a clinical laboratory technician or a histological tech-

nician in this state unless he or she is certified or exempt pursuant to this title, provided that an individual licensed as a clinical laboratory technologist, cytotechnologist, or clinical laboratory technician may practice the profession of histological technician.

§ 8604. State board for clinical laboratory technology. A state board for clinical laboratory technology shall be appointed by the commissioner for the purpose of assisting the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this article. The board shall be composed of twelve members, four of whom shall be licensed clinical laboratory technologists, two of whom shall be licensed cytotechnologists, one of whom shall be a certified clinical laboratory technician, one of whom shall be a certified histological technician, two members of the public, one representative of the diagnostic/manufacturing industry, and one director of a clinical laboratory who shall be a physician. An executive secretary to the board shall be appointed by the commissioner. The clinical laboratory practitioner members of the initial board need not be licensed prior to their appointment but shall have met all other requirements of licensing except the filing of an application, the passing of a satisfactory exam and paying a fee.

§ 8605. Requirements for a license as a clinical laboratory technologist or cytotechnologist. To qualify for a license as a clinical laboratory technology practitioner under one of the titles defined in subdivision two of section eighty-six hundred one of this title, an applicant shall fulfill the particular requirements of a subdivision of this section applicable to the license and title sought by the applicant:

1. Licensure as a clinical laboratory technologist.

a. Application: file an application with the department;

b. Education: have received an education, including a bachelor's degree in clinical laboratory technology from a program registered by the department or determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in an accredited clinical laboratory technology program or a program to be determined by the department to be the substantial equivalent;

c. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

d. Age: be at least eighteen years of age;

e. Character: be of good moral character as determined by the department; and

f. Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

2. Licensure as a cytotechnologist.

a. Application: file an application with the department;

b. Education: have received an education, including a bachelor's degree in cytotechnology from a program registered by the department or determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in an accredited cytotechnology program or a program determined by the department to be the substantial equivalent;

c. Examination: pass an examination acceptable to the board and in accordance with the commissioner's regulations;

d. Age: be at least eighteen years of age;

e. Character: be of good moral character as determined by the department; and

f. Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8606. Requirements for certification as a clinical laboratory technician. For certification as a clinical laboratory technician under this title, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including an associate's degree from an approved clinical laboratory technician program registered by the department or determined by the department to be the substantial equivalent;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred twenty-five dollars for an initial certification and a fee of one hundred twenty dollars for each triennial registration period.

§ 8606-a. Requirements for certification as a histological technician. For certification as a histological technician under this title, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including an associate's degree from an approved histological technician program registered by the department or determined by the department to be the substantial equivalent, or have received an associate's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in a histological technician program approved by the department or a program to be determined by the department to be the substantial equivalent;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred twenty-five dollars for an initial certification and a fee of one hundred twenty dollars for each triennial 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:

(i) met the educational requirements of a cytotechnologist as defined in section eighty-six hundred five of this title and performed the duties of a cytotechnologist for two of the previous five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a cytotechnologist for at least five years prior to December thirty-first, two thousand seven as verified by a director of a clinical laboratory; or

(iii) has previously qualified under other regulatory requirements for such a license or such license's equivalent.

d. In the case of a histological technician, has either:

(i) met the educational requirements of a histological technician as defined in section eighty-six hundred six-a of this title and performed the duties of a histological technician for two of the past five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a histological 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 histological 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 histological 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.

2. For the purposes of subdivision one of this section, it shall be determined that the filing of an application with the department on or before January first, two thousand nine shall qualify for purposes of such subdivision, regardless of the time period required for processing such application, provided that an application for licensure pursuant to subparagraph (vi) of paragraph a, subparagraph (iii) of paragraph b, or subparagraph (iii) or paragraph d of subdivision one of this section shall be submitted on or before September first, two thousand thirteen.

3. The commissioner may adopt such regulations as appropriate to license or certify individuals who hold valid licenses, certifications or their equivalent in another state or country, provided the standards for granting licenses or certifications to such individuals are not less than the standards required of persons otherwise licensed or certified pursuant to this title.

§ 8608. Limited and provisional permits. 1. Limited permit. On the recommendation of the board, the department may issue a limited permit to practice as a clinical laboratory practitioner to an applicant who has met all requirements for licensure as a clinical laboratory technologist or cytotechnologist or certification as a clinical laboratory technician or histological technician, except those relating to the examination and provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department. This limited 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.

2. Provisional permit. (a) On the recommendation of the board, the department may issue a provisional permit to practice as a clinical laboratory practitioner to an applicant who is employed in a clinical laboratory for the purpose of enabling the applicant to complete the education requirements and/or to pass the exam required for licensure as 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 with the commissioner, in the field of proteomics, provided that such certificate holders may practice in such additional areas only at such centers, teaching hospitals or other sites as may be designated by the commissioner.

b-1. Only individuals employed in a New York state department of health authorized toxicology laboratory, operating under the direction of a clinical laboratory director, may obtain a certificate in toxicology.

c. To qualify for a restricted license, an applicant shall:

(i) file an application with the department;

(ii) have received an education, including a bachelor's degree in the biological, chemical, or physical sciences or in mathematics from a

program registered by the department or determined by the department to be the substantial equivalent;

(iii) have completed a training program with a planned sequence of supervised employment or engagement in activities appropriate for the area of certification, which training program is satisfactory to the department in quality, breadth, scope and nature and is provided by an entity that shall be responsible for the services provided. The training program shall be described and attested to by the clinical director of the laboratory in which it is located prior to the beginning of the program. The duration of the training program shall be one year of full-time training in the specific areas in which the applicant is seeking certification or the part-time equivalent thereof, as determined by the department, and the successful completion of such program shall be certified by a laboratory director who is responsible for overseeing such program;

(iv) be at least eighteen years of age;

(v) be of good moral character as determined by the department; and

(vi) pay a fee of one hundred seventy-five dollars for an initial restricted license and a fee of one hundred seventy dollars for each triennial registration period.

d. Each restricted licensee shall register with the department as required of licensees pursuant to section sixty-five hundred two of this article and shall be subject to the disciplinary provisions applicable to licensees pursuant to subtitle three of title one of this article.

2. The commissioner is authorized to adopt such rules and regulations as may be necessary to implement the provisions of this section.

3. Nothing in this section shall restrict a clinical laboratory practitioner, as defined in subdivision two of section eighty-six hundred one of this title, from performing any of the examinations or procedures which restricted clinical laboratory licensees are permitted to perform under this section and which such clinical laboratory practitioner is otherwise authorized to perform.

TITLE 28
MEDICAL PHYSICS PRACTICE

Section 8700. Introduction.
8701. Definitions.
8702. Definition of "practice of medical physics".
8703. Use of the title "professional medical physicist".
8704. State committee for medical physics.
8705. Requirements and procedures for professional licensure.
8706. Limited permits.
8707. Exemptions.
8708. Licensure without examination.
8709. Separability.

§ 8700. Introduction. This title applies to the profession of medical physics. The general provisions for all licensed healthcare professions contained in title one of this article apply to this title.

§ 8701. Definitions. As used in this title:

1. "Clinical" shall mean activities directly relating to the treatment or diagnosis of human ailments.

2. "Specialty" or "specialty area" shall mean the following branch or branches of special competence within medical physics:

a. "Diagnostic radiological physics" shall mean the branch of medical physics relating to the diagnostic application of radiation, the analysis and interpretation of image quality, performance measurements and the calibration of equipment associated with the production and use of

such radiation, the analysis and interpretation of measurements associated with patient doses and exposures, and the radiation safety aspects associated with the production and use of such radiation;

b. "Medical health physics" shall mean the branch of medical physics pertaining to the radiation safety aspects of the use of radiation for both diagnostic and therapeutic purposes, and the use of equipment to perform appropriate radiation measurements;

c. "Medical nuclear physics" shall mean the branch of medical physics pertaining to the therapeutic and diagnostic application of radionuclides, excluding those used in sealed sources for therapeutic purposes, the analysis and interpretation of performance measurements associated with radiation imaging equipment and performance oversight of radionuclide calibration equipment associated with the use and production of radionuclides, the analysis and interpretation of measurements and calculations associated with patient organ doses, and the radiation safety aspects associated with the production and use of such radionuclides; and

d. "Therapeutic radiological physics" or "radiation oncology physics" shall mean the branch of medical physics relating to the therapeutic application of radiation, the analysis and interpretation of radiation equipment performance measurements and the calibration of equipment associated with the production and use of such radiation, the analysis and interpretation of measurements associated with patient doses, and the radiation safety aspects associated with the production and use of such radiation.

3. "Medical physics" shall mean the branch of physics limited to the field of radiological physics.

4. "Radiation" shall mean all ionizing radiation above background levels or any non-ionizing radiation used in diagnostic imaging or in radiation oncology.

5. "Radiological physics" shall mean diagnostic radiological physics, therapeutic radiological physics or radiation oncology physics, medical nuclear physics and medical health physics.

6. "Radiological procedure" shall mean any test, measurement, calculation or radiation exposure for the purpose of diagnosis or treatment of any medical condition of a human, including therapeutic radiation, diagnostic imaging and measurements, and nuclear medicine procedures.

§ 8702. Definition of "practice of medical physics". 1. The "practice of the profession of medical physics" shall mean the use and application of accepted principles and protocols of physics in a clinical setting to assure the correct quality, quantity and placement of radiation during the performance of a radiological procedure, so as to protect the patient and other persons from harmful, excessive or misapplied radiation. Such practice shall include, but not necessarily be limited to: radiation beam calibration and characterization; oversight and responsibility for patient radiation dose measurement, calculation and reporting; oversight and responsibility for quality control; instrument specification; optimization of image quality; acceptance testing; shielding design; protection analysis on radiation emitting equipment and radiopharmaceuticals; and consultation with a physician to assure accurate radiation dosage and application to a specific patient.

2. A license to practice medical physics shall be issued with special competency in one or more specialty areas in which the licensee has satisfied the requirements of section eighty-seven hundred five of this title.

3. The practice in any specialty by a person whose license is not issued with special competency for such specialty shall be deemed the unauthorized practice of the profession of medical physics.

4. Only a person licensed under this title shall practice the profession of medical physics.

§ 8703. Use of the title "professional medical physicist". Only a person licensed under this title shall use the title "professional medical physicist".

§ 8704. State committee for medical physics. 1. A state committee for medical physics shall be appointed by the commissioner and shall assist on matters of licensure and professional conduct in accordance with section sixty-five hundred eight of this title. Notwithstanding the provisions of section sixty-five hundred eight of this title, the committee shall assist the board for medicine solely in medical physics matters, which board shall also function as the state board for medical physics. The licensure requirements for professional medical physicists shall be waived for the initial committee appointees, provided that such appointees shall have received national certification in their specialty.

2. The committee shall consist of eight individuals, to be composed of the following:

a. Four licensed medical physicists represented by each of the following specialties:

(i) diagnostic radiological physics;

(ii) therapeutic radiological or radiation oncology physics;

(iii) medical nuclear physics; and

(iv) medical health physics;

b. Three licensed physicians represented by each of the following specialties:

(i) diagnostic radiology;

(ii) radiation therapy or radiation oncology; and

(iii) nuclear medicine; and

(c) A representative of the public at large.

§ 8705. Requirements and procedures for professional licensure. To qualify for a license as a professional medical physicist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including a master's or doctoral degree from an accredited college or university in accordance with the commissioner's regulations. Such person shall have completed such courses of instruction as are deemed necessary by the commissioner to practice in the medical physics specialty in which the applicant has applied for a license;

3. Experience: have experience in his or her medical physics specialty satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination in his or her medical specialty satisfactory to the board and in accordance with the commissioner's regulations. The examination requirement may be waived by the board on recommendation of the commissioner for certain applicants with extensive experience as a medical physicist;

5. Age: be at least twenty-one years of age;

6. Fee: pay a fee of three hundred dollars to the department for admission to a department conducted examination for licensure, a fee of one hundred fifty dollars for licensure with special competency in the first specialty and twenty-five dollars for each additional specialty,

and a fee of three hundred dollars for each biennial registration period.

§ 8706. Limited permits. Permits limited as to eligibility, practice and duration shall be issued by the department to eligible applicants, as follows:

1. Eligibility. The following persons shall be eligible for a limited permit:

a. a person who fulfills all requirements for a license as a professional medical physicist except those relating to examination or experience; or

b. a medical physics student enrolled in a graduate or post-graduate curriculum approved by the department;

2. Limit of practice. A permittee shall be authorized to practice medical physics only under the direct and immediate supervision of a professional medical physicist and only in the specialty of such professional medical physicist;

3. Duration. A limited permit shall be valid for two years. It may be renewed biennially at the discretion of the department;

4. Fee. The fee for each limited permit and for each renewal shall be sixty dollars.

§ 8707. Exemptions. Nothing in this title shall be construed to affect, prevent or in any manner expand or limit the authority of any person otherwise authorized by law or regulation to practice any function of a medical physicist, or any department or agency authorized by law or regulation to regulate the use of radiation, nor prohibit the repair or calibration of any test equipment used by professional medical physicists by any person otherwise allowed to do so under state or federal law, nor serve to limit radiologic and/or imaging technicians or any individual otherwise authorized by law or regulation from performing quality control measurements or obtaining quality control data, nor serve to limit a service engineer in the repair of radiation producing equipment nor an installation engineer in the installation of radiation producing equipment.

§ 8708. Licensure without examination. 1. Within eighteen months of the effective date of regulations implementing the provisions of this title, the department may issue a license to practice medical physics with special competency in one or more specialties in this state, without an examination, to a person who meets the requirements of subdivisions one, five and six of section eighty-seven hundred five of this title and who in addition has an earned bachelor's, master's or doctoral degree from an accredited college or university that signifies the completion of a course of study acceptable to the department, and has 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;

b. Education: have received an education, including a bachelor's or higher degree from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations.

c. Experience: have experience in the practice of applied behavior analysis satisfactory to the board and the department in accordance with the commissioner's regulations.

d. Examination: pass an examination acceptable to the board and the department in accordance with the commissioner's regulations.

e. Age: be at least twenty-one years of age;

f. Character: be of good moral character as determined by the department and submit an attestation of moral character; and

g. Fee: pay a fee of one hundred fifty dollars for an initial license and a fee of seventy-five dollars for each triennial registration period.

2. To qualify for a license as a licensed behavior analyst, an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including a master's or higher degree from a program registered by the department or determined by the department to be the substantial equivalent, thereof, in accordance with the commissioner's regulations.

c. Experience: have experience in the practice of applied behavior analysis satisfactory to the board and the department in accordance with the commissioner's regulations.

d. Examination: pass an examination acceptable to the board and the department in accordance with the commissioner's regulations.

e. Age: be at least twenty-one years of age;

f. Character: be of good moral character as determined by the department and submit an attestation of moral character; and

g. Fee: pay a fee of two hundred dollars for an initial license and a fee of one hundred dollars for each triennial registration period.

§ 8805. Special provisions. An individual who meets the requirements for a license or certification as a licensed behavior analyst or a certified behavior analyst assistant, except for examination, experience and education, and who is certified or registered by a national certifying body having certification or registration standards acceptable to the commissioner, may be licensed or certified, without meeting additional requirements as to examination, experience and education, provided that such individual submits an application to the department within two years of the effective date of this section.

