*** § 2808-e. Residential health care for children with medical fragility in transition to young adults and young adults with medical fragility demonst**ration program. 1. Notwithstanding any law, rule, or regulation to the contrary, the commissioner shall, within amounts appropriated and subject to the availability of federal financial participation, establish a demonstration program for two eligible pediatric residential health care facilities, as defined in paragraph (d) of subdivision two of this section, to construct a new facility or repurpose part of an existing facility to operate as a young adult residential health care facility for the purpose of improving the quality of care for young adults with medical fragility.

2. For purposes of this section:

(a) "children with medical fragility" shall mean children up to twenty-one years of age who have a chronic debilitating condition or conditions, are at risk of hospitalization, are technology-dependent for life or health sustaining functions, require complex medication regimens or medical interventions to maintain or to improve their health status, and/or are in need of ongoing assessment or intervention to prevent serious deterioration of their health status or medical complications that place their life, health or development at risk.

(b) "young adults with medical fragility" shall mean individuals who meet the definition of children with medical fragility, but for the fact such individuals are aged between eighteen and thirty-five years old.

(c) "pediatric residential health care facility" shall mean a residential health care facility or discrete unit of a residential health care facility providing services to children under the age of twenty-one.

(d) "eligible pediatric residential health care facilities" shall mean pediatric health care facilities that meet the following eligibility criteria for the demonstration program set forth in subdivision one of this section: (i) has over one hundred and sixty licensed pediatric beds; or (ii) is currently licensed for pediatric beds pursuant to this article, is co-operated by a system of hospitals licensed pursuant to this article, and such hospitals qualify for funds pursuant to a vital access provider assurance program or a value based payment incentive program, as administered by the department in accordance with all

requirements set forth in the state's federal 1115 Medicaid waiver standard terms and conditions.

3. Notwithstanding any law, rule, or regulation to the contrary, any child with medical fragility who has resided for at least thirty consecutive days in an eligible pediatric residential health care facility and who has reached the age of twenty-one while a resident, may continue residing at such eligible pediatric residential health care facility and receiving such services from the facility, provided that such young adult with medical fragility remains eligible for nursing home care, and provided further that the eligible pediatric residential health care facility has prepared, applied for, and submitted to the commissioner, a proposal for a new residential health care facility for the provision of extensive nursing, medical, psychological and counseling support services to young adults with medical fragility in accordance with subdivision four of this section. A young adult with medical fragility may remain in such eligible pediatric residential health care facility until such time that the young adult with medical fragility attains the age of thirty-five years or the young adult residential health care facility is constructed and becomes operational, whichever is sooner.

4. Upon receipt of a certificate of need application from an eligible pediatric residential health care facility selected by the commissioner for the demonstration program authorized under this section, the commissioner is authorized to approve, with the written approval of the public health and health planning council pursuant to section twenty-eight hundred two of this article, the construction of a new residential health care facility to be constructed and operated on a parcel of land within the same county as that of eligible pediatric residential health care facility that is proposing such new facility and over which it will have site control, or the repurposing of a portion of a residential health care facility that is currently serving geriatric residents or those with similar needs for the provision of nursing, medical, psychological and counseling support services appropriate to the needs of nursing home-eligible young adults with medical fragility, referred to herein below as a young adult facility, provided that the

established operator of such eligible pediatric residential health care facility proposing the young adult facility is in good standing and possesses at least thirty years' prior experience operating as a pediatric residential health care facility in the state or more than thirty years' experience serving medically fragile pediatric patients, and provided further that such facility qualifies for the demonstration program set forth in subdivision one of this section.

5. A young adult facility established pursuant to subdivision four of this section may admit, from the community-at-large or upon referral from an unrelated facility, young adults with medical fragility who prior to reaching age twenty-one were children with medical fragility, and who are eligible for nursing home care and in need of extensive nursing, medical, psychological and counseling support services, provided that the young adult facility, to promote continuity of care, undertakes to provide priority admission to young adults with medical fragility transitioning from the pediatric residential health care facility or unit operated by the entity that proposed the young adult facility and ensure sufficient capacity to admit such young adults as they approach or attain twenty-one years of age.

6. (a) For inpatient services provided to any young adults with medical fragility eligible for medical assistance pursuant to title eleven of article five of the social services law residing at any eligible pediatric residential health care facility as authorized in subdivision three of this section, the commissioner shall establish the operating component of rates of reimbursement appropriate for young adults with medical fragility residing at a pediatric residential health care facility, to apply to such young adults twenty-one years of age or older. Such methodology shall take into account the methodology used to establish the operating component of the rates pursuant to section twenty eight hundred eight of this article for pediatric residential health care facilities with an increase or decrease adjustment as appropriate to account for any discrete expenses associated with caring for young adults with medical fragility, including addressing their distinct needs as young adults for psychological and counseling support services.

(b) For inpatient services provided to any young adults with medical fragility eligible for medical assistance pursuant to title eleven of article five of the social services law at any young adult facility as authorized in subdivision four of this section, the commissioner shall establish the operating component of rates of reimbursement appropriate for young adults with medical fragility. Such methodology shall take into account the methodology used to establish the operating component of the rates pursuant to section twenty eight hundred eight of this article for pediatric residential health care facilities with an increase or decrease adjustment as appropriate to account for any discrete expenses associated with caring for young adults with medical fragility, including addressing their distinct needs as young adults for psychological and counseling support services.

7. The commissioner shall have authority to waive any rule or regulation to effectuate the demonstration program authorized pursuant to subdivision one of this section.

* NB Repealed August 