§ 8806. Limited permits. The following requirements for a limited permit shall apply to all professions licensed or certified pursuant to this title:

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, in accordance with regulations promulgated therefor.

2. Limited permits shall be for one year; such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

4. A limited permit holder shall practice only under supervision as determined in accordance with the commissioner's regulations.

§ 8807. Exemptions. 1. Nothing contained in this title shall be construed to limit the scopes of practice of any other profession licensed under this title.

2. Nothing in this title shall be construed as prohibiting a person from performing the duties of a licensed behavior analyst or a certified behavior analyst assistant, in the course of such employment, if such person is employed:

a. by a federal, state, county or municipal agency, or other political subdivision;

b. by a chartered elementary or secondary school or degree-granting institution;

c. as a certified teacher or teaching assistant, other than a pupil personnel services professional, in an approved program as defined in paragraph b of subdivision one of section forty-four hundred ten of the education law; or

d. in a setting to the extent that the exemption in paragraph d of subdivision six of section forty-four hundred ten of the education law applies.

3. Nothing in this title shall be construed as prohibiting a certified teacher or teaching assistant, other than a pupil personnel services professional, from performing the duties of a licensed behavior analyst or certified behavior analyst assistant, in the course of such employment or contractual agreement, if such person is employed or contracted with an agency approved by the department of health to provide early intervention services or has an agreement with the department of health to provide early intervention services pursuant to title two-A of article twenty-five of this chapter.

4. Nothing in this title shall be construed as prohibiting the activities and services required of a student, intern, or resident in an educational program acceptable to the department pursuant to the commissioner's regulations, pursuing a course of study leading to a bachelor's or higher degree in an educational program acceptable to the department pursuant to the commissioner's regulations in an institution approved by the department, provided that such activities and services constitute a part of his or her supervised course of study in an educational program acceptable to the department pursuant to the commissioner's regulations. Such person shall be designated by title which clearly indicates his or her training status.

5. Nothing in this title shall be construed to affect or prevent a person without a license or other authorization pursuant to this title from performing assessments, including collecting basic information, gathering demographic data, and making informal observations, for the purpose of determining need for services unrelated to an ABA plan. Further, licensure or authorization pursuant to this title shall not be required to create, develop or implement a service plan unrelated to an ABA plan. This title shall not apply to behavioral health treatments other than ABA that may be provided to persons with autism spectrum disorder. A license under this title shall not be required for persons to participate as a member of a multi-disciplinary team to implement an ABA plan; provided, however, that such team shall include one or more professionals licensed under this title or titles two, seventeen, 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 this title, and those who are not so authorized may not engage in the following restricted practices: creation, modification or termination of an ABA plan; diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; provision of psychotherapeutic treatment; provision of treatment other than psychotherapeutic treatment; and development and implementation of assessment-based treatment plans, as defined in section eighty-eight hundred two of this title. Provided further, however, that nothing in this subdivision shall be construed as requiring a license or authorization for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision. Provided further, however, that nothing in this subdivision shall authorize the delegation of restricted activities to an individual who is not appropriately licensed or authorized under this title.

6. Nothing in this title shall be construed as prohibiting an early intervention ABA aide, pursuant to regulations promulgated by the commissioner, and acting under the supervision and direction of a quali-

fied supervisor who is licensed or otherwise authorized pursuant to this chapter from:

(a) assisting the supervisor and qualified personnel with the implementation of individual ABA plans;

(b) assisting in the recording and collection of data needed to monitor progress;

(c) participating in required team meetings; and

(d) completing any other activities as directed by his or her supervisor and as necessary to assist in the implementation of individual ABA plans. Provided however, that nothing in this subdivision shall authorize the delegation of restricted activities to an individual who is not appropriately licensed or otherwise authorized under this title; provided further however, that in regard to the early intervention program established pursuant to title two-A of article twenty-five of this chapter, an early intervention ABA aide under the supervision and direction of a qualified supervisor may complete activities necessary to assist in the implementation of an individual ABA plan, provided that such activities do not require professional skill or judgment.

7. This title shall not be construed to prohibit care delivered by any family member, household member or friend, or person employed primarily in a domestic capacity who does not hold himself or herself out, or accept employment, as a person licensed to practice applied behavior analysis under the provisions of this title; provided that, if such person is remunerated, the person does not hold himself or herself out as one who accepts employment for performing such care.

8. Nothing in this title shall be construed as prohibiting programs certified by the office of alcoholism and substance abuse services from providing substance use disorder services for persons with autism and autism spectrum disorders and related disorders.

§ 8808. State board for applied behavior analysis. 1. A state board for applied behavior analysis shall be appointed by the commissioner and shall assist on matters of licensing and professional conduct in accordance with section sixty-five hundred eight of this article. An executive secretary of the board shall be appointed by the commissioner.

2. The board shall consist of seven individuals, to be composed of the following:

(a) Three licensed behavior analysts;

(b) One certified behavior analyst assistant;

(c) One licensed psychologist, who may currently prescribe treatment involving applied behavior analysis in his or her professional practice; and

(d) Two public representatives, as defined in paragraph b of subdivision one of section sixty-five hundred eight of this article.

TITLE 30
LICENSED PATHOLOGISTS' ASSISTANTS

Section 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;

3. Examination: obtain a passing score on an examination acceptable to the department;

4. Age: at the time of application be at least twenty-one years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for an initial license and for each triennial registration period.

§ 8853. Special provisions; eligibility. An individual who meets the requirements for a license as a licensed pathologists' assistant except for examination and education and who has been performing the duties of a pathologists' assistant for two of the five years prior to the effective date of this title may be licensed without meeting additional requirements, provided that such individual submits an application to

the department within two years of the effective date of this title. For this purpose, the applicant's supervising physicians must attest to the applicant's experience and competence.

§ 8854. State committee for pathologists' assistants. 1. A state committee for pathologists' assistants shall be appointed by the commissioner as a committee of the board of medicine to advise solely on matters relating to pathologists' assistants and shall assist on matters of licensure and professional conduct. The pathologists' assistant members of the initial committee need not be licensed prior to their appointment but shall have met all other requirements of licensing pursuant to section eighty-eight hundred fifty-two of this title except the filing of an application and paying a fee.

2. The committee shall consist of no fewer than five individuals, to be composed of a minimum of the following:

(a) one licensed physician who practices pathology;

(b) three licensed pathologists' assistants; and

(c) one public representative.

§ 8855. Limited permits. 1. Eligibility. A person who fulfills all requirements for licensure as a pathologists' assistant except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a pathologists' assistant only under the direction and supervision of a licensed physician who practices anatomic pathology and pursuant to the order and direction of that licensed physician.

3. Duration. A limited permit shall expire one year from the date of issuance. A limited permit may be extended for one additional year for good cause as determined by the department.

4. Fees. The fee for each limited permit shall be determined by the department.

§ 8856. Exemptions and exempt persons. This title shall not prohibit:

1. The performance of any tasks or responsibilities by any student engaged in clinical training in a general hospital licensed pursuant to title twenty-eight of this chapter, provided such practice is limited to clinical training that shall be carried out under the direct supervision of a licensed physician who practices anatomic pathology; or

2. The performance of any tasks or responsibilities by any person licensed under this title, provided such tasks or responsibilities are permitted by the title governing the profession pursuant to which such person is licensed; or

3. The performance of any tasks or responsibilities by any legally qualified pathologists' assistants 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; or

4. The performance of any tasks and responsibilities by any individual legally carrying out the examinations and tests enumerated in subdivision two of section five hundred seventy-nine of this chapter.

§ 3. The state finance law is amended by adding a new section 98-d to read as follows:

§ 98-d. Licensed healthcare professions account. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance an account of the miscellaneous special revenue fund to be known as the licensed healthcare professions account.

2. Notwithstanding any other law, rule or regulation to the contrary, the state comptroller is hereby authorized and directed to receive for

deposit to the credit of the licensed healthcare professions account, payments relating to the responsibilities of the department of health pursuant to article fifty-one of the public health law, including fees for professional licenses and registration, penalties for professional misconduct, charges for test administration, verification and certification of credentials, and restoration of revoked and annulled licenses, and surcharges and charges as established by statute or by the department of health's regulations pursuant to such article.

3. Moneys of this account, following appropriation by the legislature, shall be available to the department of health for services and expenses for regulation, oversight, and enforcement of licensed healthcare professions enumerated in article fifty-one of the public health law.

§ 4. Subdivision (d) of section 4504 of the civil practice law and rules, as added by chapter 987 of the laws of 1971, is amended to read as follows:

(d) Proof of negligence; unauthorized practice of medicine. In any action for damages for personal injuries or death against a person not authorized to practice medicine under [~~article 131 of the education law~~] title 2 of article 51 of the public health law for any act or acts constituting the practice of medicine, when such act or acts were a competent producing proximate or contributing cause of such injuries or death, the fact that such person practiced medicine without being so authorized shall be deemed prima facie evidence of negligence.

§ 5. Subdivision (a) of section 1203 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(a) Notwithstanding the education law or any other provision of law, one or more professionals each of whom is authorized by law to render a professional service within the state, or one or more professionals, at least one of whom is authorized by law to render a professional service within the state, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this article for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a professional service limited liability company formed to provide medical services as such services are defined in [~~article 131 of the education law~~] title 2 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide dental services as such services are defined in [~~article 133 of the education law~~] title 7 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in [~~article 154 of the education law~~] title 18 of article 51 of the public health law, each member of such limited liability company shall be licensed pursuant to [~~article 154 of the education law~~] title 18 of article 51 of the public health law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in [~~article 167 of the education law~~] title 29 of article 51 of the public health law, each member of such limited liability company must be licensed or certified pursuant to [~~article 167 of the education law~~] title 29 of article 51 of the public health law to practice applied behavior analysis in this state. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

§ 6. Subdivision (b) of section 1207 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in [~~article 131 of the education law~~] title 2 of article 51 of the public

health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide dental services as such services are defined in [~~article 133 of the education law~~] title 7 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in [~~article 154 of the education law~~] title 18 of article 51 of the public health law, each member of such limited liability company shall be licensed pursuant to [~~article 154 of the education law~~] title 18 of article 51 of the public health law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company 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. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such limited liability company must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in [~~article 167 of the education law~~] title 29 of article 51 of the public health law, each member of such limited liability company must be

licensed or certified pursuant to [~~article 167 of the education law~~] **title 29 of article 51 of the public health law** to practice applied behavior analysis in this state.

§ 7. Subdivisions (a), (b), (c) and (f) of section 1301 of the limited liability company law, subdivisions (a) and (f) as amended by chapter 475 of the laws of 2014, are amended to read as follows:

(a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in this state shall be licensed in this state. With respect to a foreign professional service limited liability company which provides veterinary services as such services are defined in article 135 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 135 of the education law to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services as such services are defined in [~~article 131 of the education law~~] **title 2 of article 51 of the public health law**, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides dental services as such services are defined in [~~article 133 of the education law~~] **title 7 of article 51 of the public health law**, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, geologic, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides licensed clinical social work services as such services are defined in [~~article 154 of the education law~~] **title 18 of article 51 of the public**

health law, each member of such foreign professional service limited liability company shall 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. With respect to a foreign professional service limited liability company which provides creative arts therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides marriage and family therapy services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides mental health counseling services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such foreign professional service limited liability company 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. With respect to a foreign professional service limited liability company which provides psychoanalysis services as such services are defined in [~~article 163 of the education law~~] title 25 of article 51 of the public health law, each member of such foreign professional service limited liability company must be licensed pursuant to [~~article 163 of the education law~~] title 25 of article 51 of the public health law to practice psychoanalysis in this state. With respect to a foreign professional service limited liability company which provides applied behavior analysis services as such services are defined in [~~article 167 of the education law~~] title 29 of article 51 of the public health law, each member of such foreign professional service limited liability company must be licensed or certified pursuant to [~~article 167 of the education law~~] title 29 of article 51 of the public health law to practice applied behavior analysis in this state.

(b) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, the department of health in the case of all professions licensed under article fifty-one of the public health law, and the appropriate appellate division of the supreme court in the case of the profession of law.

(c) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the education law or article fifty-one of the public health law.

(f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the

licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional 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; except that all partners of a professional partnership that provides veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine 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.

§ 8. The tenth, twelfth, fourteenth, and sixteenth undesignated paragraphs of section 2 of the partnership law, the tenth, twelfth, and sixteenth undesignated paragraphs as added by chapter 576 of the laws of 1994, and the fourteenth undesignated paragraph as amended by chapter 475 of the laws of 2014, are amended to read as follows:

"Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, **the department of health in the case of all professions licensed under article fifty-one of the public health law** and the appropriate appellate division of the supreme court in the case of the profession of law.

"Profession" includes any practice as an attorney and counsellor-at-law or as a licensed physician, and those professions designated in title eight of the education law **or article fifty-one of the public health law**.

"Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional 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 [~~article 163 of the education law~~] **title 25 of article 51 of the public health law** to practice psychoanalysis in this state. Each partner of a registered limited liability partnership formed to provide applied behavior analysis service in this state must be licensed or certified pursuant to [~~article 167 of the education law~~] **title 29 of article 51 of the public health law** to practice applied behavior analysis in this state.

§ 10. Subdivision (q) of section 121-1502 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 foreign limited liability partnership which 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 the state and each partner of a

foreign limited liability partnership which provides dental services in the 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 foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides 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. Each partner of a foreign limited liability partnership which provides 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 licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides psychoanalysis 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 psychoanalysis in this state. Each partner of a foreign limited liability partnership which provides applied behavior analysis services in this state must be licensed or certified pursuant to [~~article 167 of the education law~~] **title 29 of article 51 of the public health law** to practice applied behavior analysis in this state.

§ 11. Section 24-a of the corrections law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

§ 24-a. Actions against persons rendering health care services at the request of the department; 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 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-one of the public health law** or any other person not prohibited by law from providing mental health or developmental disabilities services.

§ 15. Section 14 of the public health law, as amended by chapter 2 of the laws of 1998, is amended to read as follows:

§ 14. Actions against persons rendering professional services at the request of the department; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any physician, dentist, nurse or other health care professional who: (i) is licensed to practice pursuant to [~~article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-three, one hundred fifty-six, one hundred fifty-seven, one hundred fifty-nine or one hundred sixty-four of the education law~~] **titles two,**

four, six, seven, nine, ten, twelve, fifteen, twenty, twenty-one, twenty-two and twenty-six of article fifty-one of this chapter and who is rendering professional treatment or consultation in connection with professional treatment authorized under such license at the request of the department, or at a departmental facility, including clinical practice provided pursuant to a clinical practice plan established pursuant to subdivision fourteen of section two hundred six of this chapter, to patients receiving care or professional consultation from the department while rendering such professional treatment or consultation; (ii) is rendering consultation in connection with an audit or prepayment review of claims or treatment requests under the medical assistance program; or (iii) assists the department as consultants or expert witnesses in the investigation or prosecution of alleged violations of article twenty-eight, thirty-six, forty-four or forty-seven of this chapter or rules and regulations adopted pursuant thereto.

§ 16. Paragraph (d) of subdivision 1 of section 18 of the public health law, as added by chapter 497 of the laws of 1986, is amended to read as follows:

(d) "Health care practitioner" or "practitioner" means a person licensed under [~~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 or one hundred fifty-nine of the education law~~] **titles two, four, six, seven, nine, twelve, fourteen, fifteen, sixteen, seventeen, eighteen, twenty, and twenty-two of article fifty-one of this chapter** or a person certified under **former** section twenty-five hundred sixty of this chapter.

§ 17. The opening paragraph of subdivision 1 of section 19 of the public health law, as added by chapter 572 of the laws of 1990, is amended to read as follows:

No physician licensed under [~~article one hundred thirty-one of the education law~~] **title two of article fifty-one of this chapter** shall charge from a beneficiary of health insurance under title XVIII of the federal social security act (medicare) any amount in excess of the following limitations:

§ 18. Subdivisions 1 and 9-b, clause 2 of subparagraph (ii) of paragraph (h) and paragraph (p) of subdivision 10, paragraph (a) of subdivision 11, paragraphs (a) and (b) of subdivision 13, and paragraph (c) of subdivision 17 of section 230 of the public health law, subdivision 1 as amended by chapter 537 of the laws of 1998, subdivision 9-b as amended by chapter 11 of the laws of 2015, clause 2 of subparagraph (ii) of paragraph (h) of subdivision 10 as amended by chapter 477 of the laws of 2008, paragraph (p) of subdivision 10 as amended by chapter 599 of the laws of 1996, paragraph (a) of subdivision 11 as amended by chapter 627 of the laws of 1996, paragraphs (a) and (b) of subdivision 13 as added by and paragraph (c) of subdivision 17 as amended by chapter 606 of the laws of 1991, are amended to read as follows:

1. A state board for professional medical conduct is hereby created in the department in matters of professional misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of [~~the education law~~] **this chapter**. Its physician members shall be appointed by the commissioner at least eighty-five percent of whom shall be from among nominations submitted by the medical society of the state of New York, the New York state osteopathic society, the New York academy of medicine, county medical societies, statewide specialty societies

recognized by the council of medical specialty societies, and the hospital association of New York state. Its lay members shall be appointed by the commissioner with the approval of the governor. The board of regents shall also appoint twenty percent of the members of the board. Not less than sixty-seven percent of the members appointed by the board of regents shall be physicians. Not less than eighty-five percent of the physician members appointed by the board of regents shall be from among nominations submitted by the medical society of the state of New York, the New York state osteopathic society, the New York academy of medicine, county medical societies, statewide medical societies recognized by the council of medical specialty societies, and the hospital association of New York state. Any failure to meet the percentage thresholds stated in this subdivision shall not be grounds for invalidating any action by or on authority of the board for professional medical conduct or a committee or a member thereof. The board for professional medical conduct shall consist of not fewer than eighteen physicians licensed in the state for at least five years, two of whom shall be doctors of osteopathy, not fewer than two of whom shall be physicians who dedicate a significant portion of their practice to the use of non-conventional medical treatments who may be nominated by New York state medical associations dedicated to the advancement of such treatments, at least one of whom shall have expertise in palliative care, and not fewer than seven lay members. An executive secretary shall be appointed by the chairperson and shall be a licensed physician. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers and duties assigned and the annual salary fixed by, the chairperson. The chairperson shall also assign such secretaries or other persons to the board as are necessary.

9-b. Neither the board for professional medical conduct nor the office of professional medical conduct shall charge a licensee with misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of [~~the education law~~] **this chapter**, or cause a report made to the director of such office to be investigated beyond a preliminary review as set forth in clause (A) of subparagraph (i) of paragraph (a) of subdivision ten of this section, where such report is determined to be based solely upon the recommendation or provision of a treatment modality to a particular patient by such licensee that is not universally accepted by the medical profession, including but not limited to, varying modalities used in the treatment of Lyme disease and other tick-borne diseases. When a licensee, acting in accordance with paragraph e of subdivision four of section sixty-five hundred twenty-seven of [~~the education law~~] **this chapter**, recommends or provides a treatment modality that effectively treats human disease, pain, injury, deformity or physical condition for which the licensee is treating a patient, the recommendation or provision of that modality to a particular patient shall not, by itself, constitute professional misconduct. The licensee shall otherwise abide by all other applicable professional requirements.

(2) make arrangements for the transfer and maintenance of the medical records of his or her former patients. Records shall be either transferred to the licensee's former patients consistent with the provisions of sections seventeen and eighteen of this chapter or to another physician or health care practitioner as provided in clause (1) of this subparagraph who shall expressly assume responsibility for their care and maintenance and for providing access to such records, as provided in subdivisions twenty-two and thirty-two of section sixty-five hundred

thirty of [~~the education law~~] **this chapter**, the rules of the [~~board of regents~~] **department** or the regulations of the commissioner of [~~education~~] **health** and sections seventeen and eighteen of this chapter. When records are not transferred to the licensee's former patients or to another physician or health care practitioner, the licensee whose license has been revoked, annulled, surrendered, suspended or restricted shall remain responsible for the care and maintenance of the medical records of his or her former patients and shall be subject to additional proceedings pursuant to subdivisions twenty-two, thirty-two and forty of section sixty-five hundred thirty of [~~the education law~~] **this chapter** in the event that the licensee fails to maintain those medical records or fails to make them available to a former patient.

(p) Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision nine of section sixty-five hundred thirty of [~~the education law~~] **this chapter**, the director may direct that charges be prepared and served and may refer the matter to a committee on professional conduct for its review and report of findings, conclusions as to guilt, and determination. In such cases, the notice of hearing shall state that the licensee shall file a written answer to each of the charges and allegations in the statement of charges no later than ten days prior to the hearing, and that any charge or allegation not so answered shall be deemed admitted, that the licensee may wish to seek the advice of counsel prior to filing such answer that the licensee may file a brief and affidavits with the committee on professional conduct, that the licensee may appear personally before the committee on professional conduct, may be represented by counsel and may present evidence or sworn testimony in his or her behalf, and the notice may contain such other information as may be considered appropriate by the director. The department may also present evidence or sworn testimony and file a brief at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered to the committee on professional conduct shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered to the committee which would show that the conviction would not be a crime in New York state. The committee on professional conduct may reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify. The determination of the committee shall be served upon the licensee and the department in accordance with the provisions of paragraph (h) of this subdivision. A determination pursuant to this subdivision may be reviewed by the administrative review board for professional medical conduct.

(a) The medical society of the state of New York, the New York state osteopathic society or any district osteopathic society, any statewide medical specialty society or organization, and every county medical society, every person licensed pursuant to [~~articles one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-three, one hundred thirty-seven and one hundred thirty-nine of the education law~~] **titles two, four, seven, ten, and twelve of article fifty-one of this chapter**, and the chief executive officer, the chief of the medical staff and the chairperson of each department of every institution which is established pursuant to article twenty-eight of this chapter and a comprehensive health services plan pursuant to article forty-four of this chapter or article forty-three of the insurance law, shall, and any other person

may, report to the board any information which such person, medical society, organization institution or plan has which reasonably appears to show that a licensee is guilty of professional misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of [~~the education law~~] **this chapter**. Such reports shall remain confidential and shall not be admitted into evidence in any administrative or judicial proceeding except that the board, its staff, or the members of its committees may begin investigations on the basis of such reports and may use them to develop further information.

(a) Temporary surrender. The license and registration of a licensee who may be temporarily incapacitated for the active practice of medicine and whose alleged incapacity has not resulted in harm to a patient may be voluntarily surrendered to the board for professional medical conduct, which may accept and hold such license during the period of such alleged incapacity or the board for professional medical conduct may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license. The board shall give prompt written notification of such surrender to the division of professional licensing services of the state education department, and to each hospital at which the licensee has privileges. The licensee whose license is so surrendered shall notify all patients and all persons who request medical services that the licensee has temporarily withdrawn from the practice of medicine. The licensure status of each such licensee shall be "inactive" and the licensee shall not be authorized to practice medicine. The temporary surrender shall not be deemed to be an admission of disability or of professional misconduct, and shall not be used as evidence of a violation of subdivision seven or eight of section sixty-five hundred thirty of [~~the education law~~] **this chapter** unless the licensee practices while the license is "inactive". Any such practice shall constitute a violation of subdivision twelve of section sixty-five hundred thirty of [~~the education law~~] **this chapter**. The surrender of a license under this subdivision shall not bar any disciplinary action except action based solely upon the provisions of subdivision seven or eight of section sixty-five hundred thirty of [~~the education law~~] **this chapter** and where no harm to a patient has resulted, and shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. A surrendered license shall be restored upon a showing to the satisfaction of a committee of professional conduct of the state board for professional medical conduct that the licensee is not incapacitated for the active practice of medicine provided, however, that the committee may impose reasonable conditions on the licensee, if it determined that due to the nature and extent of the licensee's former incapacity such conditions are necessary to protect the health of the people. The chairperson of the committee shall issue a restoration order adopting the decision of the committee. Prompt written notification of such restoration shall be given to the division of professional licensing services of the [~~state education~~] department and to all hospitals which were notified of the surrender of the license.

(b) Permanent surrender. The license and registration of a licensee who may be permanently incapacitated for the active practice of medicine, and whose alleged incapacity has not resulted in harm to a patient, may be voluntarily surrendered to the board for professional medical conduct. The board shall give prompt written notification of such surrender to the division of professional licensing services of the state education department, and to each hospital at which the licensee

has privileges. The licensee whose license is so surrendered shall notify all patients and all persons who request medical services that the licensee has permanently withdrawn from the practice of medicine. The permanent surrender shall not be deemed to be an admission of disability of or professional misconduct, and shall not be used as evidence of a violation of subdivision seven or eight of section sixty-five hundred thirty of [~~the education law~~] **this chapter**. The surrender shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. There shall be no restoration of a license that has been surrendered pursuant to this subdivision.

(c) If the committee determines that reasonable cause exists as specified in paragraph (a) of this subdivision and that there is insufficient evidence for the matter to constitute misconduct as defined in sections sixty-five hundred thirty and section sixty-five hundred thirty-one of [~~the education law~~] **this chapter**, the committee may issue an order directing that the licensee's practice of medicine be monitored for a period specified in the order, which shall in no event exceed one year, by a licensee approved by the director, which may include members of county medical societies or district osteopathic societies designated by the commissioner. The licensee responsible for monitoring the licensee shall submit regular reports to the director. If the licensee refuses to cooperate with the licensee responsible for monitoring or if the monitoring licensee submits a report that the licensee is not practicing medicine with reasonable skill and safety to his or her patients, the committee may refer the matter to the director for further proceedings pursuant to subdivision ten of this section. An order pursuant to this paragraph shall be kept confidential and shall not be subject to discovery or subpoena, unless the licensee refuses to comply with the order.

§ 19. Paragraph (i) of subdivision 1 of section 230-d of the public health law, as amended by chapter 438 of the laws of 2012, is amended to read as follows:

(i) "Licensee" shall mean an individual licensed or otherwise authorized under article one hundred thirty-one, one hundred thirty-one-B, individuals who have obtained an issuance of a privilege to perform podiatric standard or advanced ankle surgery pursuant to subdivisions one and two of section seven thousand nine of [~~the education law~~] **this chapter**.

§ 20. Subdivision 5 of section 230-d of the public health law, as added by chapter 365 of the laws of 2007, is amended to read as follows:

5. The commissioner shall make, adopt, promulgate and enforce such rules and regulations, as he or she may deem appropriate, to effectuate the purposes of this section. Where any rule or regulation under this section would affect the scope of practice of a health care practitioner licensed, registered or certified under title eight of the education law other than those licensed under [~~articles one hundred thirty-one or one hundred thirty-one-B of the education law~~] **article fifty-one of this chapter**, the rule or regulation shall be made with the concurrence of the commissioner of education.

§ 21. Paragraph (a) of subdivision 3 of section 260 of the public health law, as amended by chapter 84 of the laws of 2006, is amended to read as follows:

(a) is licensed, or exempt from licensure, pursuant to [~~articles 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 hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred~~

~~fifty-three, one hundred fifty-four, one hundred fifty-five, one hundred fifty-six, one hundred fifty-seven, one hundred fifty-nine, one hundred sixty, one hundred sixty-two, or one hundred sixty-four of the education law~~] titles two, four, six, seven, nine, ten, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twenty-six of article fifty-one of this chapter;

§ 22. Subdivision 1 of section 462 of the public health law, as amended by chapter 562 of the laws of 2001, is amended to read as follows:

1. This article shall not apply to or affect a physician duly licensed under [~~article one hundred thirty-one of the education law~~] title two of article fifty-one of this chapter or x-ray technicians.

§ 23. Subdivision 2 of section 470 of the public health law, as added by chapter 514 of the laws of 2004, is amended to read as follows:

2. No person shall perform a tongue-splitting on another person, unless the person performing such tongue-splitting is licensed to practice medicine pursuant to [~~article one hundred thirty-one of the education law~~] title two of article fifty-one of this chapter or licensed to practice dentistry pursuant to [~~article one hundred thirty-three of the education law~~] title seven of article fifty-one of this chapter.

§ 24. Section 2509-c of the public health law, as added by section 5 of subpart A of part JJ of chapter 56 of the laws of 2021, is amended to read as follows:

§ 2509-c. Availability of adverse childhood experiences services. Every pediatrics health care provider licensed pursuant to [~~article one hundred thirty-one of the education law~~] title two of article fifty-one of this chapter shall be required to provide the parent, guardian, custodian or other authorized individual of a child that the pediatrician sees in their official capacity, with educational materials developed pursuant to subdivision two of section three hundred seventy-c of the social services law. Such materials may be provided electronically and shall be used to inform and educate them about adverse childhood experiences, the importance of protective factors and the availability of services for children at risk for or experiencing adverse childhood experiences.

§ 25. Subdivision 17 of section 2511 of the public health law, as added by chapter 2 of the laws of 1998, is amended to read as follows:

17. The commissioner, in consultation with the superintendent, is authorized to establish and operate a child health information service which shall utilize advanced telecommunications technologies to meet the health information and support needs of children, parents and medical professionals, which shall include, but not be limited to, treatment guidelines for children, treatment protocols, research articles and standards for the care of children from birth through eighteen years of age. Such information shall not constitute the practice of medicine, as defined in [~~article one hundred thirty-one of the education law~~] title two of article fifty-one of this chapter.

§ 26. Paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (y) of subdivision 2 of section 2999-cc of the public health law, paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) as amended and paragraph (m) as added by chapter 454 of the laws of 2015, and paragraph (y) as amended by section 1 of part V of chapter 57 of the laws of 2022, are amended to read as follows:

(a) a physician licensed pursuant to [~~article one hundred thirty-one of the education law~~] title two of article fifty-one of this chapter;

(b) a physician assistant licensed pursuant to [~~article one hundred thirty-one-B of the education law~~] title four of article fifty-one of this chapter;

(c) a dentist licensed pursuant to [~~article one hundred thirty-three of the education law~~] title seven of article fifty-one of this chapter;

(d) a nurse practitioner licensed pursuant to [~~article one hundred thirty-nine of the education law~~] title twelve of article fifty-one of this chapter;

(e) a registered professional nurse licensed pursuant to [~~article one hundred thirty-nine of the education law~~] title twelve of article fifty-one of this chapter only when such nurse is receiving patient-specific health information or medical data at a distant site by means of remote patient monitoring;

(f) a podiatrist licensed pursuant to [~~article one hundred forty-one of the education law~~] title fourteen of article fifty-one of this chapter;

(g) an optometrist licensed pursuant to [~~article one hundred forty-three of the education law~~] title fifteen of article fifty-one of this chapter;

(h) a psychologist licensed pursuant to [~~article one hundred fifty-three of the education law~~] title seventeen of article fifty-one of this chapter;

(i) a social worker licensed pursuant to [~~article one hundred fifty-four of the education law~~] title eighteen of article fifty-one of this chapter;

(j) a speech language pathologist or audiologist licensed pursuant to [~~article one hundred fifty-nine of the education law~~] title twenty-two of article fifty-one of this chapter;

(k) a midwife licensed pursuant to [~~article one hundred forty of the education law~~] title thirteen of article fifty-one of this chapter;

(l) a physical therapist licensed pursuant to [~~article one hundred thirty-six of the education law~~] title nine of article fifty-one of this chapter;

(m) an occupational therapist licensed pursuant to [~~article one hundred fifty-six of the education law~~] title twenty of article fifty-one of this chapter;

(y) a mental health practitioner licensed pursuant to [~~article one hundred sixty-three of the education law~~] title twenty-five of article fifty-one of this chapter; and

§ 27. Subdivision 7 of section 2999-cc of the public health law, as amended by section 3 of subpart C of part S of chapter 57 of the laws of 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 article 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 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 mental health services and meets the national health service corps state loan repayment program eligibility criteria.

3. "Physician assistant" means a person who has been registered as such pursuant to [~~article one hundred thirty-one-B of the education law~~] **title four of article fifty-one of this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

4. "Nurse practitioner" means a person who has been certified as such pursuant to section sixty-nine hundred ten of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

5. "Midwife" means a person who has been licensed as such pursuant to section sixty-nine hundred fifty-five of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

6. "Psychologist" means a person who has been licensed as such pursuant to section seventy-six hundred three of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

7. "Licensed clinical social worker" means a person who has been licensed as such pursuant to section seventy-seven hundred two of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

8. "Psychiatric nurse practitioner" means a nurse practitioner who, by reason of training and experience, provides a full spectrum of psychiatric care, assessing, diagnosing, and managing the prevention and treatment of psychiatric disorders and mental health problems and meets the national health service corps state loan repayment program eligibility criteria.

9. "Licensed marriage and family therapist" means a person who has been licensed as such pursuant to section eighty-four hundred three of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

10. "Licensed mental health counselor" means a person who has been licensed as such pursuant to section eighty-four hundred two of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

11. "General or pedodontic dentist" means a person who has been licensed or otherwise authorized to practice dentistry pursuant to [~~article one hundred thirty-three of the education law~~] **title seven of article fifty-one of this chapter** excluding orthodontists, endodontists and periodontists and meets the national health service corps state loan repayment program eligibility criteria.

12. "Dental hygienist" means a person who is licensed to practice dental hygiene pursuant to section sixty-six hundred nine of [~~the education law~~] **this chapter** and meets the national health service corps state loan repayment program eligibility criteria.

§ 38. Subdivision 3 of section 2998-e of the public health law, as added by chapter 365 of the laws of 2007, is amended to read as follows:

3. The commissioner shall make, adopt, promulgate and enforce such rules and regulations, as he or she may deem appropriate, to effectuate the purposes of this section. [~~Where any rule or regulation under this section would affect the scope of practice of a health care practitioner licensed, registered or certified under title eight of the education law other than those licensed under articles one hundred thirty-one or one hundred thirty-one-B of the education law, the rule or regulation shall 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 defined in [~~article one hundred fifty-six of the education law~~] title twenty 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 occupational therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

§ 42. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 4 of section 13-c of the workers' compensation law, as added by chapter 362 of the laws of 1986, 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 qualifica-

tions 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 of 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 defined in [~~article one hundred fifty-six of the education law~~] **title twenty 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 occupational therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

Reports of such treatment and supervision shall be made by such physician to the chairman on such forms and at such times as the chairman may require.

§ 43. Subdivision 2 of section 40 of the cannabis law is amended to read as follows:

2. Medical cannabis 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 the public health law**.

§ 44. Subdivision 25 of section 206 of the public health law, as added by chapter 563 of the laws of 2008, is amended to read as follows:

25. (a) In assessing and reporting on the impact of section sixty-eight hundred one of [~~the education law~~] **this chapter**, pursuant to subdivision four of such section the commissioner may use: (1) influenza vaccine supply data from the federal centers for disease control and prevention; (2) pneumococcal vaccine supply data provided by manufacturers and distributors of such vaccine; and (3) data from a third party entity that engages in the collection of data and tracking of pharmaceutical sales and distribution. Manufacturers and distributors of pneumococcal vaccine shall provide or arrange for the timely provision to the commissioner of such data as the commissioner may reasonably request to complete the report. Provider and customer identifiable information submitted pursuant to this paragraph shall be confidential, unless the information provider consents to its release or the commissioner determines disclosure is necessary to respond to an imminent public health emergency.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the commissioner may require reporting by entities licensed pursuant 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. It shall be unlawful for any person to sell or furnish to another person or persons, a hypodermic syringe or hypodermic needle except:

(a) pursuant to a prescription of a practitioner, which for the purposes of this section shall include a patient specific prescription form as provided for in [~~the education law~~] this chapter; or

(b) to persons who have been authorized by the commissioner to obtain and possess such instruments; or

(c) by a pharmacy licensed under [~~article one hundred thirty-seven of the education law~~] title ten of article fifty-one of this chapter, health care facility licensed under article twenty-eight of this chapter or a health care practitioner who is otherwise authorized to prescribe the use of hypodermic needles or syringes within his or her scope of practice; provided, however, that such sale or furnishing: (i) shall

only be to a person eighteen years of age or older; and (ii) shall be in accordance with subdivision four of this section; or

(d) under subdivision three of this section.

4. (a) A person eighteen years of age or older may obtain and possess a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of subdivision one of this section.

(b) Subject to regulations of the commissioner, a pharmacy licensed under [~~article one hundred thirty-seven of the education law~~] **title ten of article fifty-one of this chapter**, a health care facility licensed under article twenty-eight of this chapter or a health care practitioner who is otherwise authorized to prescribe the use of hypodermic needles or syringes within his or her scope of practice, may obtain and possess hypodermic needles or syringes for the purpose of selling or furnishing them pursuant to paragraph (c) of subdivision one of this section or for the purpose of disposing of them.

(c) Sale or furnishing of hypodermic syringes or hypodermic needles to direct consumers pursuant to this subdivision by a pharmacy, health care facility, or health care practitioner shall be accompanied by a safety insert. Such safety insert shall be developed or approved by the commissioner and shall include, but not be limited to, (i) information on the proper use of hypodermic syringes and hypodermic needles; (ii) the risk of blood borne diseases that may result from the use of hypodermic syringes and hypodermic needles; (iii) methods for preventing the transmission or contraction of blood borne diseases; (iv) proper hypodermic syringe and hypodermic needle disposal practices; (v) information on the dangers of injection drug use, and how to access drug treatment; (vi) a toll-free phone number for information on the human immunodeficiency virus; and (vii) information on the safe disposal of hypodermic syringes and hypodermic needles including the relevant provisions of the environmental conservation law relating to the unlawful release of regulated medical waste. The safety insert shall be attached to or included in the hypodermic syringe and hypodermic needle packaging, or shall be given to the purchaser at the point of sale or furnishing in brochure form.

(d) In addition to the requirements of paragraph (c) of subdivision one of this section, a pharmacy licensed under [~~article one hundred thirty-seven of the education law~~] **title ten of article fifty-one of this chapter** may sell or furnish hypodermic needles or syringes only if such pharmacy stores such needles and syringes in a manner that makes them available only to authorized personnel and not openly available to customers.

(e) A pharmacy registered under [~~article one hundred thirty-seven of the education law~~] **title ten of article fifty-one of this chapter** may offer counseling and referral services to customers purchasing hypodermic syringes for the purpose of: preventing injection drug abuse; the provision of drug treatment; preventing and treating hepatitis C; preventing drug overdose; testing for the human immunodeficiency virus; and providing pre-exposure prophylaxis and non-occupational post-exposure prophylaxis. The content of such counseling and referral shall be at the professional discretion of the pharmacist.

(f) The commissioner shall promulgate rules and regulations necessary to implement the provisions of this subdivision which shall include: (i) standards for advertising to the public the availability for retail sale or furnishing of hypodermic syringes or needles; and (ii) a requirement that such pharmacies, health care facilities and health care practitioners cooperate in a safe disposal of used hypodermic needles or syringes.

(g) The commissioner may, upon the finding of a violation of this section, suspend for a determinate period of time the sale or furnishing of syringes by a specific entity.

§ 48. The opening paragraph of paragraph 15 of subdivision a of section 265.20 of the penal law, as added by chapter 354 of the laws of 1996, is amended to read as follows:

Possession and sale of a self-defense spray device as defined in paragraph fourteen of this subdivision by a dealer in firearms licensed pursuant to section 400.00 of this chapter, a pharmacist licensed pursuant to [~~article one hundred thirty-seven of the education law~~] **title ten of article fifty-one of the public health law** or by such other vendor as may be authorized and approved by the superintendent of state police.

§ 49. Intentionally omitted.

§ 50. Section 182 of the general business law, as added by chapter 731 of the laws of 1952 and as renumbered by chapter 893 of the laws of 1958, is amended to read as follows:

§ 182. Cards to be furnished nurses; registry records. A nurses' registry shall send out to practice nursing only persons duly licensed pursuant to [~~article one hundred thirty-nine of the education law~~] **title twelve of article fifty-one of the public health law** as a registered professional nurse or licensed practical nurse. Every nurses' registry, before sending a person out to practice nursing, shall investigate such person's educational qualifications and verify such person's licensure and current registration. At least two current written references shall be required of such person. The record of such investigation and verification shall be kept on file in the registry.

Every nurses' registry that sends out any such person shall at such time give to such person and send to the employer of such person a card stating (1) such person's name, address and salary, (2) whether such person is a registered professional nurse or licensed practical nurse, (3) the number of the current registration certificate issued to such person by the [~~education~~] department **of health**, and (4) a statement that the record of such person's educational qualifications and experience in the practice of nursing is on file in such registry and that a copy thereof will be sent to such employer on request. A copy of such card shall be kept on file in the registry.

The record of investigation and verification and the card-copy required by this section to be kept on file shall be open to inspection by any duly authorized agent of the university of the state of New York, and every nurses' registry shall furnish a complete list of its registrants on request of such agent.

§ 51. Subdivision 4 of section 185 of the general business law, as amended by chapter 998 of the laws of 1960, is amended to read as follows:

4. Types of employment. For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

Class "A"--domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

Class "A1"--non-professional trained or skilled industrial workers or mechanics;

Class "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

Class "C"--theatrical engagements;

Class "D"--nursing engagements as defined in **title twelve of** article [~~one hundred thirty-nine of the education~~] **fifty-one of the public health** law.

§ 52. Item (i) of subparagraph (A) of paragraph 10 of subsection (i) of section 3216 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(i) Every policy which provides hospital, surgical or medical coverage shall provide coverage for maternity care, including hospital, surgical or medical care to the same extent that hospital, surgical or medical coverage is provided for illness or disease under the policy. 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 after a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to **title thirteen of** article [~~one hundred forty of the education~~] **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.

§ 53. Item (i) of subparagraph (A) of paragraph 5 of subsection (k) of section 3221 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended to read as follows:

(i) Every group or blanket policy delivered or issued for delivery in this state which provides hospital, surgical or medical coverage shall include coverage for maternity care, including hospital, surgical or medical care to the same extent that coverage is provided for illness or disease under the policy. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours after a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to **title thirteen of** article [~~one hundred forty of the education~~] **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.

§ 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 mater-

nity 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 professional nurses or licensed practical nurses licensed pursuant to **title twelve of** article [~~one hundred thirty-nine of the education law~~] **fifty-one of this chapter** or certified nurse aides who have completed certification and training approved by the department shall be deducted from the calculation of the amount spent on resident-facing staffing and direct resident care.

§ 60. Paragraph (b) of subdivision 1 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, is amended to read as follows:

(b) "Licensed nurse" means a registered professional nurse or licensed practical nurse licensed pursuant to **title twelve of** article [~~one hundred thirty-nine of the education law~~] **fifty-one of this chapter**.

§ 61. Paragraph (a) of subdivision 2, and subdivisions 5 and 8 of section 13-m of the workers' compensation law, paragraph (a) of subdivision 2 as amended by section 6 of part CC of chapter 55 of the laws of 2019, and subdivisions 5 and 8 as added by chapter 589 of the laws of 1989, are amended to read as follows:

(a) An injured employee, injured under circumstances which make such injury compensable under this article, may lawfully be treated by a psychologist, duly registered and licensed by the state of New York, authorized by the chair to render psychological care pursuant to section thirteen-b of this article. Such services shall be within the scope of such psychologist's specialized training and qualifications as defined in **title seventeen of** article [~~one hundred fifty-three of the education~~] **fifty-one of the public health** law.

5. Fees for psychological services shall be payable only to a duly authorized psychologist as licensed in **title seventeen of** article [~~one hundred fifty-three of the education~~] **fifty-one of the public health** law, or to the agent, executor or administrator of the estate of such psychologist. No psychologist rendering treatment to a compensation claimant shall collect or receive a fee from such claimant within this state, but shall have recourse for payment of services rendered only to the employer under the provisions of this section.

8. Within the limits prescribed by the [~~education~~] **public health** law for psychological care and treatment, the report or testimony of an authorized psychologist concerning the condition of an injured employee and treatment thereof shall be deemed competent evidence and the professional opinion of the psychologist as to causal relation and as to required treatment shall be deemed competent but shall not be controlling. Nothing in this section shall be deemed to deprive any employer or insurance carrier of any right to a medical examination or presentation of medical testimony now conferred by law.

§ 62. Subdivision 1 of section 794 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

1. Prior to the expiration of a certificate of registration and as a condition of renewal, each hearing aid dispenser registered pursuant to subdivision one of section seven hundred ninety of this article shall submit documentation showing successful completion of twenty continuing education credits through a course or courses approved by the secretary in consultation with the advisory board, or, in relation to audiologists licensed pursuant to **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law, the office of the professions in the [~~education~~] department **of health**. Such formal courses of learning shall include, but not be limited to, collegiate level of credit in non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the secretary and any other organized educational and technical programs acceptable to the secretary. The secretary may, in his or her 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 shall be taken from a sponsor approved by the secretary pursuant to regulations promulgated pursuant to this section.

§ 63. Subdivision 2 of section 794 of the general business law, as amended by chapter 301 of the laws of 2000, is amended to read as follows:

2. A hearing aid dispenser registered under paragraph (b) of subdivision one of section seven hundred ninety of this article may satisfy the requirements of subdivision one of this section by demonstrating to the secretary compliance with such continuing competency requirements as are prescribed by **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law, provided, however, that, such persons shall submit documentation showing the successful completion of four continuing education credits relating to the dispensing of hearing aids.

§ 64. Paragraph (f) of subdivision 4, subdivision 10, and paragraph (a) of subdivision 15 of section 798 of the general business law, paragraph (f) of subdivision 4 as added by chapter 599 of the laws of 1998, subdivision 10 as amended by chapter 301 of the laws of 2000, and paragraph (a) of subdivision 15 as amended by chapter 133 of the laws of 1999 are amended to read as follows:

(f) if applicable, requirements otherwise provided under **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law.

10. (a) A hearing aid dispenser, not otherwise licensed pursuant to **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law, shall provide any prospective hearing aid users with a copy of their audiogram which shall include pure-tone (air and bone conduction) and speech audiometry test results, upon completion of such audiometric tests. Such audiogram shall clearly and conspicuously contain the following statement: "This information is intended for the sole purpose of fitting or selecting a hearing aid and is not a medical examination or audiological evaluation".

(b) Hearing aid dispensers licensed under **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law shall comply with the provisions of such article in the conduct of audiological evaluations and shall further provide a copy of the results of any audiological evaluation to any prospective hearing aid users with the following statement: "This is an audiological evaluation and is not a medical examination".

(a) no hearing aid dispenser shall, through advertisement, indicate or imply that any type of medical examination or audiological evaluation will be provided or that the dispenser has been recommended by anyone other than an individual licensed to perform such examination or evaluation; provided, however, that nothing in this paragraph shall restrict or limit any person licensed under **title twenty-two of** article [~~one hundred fifty-nine of the education~~] **fifty-one of the public health** law from performing any activity thereunder or from stating in an advertisement that an audiological evaluation will be provided where an audiological 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 applicable fees, shall be registered as a hearing aid dispenser and shall be exempt from requirements set forth in subparagraphs (iv), (v), (vi) and (ix) of paragraph (a) of subdivision one of this section.

(b) Any person who has been continuously registered as a hearing aid dealer pursuant to the former article thirty-seven-A of this chapter for less than three years but more than one year immediately preceding January first, two thousand, or who submits evidence satisfactory to the secretary of less than three years but more than one year's continuous experience in the business of dispensing hearing aids in this state immediately preceding January first, two thousand, may pay the applicable fees and register as a hearing aid dispenser. Such registrant shall be exempt from the requirements set forth in subparagraphs (iv), (v) and

(ix) of paragraph (a) of subdivision one of this section. Such registrant shall achieve a passing score on the required registration examination by December thirty-first, two thousand; provided further that, upon failing to achieve a passing score such person shall continue under the supervision of a registered hearing aid dispenser until such time as a passing score is achieved, provided that such passing score is achieved on an examination administered within twelve months of the first examination.

(c) Any individual who has been continuously registered as a hearing aid dealer pursuant to the former article thirty-seven-A of this chapter for less than twelve months immediately preceding January first, two thousand or any individual with less than twelve months experience in the business of dispensing hearing aids in this state immediately preceding January first, two thousand shall be required to comply with all the requirements set forth in subdivision one of this section.

(d) Any person licensed pursuant to [~~article one hundred fifty-nine of the education law~~] **title twenty-two of article fifty-one of the public health law**, who submits evidence satisfactory to the secretary of experience of dispensing hearing aids in this state for the period immediately preceding January first, two thousand, upon payment of applicable fees shall be registered as a hearing aid dispenser and shall be exempt from requirements set forth in subparagraph (iii) of paragraph (b) of subdivision one of this section.

4. Upon application to the secretary, a temporary certificate of registration authorized under section seven hundred ninety-five of this article shall be issued to: (i) individuals who prove to the satisfaction of the secretary that he or she will be supervised and trained by one or more registered hearing aid dispensers for a period of twelve months or (ii) individuals who are candidates for licensure under [~~article one hundred fifty-nine of the education~~] **title twenty-two of article fifty-one of the public health** law, have satisfied the educational requirement in subdivision two of section eighty-two hundred six of the [~~education~~] **public health** law, and are actively engaged in completing the experience requirement in subdivision three of section eighty-two hundred six of the [~~education~~] **public health** law. A temporary certificate of registration may be renewed only once.

(a) A person holding a temporary certificate of registration shall not be the sole proprietor of, manage, or independently operate a business which engages in the business of dispensing hearing aids unless such business employs a registered hearing aid dispenser.

(b) A person holding a temporary certificate of registration shall not advertise or otherwise represent that he or she holds a certificate of 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 hundred doses, whichever is greater; provided further that the commissioner of health is authorized to require prior authorization for any refill of a prescription when more than a ten day supply of the previously dispensed amount should remain were the product used as normally indicated, or in the case of a controlled substance, as defined in section thirty-three hundred two of the public health law, when more than a seven day supply of the previously dispensed amount should remain were the product used as normally indicated; provided further that the commissioner of health is authorized to require prior authorization of prescriptions of opioid analgesics in excess of four prescriptions in a thirty-day period in accordance with section two hundred seventy-three of the public health law; medical assistance shall not include any drug provided on other than an in-patient basis for which a recipient is

charged or a claim is made in the case of a prescription drug, in excess of the maximum reimbursable amounts to be established by department regulations in accordance with standards established by the secretary of the United States department of health and human services, or, in the case of a drug not requiring a prescription, in excess of the maximum reimbursable amount established by the commissioner of health pursuant to paragraph (a) of subdivision four of this section;

(q) diabetes self-management training services for persons diagnosed with diabetes when such services are ordered by a physician, registered physician assistant, registered nurse practitioner, or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health, who is certified as a diabetes educator by the National Certification Board for Diabetes Educators, or a successor national certification board, or provided by such a professional who is affiliated with a program certified by the American Diabetes Association, the American Association of Diabetes Educators, the Indian Health Services, or any other national accreditation organization approved by the federal centers for medicare and medicaid services; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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~~] article fifty-one of the public health law.

(r) asthma self-management training services for persons diagnosed with asthma when such services are ordered by a physician, registered physician's assistant, registered nurse practitioner, or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health, who is certified as an asthma educator by the National Asthma Educator Certification Board, or a successor national certification board; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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~~] article fifty-one of the public health law.

(i) lactation counseling services for pregnant and postpartum women when such services are ordered by a physician, physician assistant, nurse practitioner, or midwife and provided by a qualified lactation care provider, as determined by the commissioner of health; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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~~] article fifty-one of the public health law.

(y) harm reduction counseling and services to reduce or minimize the adverse health consequences associated with drug use, provided by a qualified drug treatment program or community-based organization, as determined by the commissioner of health; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive

federal financial participation in the costs of 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~~] **article fifty-one of the public health law**.

(z) hepatitis C wrap-around services to promote care coordination and integration when ordered by a physician, registered physician assistant, registered nurse practitioner, or licensed midwife, and provided by a qualified professional, as determined by the commissioner of health. Such services may include client outreach, identification and recruitment, hepatitis C education and counseling, coordination of care and adherence to treatment, assistance in obtaining appropriate entitlement services, peer support and other supportive services; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of 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~~] **article fifty-one of the public health law**.

§ 75. Paragraph (e) of subdivision 6 of section 384-b of the social services law, as amended by chapter 691 of the laws of 1991, is amended to read as follows:

(e) In every proceeding upon a ground set forth in paragraph (c) of subdivision four **of this section** the judge shall order the parent to be examined by, and shall take the testimony of, a qualified psychiatrist or a psychologist licensed pursuant to [~~article one hundred fifty-three of the education law~~] **title seventeen of article fifty-one of the public health law** as defined in section 730.10 of the criminal procedure law in the case of a parent alleged to be mentally ill or retarded, such psychologist or psychiatrist to be appointed by the court pursuant to section thirty-five of the judiciary law. The parent and the authorized agency shall have the right to submit other psychiatric, psychological or medical evidence. If the parent refuses to submit to such court-ordered examination, or if the parent renders himself unavailable therefor whether before or after the initiation of a proceeding under this section, by departing from the state or by concealing himself therein, the appointed psychologist or psychiatrist, upon the basis of other available information, including, but not limited to, agency, hospital or clinic records, may testify without an examination of such parent, provided that such other information affords a reasonable basis for his opinion.

§ 76. Subdivision (c) of section 9.37 of the mental hygiene law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

(c) Notwithstanding the provisions of subdivision (b) of this section, in counties with a population of less than two hundred thousand, a director of community services who is a licensed psychologist pursuant to [~~article one hundred fifty-three of the education law~~] **title seventeen of article fifty-one of the public health law** or a licensed clinical social worker pursuant to [~~article one hundred fifty-four of the education law~~] **title eighteen of article fifty-one of the public health law** but who is not a physician may apply for the admission of a patient pursuant to this section without a medical examination by a designated physician, if a hospital approved by the commissioner pursuant to section 9.39 of this article is not located within thirty miles of the

patient, and the director of community services has made a reasonable effort to locate a designated examining physician but such a designee is not immediately available and the director of community services, after personal observation of the person, reasonably believes that he may have a mental illness which is likely to result in serious harm to himself or others and inpatient care and treatment of such person in a hospital may be appropriate. In the event of an application pursuant to this subdivision, a physician of the receiving hospital shall examine the patient and shall not admit the patient unless he or she determines that the patient has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and which is likely to result in serious harm to himself or others. If the patient is admitted, the need for hospitalization shall be confirmed by another staff physician within twenty-four hours. An application pursuant to this subdivision shall be in writing and shall be filed with the director of such hospital at the time of the patient's reception, together with a statement in a form prescribed by the commissioner giving such information as he may deem appropriate, including a statement of the efforts made by the director of community services to locate a designated examining physician prior to making an application pursuant to this subdivision.

§ 77. Subdivision (h) of section 10.03 of the mental hygiene law, as added by chapter 7 of the laws of 2007, is amended to read as follows:

(h) "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**.

§ 78. Paragraphs (b-4), (b-5), (b-7), (d) and (g) of section 1503 of the business corporation law, paragraph (b-4) as added and paragraph (d) as amended by chapter 550 of the laws of 2011, paragraph (b-5) as amended by chapter 9 of the laws of 2013, the opening paragraph of paragraph (b-5) as amended by chapter 475 of the laws of 2014, paragraph (b-7) as added by chapter 260 of the laws of 2016, the opening paragraph of subparagraph 1 of paragraph (b-7) as amended by chapter 302 of the laws of 2018, and paragraph (g) as added by chapter 676 of the laws of 2002, are amended to read as follows:

(b-4) The certificate of incorporation of a design professional service corporation shall also have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the shareholders, officers, directors and owners have been deemed to have been of good moral character as may be established by the regulations of the commissioner of education **or the commissioner of health**.

(b-5) On or after January first, two thousand twelve, the state education department and the department of state shall allow an existing professional service corporation organized under this article and practicing professional engineering, architecture, landscape architecture, geology or land surveying, or practicing any combination of such professions to become a design professional service corporation as defined in this article, provided the professional service corporation meets all of the requirements to become a design professional service corporation, including that its name shall end with the words "design professional corporation" or the abbreviation "D.P.C.", by amending its certificate of incorporation so that it contains the following statements:

(1) the names and residence addresses of all individuals or ESOPs who will be the shareholders, directors and officers of the original design professional service corporation; and

(2) the profession or professions of each shareholder, director and officer who is a design professional of the original design professional service corporation; and

(3) the ownership interest of each shareholder of the original design professional service corporation; and

(4) the names of the officers and directors who will be the president, the chairperson of the board of directors and the chief executive officer or officers of the original design professional service corporation.

(i) The certificate of amendment shall have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the proposed shareholders, directors and officers who is listed as a design professional is authorized by law to practice a profession which the corporation is organized to practice and, if applicable, that one or more of such individuals is authorized to practice each profession which the corporation will be authorized to practice. The attached certificate or certificates shall also certify that the proposed president, the chairperson of the board of directors and the chief executive officer or officers are authorized by law to practice a profession which the corporation is organized to practice.

(ii) The certificate of amendment shall also have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the proposed shareholders, officers, directors and owners listed have been deemed to have been of good moral character as may be established by the regulations of the commissioner of education **or the commissioner of health**.

(iii) The certificate of amendment shall also have attached thereto: (A) a tax clearance issued by the department of taxation and finance certifying that the existing professional service corporation is current with respect to payment of its state tax liabilities and (B) a certificate of good standing from the state education department **or the department of health** certifying that the existing professional service corporation is authorized to provide professional services without restriction.

(b-7) (1) Prior to the first day of March, two thousand nineteen, the state education department and the department of state shall allow an existing business corporation organized under article four of this chapter to become a design professional service corporation as defined in this article for the purpose of practicing professional geology, provided that the surviving corporation meet all of the requirements to become a design professional service corporation, including that the name shall end with the words "design professional service corporation" or the abbreviation "D.P.C." by amending its certificate of incorporation so that it contains the following:

(i) the names and residence addresses of all individuals or ESOPs who will be the original shareholders, directors and officers of the professional service corporation;

(ii) a statement that the design professional service corporation is formed pursuant to this section;

(iii) the profession or profession of each shareholder, director and officer who is a design professional of the original design professional service corporation;

(iv) the names of the officers and directors who will be the president, the chairperson of the board of directors and the chief executive officer or officers of the original design professional service corporation;

(v) the ownership interest of each shareholder of the original design professional service corporation; and

(vi) a statement that the amendment shall not effect a dissolution of the corporation, but shall be deemed a continuation of its corporate existence, without affecting its then existing property rights or liabilities or the liabilities of its members or officers as such, but thereafter it shall have only such rights, powers and privileges, and be subject only to such other duties and liabilities, as a corporation created for the same purposes under this article.

(2) The certificate of amendment shall have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the proposed shareholders, directors and officers listed:

(i) is authorized by law to practice a profession which the corporation is organized to practice and, if applicable, that one or more of such individuals is authorized to practice each profession which the corporation will be authorized to practice; and

(ii) has been deemed to be of good moral character as may be established by the regulations of the commissioner of education **and the commissioner of health**.

(3) The certificate of amendment shall also have attached thereto a tax clearance issued by the department of taxation and finance certifying that the existing business corporation is current with respect to payment of its state tax liabilities.

(4) Notwithstanding any provision of law to the contrary, any corporation formed under this section shall be required to comply with all applicable laws, rules, or regulations relating to the practice of a profession under title eight of the education law **or article fifty-one of the public health law**.

(d) A professional service corporation, including a design professional service corporation, other than a corporation authorized to practice law, shall be under the supervision of the regents of the university of the state of New York **or the department of health** and be subject to disciplinary proceedings and penalties, and its certificate of incorporation shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in title eight of the education law **or article fifty-one of the public health law** relating to the applicable profession. Notwithstanding the provisions of this paragraph, a professional service corporation authorized to practice medicine shall be subject to the prehearing procedures and hearing procedures as is provided with respect to individual physicians and their licenses in title II-A of article two of the 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 pursuant to [~~article 28 of the public health law~~] **title twelve of article fifty-one of the public health law**.

Nurse. The term "nurse" means a practitioner of nursing licensed to practice nursing pursuant to [~~article 139 of the education law~~] **title twelve of article fifty-one of the public health law**.

Physician assistant. The term "physician assistant" means a person licensed as a physician assistant pursuant to [~~article 131-b of the New York state education law~~] **title two of article fifty-one of the public health law**.

§ 82. Subdivision b of section 17-357 of the administrative code of the city of New York, as added by local law number 12 of the city of New York for the year 1997, is amended to read as follows:

b. The provisions of this subchapter shall not apply to a physician licensed under [~~article one hundred thirty-one of the New York state education law~~] title two of article fifty-one of the public health law.

§ 83. Subdivision e of section 20-815 of the administrative code of the city of New York, as added by local law number 17 of the city of New York for the year 2011, is amended to read as follows:

e. "Licensed medical provider" shall mean a person licensed or otherwise authorized under the provisions of [~~articles one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-one-b, one hundred thirty-nine or one hundred forty of the education law of New York~~] title two, three, four, twelve, or thirteen of article fifty-one of the public health law, to provide medical services.

§ 84. Section 308-b of the military law, as amended by chapter 418 of the laws of 2004, is amended to read as follows:

§ 308-b. Extension of license, certificate or registration. Notwithstanding any other provision of general, special or local law, code or ordinance, or rule or regulation to the contrary, military personnel serving on active duty, who were licensed, certified or registered to engage in a profession or occupation prior to being called to active duty, and whose license, certificate or registration shall expire during such period of active duty, shall have such license, certificate or registration automatically extended for the period of active duty and for twelve months after such military personnel have been released from active duty, provided that with regard to professions subject to title VIII of the education law or article fifty-one of the public health law, this section shall not apply to limited permits or other credentials issued for a period of two months or less and shall not extend the term of a limited permit that expires for reasons other than the passage of time, including but not limited to failure on a licensure examination, and further provided that this section shall not be construed to permit any individual whose authority to engage in a profession or occupation has been revoked or suspended to engage in such profession or occupation.

§ 85. Subdivision 6 of section 2441 of the public health law, as added by chapter 450 of the laws of 1975, is amended to read as follows:

6. "Researcher" means any person licensed under [~~title VIII of the education law~~] article fifty-one of this chapter to perform diagnosis, treatment, medical services, prescription or therapeutic exercises with regard to or upon human beings, or any other person deemed appropriately competent and qualified by a human research review committee as provided by section twenty-four hundred forty-four of this chapter.

§ 86. Subdivision 1 of section 3000-a of the public health law, as amended by chapter 69 of the laws of 1994, is amended to read as follows:

1. Except as provided in subdivision six of section six thousand six hundred eleven, subdivision two of section six thousand five hundred twenty-seven, subdivision one of section six thousand nine hundred nine and sections six thousand five hundred forty-seven and six thousand seven hundred thirty-seven of [~~the education law~~] this chapter, any person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill, or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or

omission in the rendering of such emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such person. Nothing in this section shall be deemed or construed to relieve a licensed physician, dentist, nurse, physical therapist or registered physician's assistant from liability for damages for injuries or death caused by an act or omission on the part of such person while rendering professional services in the normal and ordinary course of his or her practice.

§ 87. Paragraph (a) of subdivision 3 and paragraph (b) of subdivision 4 of section 3000-b of the public health law, paragraph (a) of subdivision 3 as amended by chapter 243 of the laws of 2010, and paragraph (b) of subdivision 4 as added by chapter 552 of the laws of 1998, are amended to read as follows:

(a) No person may operate an automated external defibrillator unless the person has successfully completed a training course in the operation of an automated external defibrillator approved by a nationally-recognized organization or the state emergency medical services council. However, this section shall not prohibit operation of an automated external defibrillator, (i) by a health care practitioner licensed or certified under [~~title VIII of the education law~~] **article fifty-one of this chapter** or a person certified under this article acting within his or her lawful scope of practice; (ii) by a person acting pursuant to a lawful prescription; or (iii) by a person who operates the automated external defibrillator other than as part of or incidental to his or her employment or regular duties, who is acting in good faith, with reasonable care, and without expectation of monetary compensation, to provide first aid that includes operation of an automated external defibrillator; nor shall this section limit any good samaritan protections provided in section three thousand-a of this article.

(b) Operation of an automated external defibrillator pursuant to this section shall not constitute the unlawful practice of a profession under [~~title VIII of the education law~~] **article fifty-one of this chapter**.

§ 88. Paragraph (c) of subdivision 2 of section 369-bb of the social services law, as amended by section 2 of part D of chapter 57 of the laws of 2017, is amended to read as follows:

(c) Two persons with expertise in drug utilization review who are health care professionals licensed under [~~Title VIII of the education law~~] **article fifty-one of the public health law** at least one of whom is a pharmacologist.

§ 89. Paragraph (x) of subdivision 2 of section 496 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(x) officers and employees of the education department and, where applicable, the department of health, for the purpose of investigating charges and maintaining professional discipline proceedings against the professional license of the subject of the report pursuant to [~~Title VIII of the education law~~] **article fifty-one of the public health law**, and to employees of the education department for the purpose of investigating charges and maintaining good moral character proceedings against the teaching, school administrator or school leader certificate or license of the subject of the report; and

§ 90. Paragraph 2 of subdivision (a) of section 1212-a of the tax law, as amended by chapter 200 of the laws of 2009, is amended to read as follows:

(2) a tax, at the same uniform rate, but at a rate not to exceed four and one-half per centum, in multiples of one-half of one per centum, on

the receipts from every sale of the following services: beauty, barbering, hair restoring, manicuring, pedicuring, electrolysis, massage services and similar services, and every sale of services by weight control salons, health salons, gymnasiums, turkish and sauna bath and similar establishments and every charge for the use of such facilities, whether or not any tangible personal property is transferred in conjunction therewith; but excluding services rendered by a physician, osteopath, dentist, nurse, physiotherapist, chiropractor, podiatrist, optometrist, ophthalmic dispenser or a person performing similar services licensed under [~~title VIII of the education law~~] **article fifty-one of the public health law**, as amended, and excluding such services when performed on pets and other animals.

§ 91. Transfer of employees. All employees of the state education department deemed necessary to implement this act by the division of the budget, in consultation with the commissioner of health, shall be transferred to the department of health. This transfer of employees shall be deemed to be a transfer of function pursuant to subdivision 2 of section 70 of the civil service law. Such officers and employees of the state education department shall be transferred without further examination or qualification, and shall retain their respective civil service classification, status and bargaining unit representation.

§ 92. This act shall take effect on January 1, 2024; provided however that:

(a) effective immediately, the department of health and the state education department are authorized to adopt, repeal, or amend any rule or regulation necessary to effectuate the provisions of this act prior to its effective date;

(b) the amendments to paragraph (y) of subdivision 2 of section 2999-cc of the public health law made by section twenty-six of this act shall not affect the expiration of such paragraph and shall expire and be deemed repealed therewith;

(c) the amendments to section 3368 of the public health law made by section forty-six-a of this act shall not affect the expiration of such subdivision and shall be deemed repealed therewith;

(d) that if chapter 815 of the laws of 2022 shall not have taken effect on or before such date then section fifty-six of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2022, takes effect;

(e) the amendments to subparagraph (vi) of paragraph 1 of subdivision (e) of section 9.60 of the mental hygiene law made by section fifty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

(f) the amendments to clause (E) of subparagraph (iii) of paragraph (a) of subdivision 4 of section 364-j of the social services law made by section sixty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART DD

Section 1. 1. Subject to available appropriations and approval of the director of the budget, the commissioners of the office of mental health, office for people with developmental disabilities, office of addiction services and supports, office of temporary and disability assistance, office of children and family services, and the state office for the aging shall establish a state fiscal year 2023-24 cost of living adjustment (COLA), effective April 1, 2023, for projecting for the

effects of inflation upon rates of payments, contracts, or any other form of reimbursement for the programs and services listed in paragraphs (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this section. The COLA established herein shall be applied to the appropriate portion of reimbursable costs or contract amounts. Where appropriate, transfers to the department of health (DOH) shall be made as reimbursement for the state share of medical assistance.

2. Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget and available appropriations therefore, for the period of April 1, 2023 through March 31, 2024, the commissioners shall provide funding to support a two and five-tenths percent (2.5%) cost of living adjustment under this section for all eligible programs and services as determined pursuant to subdivision four of this section.

3. Notwithstanding any inconsistent provision of law, and as approved by the director of the budget, the 2.5 percent cost of living adjustment (COLA) established herein shall be inclusive of all other cost of living type increases, inflation factors, or trend factors that are newly applied effective April 1, 2023. Except for the 2.5 percent cost of living adjustment (COLA) established herein, for the period commencing on April 1, 2023 and ending March 31, 2024 the commissioners shall not apply any other new cost of living adjustments for the purpose of establishing rates of payments, contracts or any other form of reimbursement. The phrase "all other cost of living type increases, inflation factors, or trend factors" as defined in this subdivision shall not include payments made pursuant to the American Rescue Plan Act or other federal relief programs related to the Coronavirus Disease 2019 (COVID-19) pandemic Public Health Emergency. This subdivision shall not prevent the office of children and family services from applying additional trend factors or staff retention factors to eligible programs and services under paragraph (v) of subdivision four of this section.

4. Eligible programs and services. (i) Programs and services funded, licensed, or certified by the office of mental health (OMH) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: office of mental health licensed outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of the office of mental health regulations including clinic, continuing day treatment, day treatment, intensive outpatient programs and partial hospitalization; outreach; crisis residence; crisis stabilization, crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric emergency program services; crisis intervention; home based crisis intervention; family care; supported single room occupancy; supported housing; supported housing community services; treatment congregate; supported congregate; community residence - children and youth; treatment/apartment; supported apartment; community residence single room occupancy; on-site rehabilitation; employment programs; recreation; respite care; transportation; psychosocial club; assertive community treatment; case management; care coordination, including health home plus services; local government unit administration; monitoring and evaluation; children and youth vocational services; single point of access; school-based mental health program; family support children and youth; advocacy/support services; drop in centers; recovery centers; transition management services; bridger; home and community based waiver services; behavioral health waiver services authorized pursuant to the section 1115 MRT waiver; self-help programs; consumer service dollars; conference of local mental hygiene directors; multicultural initiative;

ongoing integrated supported employment services; supported education; mentally ill/chemical abuse (MICA) network; personalized recovery oriented services; children and family treatment and support services; residential treatment facilities operating pursuant to part 584 of title 14-NYCRR; geriatric demonstration programs; community-based mental health family treatment and support; coordinated children's service initiative; homeless services; and promises zone.

(ii) Programs and services funded, licensed, or certified by the office for people with developmental disabilities (OPWDD) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: local/unified services; chapter 620 services; voluntary operated community residential services; article 16 clinics; day treatment services; family support services; 100% day training; epilepsy services; traumatic brain injury services; hepatitis B services; independent practitioner services for individuals with intellectual and/or developmental disabilities; crisis services for individuals with intellectual and/or developmental disabilities; family care residential habilitation; supervised residential habilitation; supportive residential habilitation; respite; day habilitation; prevocational services; supported employment; community habilitation; intermediate care facility day and residential services; specialty hospital; pathways to employment; intensive behavioral services; basic home and community based services (HCBS) plan support; health home services provided by care coordination organizations; community transition services; family education and training; fiscal intermediary; support broker; and personal resource accounts.

(iii) Programs and services funded, licensed, or certified by the office of addiction services and supports (OASAS) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: medically supervised withdrawal services - residential; medically supervised withdrawal services - outpatient; medically managed detoxification; medically monitored withdrawal; inpatient rehabilitation services; outpatient opioid treatment; residential opioid treatment; KEEP units outpatient; residential opioid treatment to abstinence; problem gambling treatment; medically supervised outpatient; outpatient rehabilitation; specialized services substance abuse programs; home and community based waiver services pursuant to subdivision 9 of section 366 of the social services law; children and family treatment and support services; continuum of care rental assistance case management; NY/NY III post-treatment housing; NY/NY III housing for persons at risk for homelessness; permanent supported housing; youth clubhouse; recovery community centers; recovery community organizing initiative; residential rehabilitation services for youth (RRSY); intensive residential; community residential; supportive living; residential services; job placement initiative; case management; family support navigator; local government unit administration; peer engagement; vocational rehabilitation; support services; HIV early intervention services; dual diagnosis coordinator; problem gambling resource centers; problem gambling prevention; prevention resource centers; primary prevention services; other prevention services; and community services.

(iv) Programs and services funded, licensed, or certified by the office of temporary and disability assistance (OTDA) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: nutrition outreach and education program (NOEP).

(v) Programs and services funded, licensed, or certified by the office of children and family services (OCFS) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: programs for which the office of children and family services establishes maximum state aid rates pursuant to section 398-a of the social services law and section 4003 of the education law; emergency foster homes; foster family boarding homes and therapeutic foster homes; supervised settings as defined by subdivision twenty-two of section 371 of the social services law; adoptive parents receiving adoption subsidy pursuant to section 453 of the social services law; and congregate and scattered supportive housing programs and supportive services provided under the NY/NY III supportive housing agreement to young adults leaving or having recently left foster care.

(vi) Programs and services funded, licensed, or certified by the state office for the aging (SOFA) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: community services for the elderly; expanded in-home services for the elderly; and supplemental nutrition assistance program.

5. Each local government unit or direct contract provider receiving funding for the cost of living adjustment established herein shall submit a written certification, in such form and at such time as each commissioner shall prescribe, attesting how such funding will be or was used to first promote the recruitment and retention of non-executive direct care staff, non-executive direct support professionals, non-executive clinical staff, or respond to other critical non-personal service costs prior to supporting any salary increases or other compensation for executive level job titles.

6. Notwithstanding any inconsistent provision of law to the contrary, agency commissioners shall be authorized to recoup funding from a local governmental unit or direct contract provider for the cost of living adjustment established herein determined to have been used in a manner inconsistent with the appropriation, or any other provision of this section. Such agency commissioners shall be authorized to employ any legal mechanism to recoup such funds, including an offset of other funds that are owed to such local governmental unit or direct contract provider.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023.

PART EE

Section 1. Subdivision 1-a of section 84 of part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, as amended by section 9 of part Z of chapter 57 of the laws of 2018, is amended to read as follows:

1-a. sections seventy-three through eighty-a shall expire and be deemed repealed September 30, [~~2023~~] **2028**;

§ 2. This act shall take effect immediately.

PART FF

Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of section 6908 of the education law is renumbered subparagraph (vi) and a new subparagraph (v) is added to read as follows:

(v) tasks provided by a direct support staff in non-facility based programs certified, authorized or approved by the office for people with developmental disabilities, so long as such staff do not hold himself or herself out as one who accepts employment solely for performing such care, and where nursing services are under the instruction of a service recipient or family or household member determined by a registered professional nurse to be capable of providing such instruction. In the event that the registered nurse determines that the service recipient, family, or household member is not capable of providing such instruction, nursing tasks may be performed by direct support staff pursuant to subparagraph (vi) of this paragraph subject to the requirements set forth therein; or

§ 2. This act shall take effect immediately.

PART GG

Section 1. Section 7.07 of the mental hygiene law is amended by adding a new subdivision (i) to read as follows:

(i) The office shall foster programs for the training and development of persons capable of providing the following services, including but not limited to a process of issuing, either directly or through contract, credentials for qualified mental health associates in accordance with the following:

(1) The office shall establish minimum qualifications for qualified mental health associates in all phases of delivery of services to persons who are suffering from mental health issues, as well as their families, that shall include, but not be limited to, completion of approved courses of study or equivalent on-the-job experience in working with individuals who suffer from mental illness. Such approved courses of study or equivalent on-the-job experience shall include, but not be limited to, providing trauma-informed, patient-centered care; referring individuals to appropriate treatments for co-occurring disorders; implicit bias training, and best practice approaches to serving marginalized and minority populations. Such courses shall be updated as needed to reflect evolving best practices in treatment and long-term recovery. For the purposes of this subdivision, the term "implicit bias training" shall mean a form of training with the goal of making people more aware of their own biases, for the purpose of ensuring equity in care delivery.

(2) The office shall establish procedures for issuing, directly or through contract, credentials to associates who meet minimum qualifications, including the establishment of appropriate fees, and shall further establish procedures to suspend, revoke, or annul such credentials for good cause. Such procedures shall be promulgated by the 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.

(a) The commissioners are authorized to jointly certify community behavioral health clinics, subject to the availability of state and federal funding.

(b) Certified community behavioral health clinics shall provide coordinated, comprehensive behavioral health care, including mental health and addiction services, primary care screening, and case management services, in accordance with certified community behavioral health clinic standards established by the United States department of health and human services substance abuse and mental health services administration and the commissioners of the office of mental health and the office of addiction services and supports.

(c) The commissioners shall require each proposed certified community behavioral health clinic to submit a plan, which shall be approved by the commissioners prior to the issuance of an operating certificate pursuant to this article. Such plan shall include:

(1) a description of the clinic's character and competency to provide certified community behavioral health clinic services across the lifespan, including how the clinic will ensure access to crisis services at all times and accept all patients regardless of ability to pay;

(2) a description of the clinic's catchment area;

(3) a statement indicating that the clinic has been included in an approved local services plan developed pursuant to article forty-one of this chapter for each local government located within the clinic's catchment area;

(4) where executed, agreements establishing formal relationships with designated collaborating organizations to provide certain certified community behavioral health clinic services, consistent with guidance issued by the United States department of health and human services substance abuse and mental health services administration and the office of mental health and the office of addiction services and supports;

(5) a staffing plan driven by local needs assessment, licensing, and training to support service delivery;

(6) a description of the clinic's data-driven approach to quality improvement;

(7) a description of how consumers are represented in governance of the clinic;

(8) all financial information in the form and format required by the office of mental health and the office of addiction services and supports; and

(9) any other information or agreements required by the commissioners.

(d) Where a certified community behavioral health clinic has been established and is participating on the effective date of this section in the federal certified community behavioral health clinic demonstration awarded to the state by the United States department of health and human services substance abuse and mental health services administration, the previously established clinic may be certified where the clinic demonstrates compliance with the certification standards established pursuant to this article.

(e) The commissioners shall promulgate any rule or regulation necessary to effectuate this section.

§ 36.06 Certified community behavioral health clinics indigent care program.

(a) (1) For periods on and after July first, two thousand twenty-three, the commissioners are authorized to make payment to eligible certified community behavioral health clinics, to the extent of funds appropriated therefor to assist in meeting losses resulting from uncompensated care. In the event federal financial participation is not available for such payments to eligible certified community behavioral health clinics, payments shall be made solely on the basis of available state general fund appropriations for this purpose in amounts to be determined by the director of the division of the budget.

(2) For purposes of this section, "eligible certified community behavioral health clinics" shall mean voluntary non-profit certified community behavioral health clinics participating in the federal certified community behavioral health clinic demonstration awarded to the state by the United States department of health and human services substance abuse and mental health services administration and other certified

community behavioral health clinics certified pursuant to section 36.05 of this article, which demonstrate that a minimum of three percent of total visits reported during the applicable base year period, as determined by the commissioners, were to uninsured individuals.

(3) For purposes of this section, "losses resulting from uncompensated care" shall mean losses from reported self-pay and free visits multiplied by the clinic's medical assistance payment rate for the applicable distribution year, offset by payments received from such patients during the reporting period.

(b) A certified community behavioral health clinic qualifying for a distribution pursuant to this section shall provide assurances satisfactory to the commissioners that it shall undertake reasonable efforts to maintain financial support from community and public funding sources and reasonable efforts to collect payments for services from third-party insurance payors, governmental payors and self-paying patients.

(c) (1) Funding pursuant to this section shall be allocated to eligible certified community behavioral health clinics based on actual, reported losses resulting from uncompensated care in a given base year period and shall not exceed one hundred percent of an eligible clinic's losses in the same period.

(2) If the sum of actual, reported losses resulting from uncompensated care for all certified community behavioral health clinics exceeds the amount appropriated therefor in a given base year period, allocations of funds for each eligible certified community behavioral health clinic shall be assessed proportionately based upon the percentage of the total number of uncompensated care visits for all clinics that each clinic provided during the base year and shall not exceed amounts appropriated in the aggregate.

(d) Except as provided in subdivision (e) of this section, for periods on and after July first, two thousand twenty-three through June thirtieth, two thousand twenty-six, funds shall be made available for payments pursuant to this section for eligible certified community behavioral health clinics for the following periods in the following aggregate amounts:

(1) For the period of July first, two thousand twenty-three through June thirtieth, two thousand twenty-four, up to twenty-two million five hundred thousand dollars;

(2) For the period of July first, two thousand twenty-four through June thirtieth, two thousand twenty-five, up to forty-one million two hundred fifty thousand dollars; and

(3) For the period of July first, two thousand twenty-five through June thirtieth, two thousand twenty-six, up to forty-five million dollars.

(e) In the event that federal financial participation is not available for rate adjustments pursuant to this section, funds available for payments pursuant to this section for each eligible certified community behavioral health clinic shall be limited to the non-federal share equivalent of the amounts specified in subdivision (d) of this section.

(f) Eligible certified community behavioral health clinics receiving funding under this section shall not be eligible for comprehensive diagnostic and treatment centers indigent care program funding pursuant to section two thousand eight hundred seven-p of the public health law.

(g) The commissioners may require facilities receiving distributions pursuant to this section as a condition of participating in such distributions, to provide reports and data to the office of mental health and the office of addiction services and supports as the commis-

sioners deem necessary to adequately implement the provisions of this section.

§ 3. This act shall take effect immediately.

PART II

Section 1. This Part enacts into law major components of legislation relating to improving access to behavioral health services. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this Part.

SUBPART A

Section 1. Item (i) of subparagraph (A) of paragraph 35 of subsection (i) of section 3216 of the insurance law, as amended by chapter 818 of the laws of 2022, is amended to read as follows:

(i) where the policy provides coverage for inpatient hospital care, such policy shall include benefits: for inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law [~~and benefits for~~]; sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; 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, 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 law; or, for care provided in other states, to similarly licensed or certified hospitals [~~or~~], facilities, or providers; and

§ 2. Items (iii) and (iv) of subparagraph (E) of paragraph 35 of subsection (i) of section 3216 of the insurance law, as added by section 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new items (v) and (vi) are added to read as follows:

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; formulary design for prescription

drugs; network tier design; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary, and reasonable charges; fail-first or step therapy protocols; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the policy; [~~and~~]

(iv) "mental health condition" means any mental health disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders or the most recent edition of another generally recognized independent standard of current medical practice such as the international classification of diseases[~~.~~]**;**

(v) "assertive community treatment" means an evidence-based, mobile, psychiatric treatment intervention, designed for an individual with a serious mental health condition who is at risk for hospitalization, that includes psychotherapy, medication therapy, crisis intervention, psychiatric rehabilitation, care coordination, and peer support services, provided assertively in the community; and

(vi) "critical time intervention services" means evidence-based, time-limited, therapeutic interventions that begin before an individual is discharged from an inpatient setting, that include intensive outreach, engagement, and care coordination services to stabilize the individual in the community.

§ 3. Paragraph 35 of subsection (i) of section 3216 of the insurance law is amended by adding a new subparagraph (I) to read as follows:

(I) This subparagraph shall apply to mobile crisis intervention services providers 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. For purposes of this subparagraph, "mobile crisis intervention services" means mental health and substance use disorder services, including assessment and treatment services and peer support services, provided to an individual experiencing an acute psychological crisis or acute emotional distress in relation to a mental health condition or substance use disorder, intended to ameliorate the crisis and stabilize the individual and ensure ongoing stabilization after the initial crisis response.

(i) Benefits for covered services provided by a mobile crisis intervention services provider shall not be subject to preauthorization.

(ii) Benefits for covered services provided by a mobile crisis intervention services provider shall be covered regardless of whether the mobile crisis intervention services provider is a participating provider.

(iii) If the covered services are provided by a non-participating 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.

§ 4. Paragraph 35 of subsection (i) of section 3216 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.

§ 5. Item (i) of subparagraph (A) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as amended by section 14 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(i) where the policy provides coverage for inpatient hospital care, benefits for: inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law [~~and benefits for~~]; sub-acute care in a medically-monitored residential facility licensed, operated, or otherwise authorized by the office of mental health; 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 law; or, for care provided in other states, to similarly licensed or certified hospitals [~~or~~], facilities, or providers; and

§ 6. Items (iii) and (iv) of subparagraph (E) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as added by section 14 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new items (v) and (vi) are added to read as follows:

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; formulary design for prescription

drugs; network tier design; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary, and reasonable charges; fail-first or step therapy protocols; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the policy; [~~and~~]

(iv) "mental health condition" means any mental health disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders or the most recent edition of another generally recognized independent standard of current medical practice such as the international classification of diseases[~~.~~]**;**

(v) "assertive community treatment" means an evidence-based, mobile, psychiatric treatment intervention, designed for people with a serious mental health condition who are at risk for hospitalization, that includes psychotherapy, medication therapy, crisis intervention, psychiatric rehabilitation, care coordination, and peer support services, provided assertively in the community; and

(vi) "critical time intervention services" means evidence-based, time-limited, therapeutic interventions that begin before an individual is discharged from an inpatient setting, that include intensive outreach, engagement, and care coordination services to stabilize individuals in the community.

§ 7. Paragraph 5 of subsection (l) of section 3221 of the insurance law is amended by adding a new subparagraph (I) to read as follows:

(I) This subparagraph shall apply to mobile crisis intervention services providers 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. For purposes of this subparagraph, "mobile crisis intervention services" means mental health and substance use disorder services, including assessment and treatment services and peer support services, provided to an individual experiencing an acute psychological crisis or acute emotional distress in relation to a mental health condition or substance use disorder, intended to ameliorate the crisis and stabilize the individual and ensure ongoing stabilization after the initial crisis response.

(i) Benefits for covered services provided by a mobile crisis intervention services provider shall not be subject to preauthorization.

(ii) Benefits for covered services provided by a mobile crisis intervention services provider shall be covered regardless of whether the mobile crisis intervention services provider is a participating provider.

(iii) If the covered services are provided by a non-participating 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 (l) 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 law; or for [~~out-patient~~] care provided in other states, to similarly licensed or certified hospitals, facilities, or providers; and

§ 10. Subparagraphs (C) and (D) of paragraph 6 of subsection (g) of section 4303 of the insurance law, as added by section 23 of subpart A of part BB of chapter 57 of the laws of 2019, are amended and two new subparagraphs (E) and (F) are added to read as follows:

(C) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes nonquantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is

experimental or investigational; formulary design for prescription drugs; network tier design; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary, and reasonable charges; fail-first or step therapy protocols; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the contract; [~~and~~]

(D) "mental health condition" means any mental health disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders or the most recent edition of another generally recognized independent standard of current medical practice such as the international classification of diseases[~~.~~]**;**

(E) "assertive community treatment" means an evidence-based, mobile, psychiatric treatment intervention, designed for an individual with a serious mental health condition who is at risk for hospitalization, that includes psychotherapy, medication therapy, crisis intervention, psychiatric rehabilitation, care coordination, and peer support services, provided assertively in the community; and

(F) "critical time intervention services" means evidence-based, time-limited, therapeutic interventions that begin before an individual is discharged from an inpatient setting, that include intensive outreach, engagement, and care coordination services to stabilize individuals in the community.

§ 11. Subsection (g) of section 4303 of the insurance law is amended by adding a new paragraph 10 to read as follows:

(10) This paragraph shall apply to mobile crisis intervention services providers 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. For purposes of this paragraph, "mobile crisis intervention services" means mental health and substance use disorder services, including assessment and treatment services and peer support services, provided to an individual experiencing an acute psychological crisis or acute emotional distress in relation to a mental health condition or substance use disorder, intended to ameliorate the crisis and stabilize the individual and ensure ongoing stabilization after the initial crisis response.

(A) Benefits for covered services provided by a mobile crisis intervention services provider shall not be subject to preauthorization.

(B) Benefits for covered services provided by a mobile crisis intervention services provider shall be covered regardless of whether the mobile crisis intervention services provider is a participating provider.

(C) If the covered services are provided by a non-participating mobile crisis intervention services provider, a corporation 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.

(D) 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.

§ 12. Subsection (g) of section 4303 of the insurance law is amended by adding a new paragraph 11 to read as follows:

(11) This paragraph 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. A corporation 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 corporation 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 a corporation 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, a corporation for the services provided pursuant to this paragraph, except for the collection of in-network copayments, coinsurance, or deductibles for which the insured is responsible for under the terms of the contract.

§ 13. Paragraphs 1 and 2 of subsection (a) of section 605 of the financial services law, as amended by section 5 of subpart A of part AA of chapter 57 of the laws of 2022, are amended to read as follows:

(1) When a health care plan receives a bill for emergency services from a non-participating provider, including a bill for inpatient services which follow an emergency room visit, or a bill for services from 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, the health care plan shall pay an amount that it determines is reasonable for the emergency services, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services, rendered by the non-participating provider, in accordance with section three thousand two hundred twenty-four-a of the insurance law, except for the insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-pocket costs for the emergency services, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services, than the insured would have incurred with a participating provider. The non-participating provider may bill the health care plan for the services rendered. Upon receipt of the bill, the health care plan shall pay the non-participating provider the amount prescribed by this section and any subsequent amount determined to be owed to the provider in relation to the emergency services provided, including inpatient services which follow an emergency room visit or for the mobile crisis intervention services.

(2) A non-participating provider or a health care plan may submit a dispute regarding a fee or payment for emergency services, including inpatient services which follow an emergency room visit, or for services rendered 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, for review to an independent dispute resolution entity.

§ 14. Subsection (b) of section 606 of the financial services law, as amended by section 7 of subpart A of part AA of chapter 57 of the laws of 2022, is amended to read as follows:

(b) A non-participating provider shall not bill an insured for emergency services, including inpatient services which follow an emergency room visit**, or for services rendered 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**, except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating provider.

§ 15. This act shall take effect January 1, 2024; provided, however, that sections one through twelve of this act shall apply to policies and contracts issued, renewed, amended, modified or altered on or after such date.

SUBPART B

Section 1. Subparagraphs (G) and (H) of paragraph 35 of subsection (i) of section 3216 of the insurance law, subparagraph (G) as added by section 8 of subpart A of part BB of chapter 57 of the laws of 2019 and subparagraph (H) as added by section 13 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(G) This subparagraph shall apply to hospitals **and medically-monitored crisis residential facilities** in this state that are licensed**, operated, or otherwise authorized** by the office of mental health that are participating in the insurer's provider network. Where the policy provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law [~~provided to individuals who have not attained the age of eighteen~~] **and benefits for sub-acute care in a medically-monitored crisis residential facility licensed, operated, or otherwise authorized by the office of mental health** shall not be subject to preauthorization. Coverage provided under this subparagraph shall also not be subject to concurrent utilization review **for individuals who have not attained the age of eighteen** during the first fourteen days of the inpatient admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the [~~patient~~] **insured**, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the [~~patient~~] **insured**, to ensure that the inpatient care is medically necessary for the [~~patient~~] **insured. For individuals who have attained age eighteen, coverage provided under this subparagraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be performed during the first**

thirty days if an insured meets clinical criteria designated by the office of mental health or where the insured is admitted to a hospital or facility which has been designated by the office of mental health for concurrent review, in consultation with the commissioner of health and the superintendent. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

(H) This subparagraph shall apply to crisis stabilization centers in this state that are licensed pursuant to section 36.01 of the mental hygiene law and participate in the insurer's provider network. Benefits for care [~~in~~] **by** a crisis stabilization center shall not be subject to preauthorization. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 2. Subparagraphs (G) and (H) of paragraph 5 of subsection (l) of section 3221 of the insurance law, subparagraph (G) as added by section 14 of subpart A of part BB of chapter 57 of the laws of 2019 and subparagraph (H) as added by section 15 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(G) This subparagraph shall apply to hospitals **and medically-monitored crisis residential facilities** in this state that are licensed**, operated, or otherwise authorized** by the office of mental health that are participating in the insurer's provider network. Where the policy provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law [~~provided to individuals who have not attained the age of eighteen~~] **and benefits for sub-acute care in a medically-monitored crisis residential facility, operated or otherwise authorized by the office of mental health** shall not be subject to preauthorization. Coverage provided under this subparagraph shall also not be subject to concurrent utilization review **for individuals who have not attained the age of eighteen** during the first fourteen days of the inpatient admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the [~~patient~~] **insured**, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the [~~patient~~] **insured** to ensure that the inpatient care is medically necessary for the [~~patient~~] **insured. For individuals who have attained age eighteen, coverage provided under this subparagraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the insurer of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the insurer to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the insurer which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be performed during the first**

thirty days if an insured meets clinical criteria designated by the office of mental health or where the insured is admitted to a hospital or facility which has been designated by the office of mental health for concurrent review, in consultation with the commissioner of health and the superintendent. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

(H) This subparagraph shall apply to crisis stabilization centers in this state that are licensed pursuant to section 36.01 of the mental hygiene law and participate in the insurer's provider network. Benefits for care [~~in~~] **by** a crisis stabilization center shall not be subject to preauthorization. All treatment provided under this subparagraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this subparagraph other than any copayment, coinsurance, or deductible otherwise required under the policy.

§ 3. Paragraphs 8 and 9 of subsection (g) of section 4303 of the insurance law, paragraph 8 as added by section 23 of subpart A of part BB of chapter 57 of the laws of 2019 and paragraph 9 as added by section 19 of part AA of chapter 57 of the laws of 2021, are amended to read as follows:

(8) This paragraph shall apply to hospitals **and medically-monitored crisis residential facilities** in this state that are licensed**, operated or otherwise authorized** by the office of mental health that are participating in the corporation's provider network. Where the contract provides coverage for inpatient hospital care, benefits for inpatient hospital care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law [~~provided to individuals who have not attained the age of eighteen~~] **and benefits for sub-acute care in a medically-monitored crisis residential facility licensed, operated, or otherwise authorized by the office of mental health** shall not be subject to preauthorization. Coverage provided under this paragraph shall also not be subject to concurrent utilization review **for individuals who have not attained the age of eighteen** during the first fourteen days of the inpatient admission, provided the facility notifies the corporation of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the [~~patient~~] **insured**, and participates in periodic consultation with the corporation to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the corporation which is approved by the office of mental health and appropriate to the age of the [~~patient~~] **insured**, to ensure that the inpatient care is medically necessary for the [~~patient~~] **insured. For individuals who have attained age eighteen, coverage provided under this paragraph shall also not be subject to concurrent review during the first thirty days of the inpatient or residential admission, provided the facility notifies the corporation of both the admission and the initial treatment plan within two business days of the admission, performs daily clinical review of the insured, and participates in periodic consultation with the corporation to ensure that the facility is using the evidence-based and peer reviewed clinical review criteria utilized by the corporation which is approved by the office of mental health and appropriate to the age of the insured, to ensure that the inpatient or residential care is medically necessary for the insured. However, concurrent review may be**

performed during the first thirty days if an insured meets clinical criteria designated by the office of mental health or where the insured is admitted to a hospital or facility which has been designated by the office of mental health for concurrent review, in consultation with the commissioner of health and the superintendent. All treatment provided under this paragraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this paragraph other than any copayment, coinsurance, or deductible otherwise required under the contract.

(9) This paragraph shall apply to crisis stabilization centers in this state that are licensed pursuant to section 36.01 of the mental hygiene law and participate in the corporation's provider network. Benefits for care [~~in~~] **by** a crisis stabilization center shall not be subject to preauthorization. All treatment provided under this paragraph may be reviewed retrospectively. Where care is denied retrospectively, an insured shall not have any financial obligation to the facility for any treatment under this paragraph other than any copayment, coinsurance, or deductible otherwise required under the contract.

§ 4. Paragraph 12 of subsection (a) of section 4902 of the insurance law, as added by section 38 of subpart A of part BB of chapter 57 of the laws of 2019, is amended to read as follows:

(12) When conducting utilization review for purposes of determining health care coverage for a mental health condition, a utilization review agent shall utilize evidence-based and peer reviewed clinical review criteria that is appropriate to the age of the patient. The utilization review agent shall use **clinical review criteria designated by the commissioner of the office of mental health for level of care determinations, in consultation with the superintendent and commissioner of health. For coverage determinations outside the scope of the criteria designated for level of care determinations, the utilization review agent shall use** clinical review criteria deemed appropriate and approved for such use by the commissioner of the office of mental health, in consultation with the commissioner of health and the superintendent. Approved clinical review criteria shall have inter rater reliability testing completed [~~by December thirty-first, two thousand nineteen~~] **prior to implementation**.

§ 5. Paragraph (j) of subdivision 1 of section 4902 of the public health law, as added by section 43 of subpart A of part BB of chapter 57 of the laws of 2019, is amended to read as follows:

(j) When conducting utilization review for purposes of determining health care coverage for a mental health condition, a utilization review agent shall utilize evidence-based and peer reviewed clinical review criteria that is appropriate to the age of the patient. The utilization review agent shall use **clinical review criteria designated by the commissioner of the office of mental health for level of care determinations, in consultation with the commissioner and the superintendent of financial services. For coverage determinations outside the scope of the criteria designated for level of care determinations, the utilization review agent shall use** clinical review criteria deemed appropriate and approved for such use by the commissioner of the office of mental health, in consultation with the commissioner and the superintendent of financial services. Approved clinical review criteria shall have inter rater reliability testing completed [~~by December thirty-first, two thousand nineteen~~] **prior to implementation**.

§ 6. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

SUBPART C

Section 1. Paragraph 2 of subsection (a) of section 3217-h of the insurance law, as added by section 3 of part V of chapter 57 of the laws of 2022, is amended to read as follows:

(2) An insurer that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered by means of telehealth on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person; provided that reimbursement of covered services delivered via telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor distant site occur within the clinic or other facility. **Notwithstanding the provisions of this paragraph, services provided by facilities licensed, certified or otherwise authorized pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the mental hygiene law, and deemed appropriate to be provided by telehealth by the commissioner of the office for people with developmental disabilities, the office of mental health, or the office of addiction services and supports, as applicable, shall be reimbursed at the same rate as is reimbursed when delivered in person.**

§ 2. Paragraph 2 of subsection (a) of section 4306-g of the insurance law, as added by section 4 of part V of chapter 57 of the laws of 2022, is amended to read as follows:

(2) A corporation that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered by means of telehealth on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person; provided that reimbursement of covered services delivered via telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor the distant site occur within the clinic or other facility. The superintendent may promulgate regulations to implement the provisions of this section. **Notwithstanding the provisions of this paragraph, services provided by facilities licensed, certified or otherwise authorized pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the mental hygiene law, and deemed appropriate to be provided by telehealth by the commissioner of the office for people with developmental disabilities, the office of mental health, or the office of addiction services and supports, as applicable, shall be reimbursed at the same rate as is reimbursed when delivered in person.**

§ 3. Subdivision 3 of section 4406-g of the public health law, as added by section 5 of part V of chapter 57 of the laws of 2022, is amended to read as follows:

3. A health maintenance organization that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered via telehealth on the same basis, at the same rate, and to the extent that such services are reimbursed when delivered in

person; provided that reimbursement of covered services delivered by means of telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor the distant site occur within the clinic or other facility. The commissioner, in consultation with the superintendent, may promulgate regulations to implement the provisions of this section. **Notwithstanding the provisions of this subdivision, services provided by facilities licensed, certified or otherwise authorized pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the mental hygiene law, and deemed appropriate to be provided by telehealth by the commissioner of the office for people with developmental disabilities, the office of mental health, or the office of addiction services and supports, as applicable, shall be reimbursed at the same rate as is reimbursed when delivered in person.**

§ 4. This act shall take effect immediately, and shall apply to claims submitted on or after such date; provided that:

(a) the amendments made to subsection (a) of section 3217-h of the insurance law made by section one of this act shall not affect the expiration and reversion of such subsection and shall be deemed to expire therewith;

(b) the amendments made to subsection (a) of section 4306-g of the insurance law made by section two of this act shall not affect the expiration and reversion of such subsection and shall be deemed to expire therewith; and

(c) the amendments made to subdivision 3 of section 4406-g of the public health law made by section three of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

SUBPART D

Section 1. Section 109 of the insurance law is amended by adding a new subsection (e) to read as follows:

(e) In addition to any right of action granted to the superintendent pursuant to this section, any person who has been injured by reason of a violation of paragraph thirty, thirty-one, thirty-one-a or thirty-five of subsection (i) of section thirty-two hundred sixteen, paragraph five, six, seven, seven-a or seven-b of subsection (l) of section thirty-two hundred twenty-one, or subsection (g), (k), (l), (l-1) or (l-2) of section forty-three hundred three of this chapter by an insurer, corporation, or health maintenance organization subject to article thirty-two or forty-three of this chapter may bring an action in the person's own name to recover the person's actual damages or one thousand dollars, whichever is greater; provided, however, that the provisions of this subsection shall not apply to any health plan that exclusively serves individuals enrolled pursuant to a federal or state insurance affordability program as defined in section two hundred sixty-eight-a of the public health law, the medical assistance program under title eleven of article five of the social services law, child health plus under title one-A of article twenty-five of the public health law, the basic health program under section three hundred sixty-nine-gg of the social services law, or a plan providing services under title XVIII of the federal Social Security Act. The court may, in its discretion, award the prevailing plaintiff in such action an additional award not to exceed five thousand dollars if the court finds a willful violation pursuant to

this subsection. The court may award reasonable attorneys' fees to a prevailing plaintiff.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Subparagraph (A) of paragraph 31-a of subsection (i) of section 3216 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type 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 [~~or~~], long acting injectable naltrexone [~~for detoxification or maintenance treatment of a substance use disorder~~], or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, 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.

§ 2. Subparagraph (A) of paragraph 7-a of subsection (l) of section 3221 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type 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 policy, 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 policy 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 [~~or~~], long acting injectable naltrexone, or medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, 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.

§ 3. Paragraph (A) of subsection (l-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 [~~or~~], 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 health and substance use disorder treatment. Such standards shall include:

(A) requirements that ensure that insureds have timely and proximate access to treatment for mental health conditions and substance use disorders;

(B) appointment availability standards that include timeframes for initial provider visits, follow-up provider visits, and provider visits 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 law;

(C) time and distance standards that take into consideration reasonable proximity to the insured's residence, established service delivery patterns for the area, the geographic area, and the availability of telehealth services; and

(D) responsibilities of an insurer to provide an out-of-network referral at the in-network cost-sharing when there is no participating provider able to provide the requested health care service within the timely and proximate access standards established by regulation and a non-participating provider is able to meet such standards; and, where the non-participating provider is a facility licensed, operated, or otherwise authorized by the office of mental health or the office of addiction services and supports, the insurer shall reimburse the facility at a rate negotiated between the insurer and facility, 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.

§ 2. Subdivision 5 of section 4403 of the public health law is amended by adding a new paragraph (d) to read as follows:

(d) The commissioner, in consultation with the superintendent of financial services, 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 health and substance use disorder treatment. Such standards shall include:

(i) requirements that ensure that enrollees have timely and proximate access to treatment for mental health conditions and substance use disorders;

(ii) appointment availability standards that include timeframes for initial provider visits, follow-up provider visits, and provider visits 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 law;

(iii) time and distance standards that take into consideration reasonable proximity to the enrollee's residence, established service delivery patterns for the area, the geographic area, and the availability of telehealth services; and

(iv) responsibilities of an organization to provide an out-of-network referral at the in-network cost-sharing when there is no participating provider able to provide the requested health care service within the timely and proximate access standards established by regulation and a non-participating provider is able to meet such standards; and, where the non-participating provider is a facility licensed, operated, or otherwise authorized by the office of mental health or the office of addiction services and supports, the organization shall reimburse the facility at a rate negotiated between the organization and facility 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.

§ 3. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately, provided, however, that the applicable effective date of Subparts A through F of this act shall be as specifically set forth in the last section of such Subparts.

PART JJ

Section 1. Subdivision (g) of section 31.16 of the mental hygiene law, as amended by chapter 351 of the laws of 1994, is amended to read as follows:

(g) The commissioner may impose [~~a fine~~] **sanctions** upon a finding that the holder of the certificate has failed to comply with the terms of the operating certificate or with the provisions of any applicable statute, rule or regulation. **The commissioner shall be authorized to develop a schedule for the purpose of imposing such sanctions.** The maximum amount of [~~such~~] **any** fine **imposed thereunder** shall not exceed [~~one~~] **two** thousand dollars per day [~~or fifteen thousand dollars~~]**,** per violation. **Penalties may be considered at the individual bed level for beds closed without authorization at inpatient settings.**

Such penalty may be recovered by an action brought by the commissioner in any court of competent jurisdiction.

Such penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general. Any such penalty may be released or compromised and any action commenced to recover the same may be settled or discontinued by the attorney general with the consent of the commissioner.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through JJ of this act shall be as specifically set forth in the last section of such Parts.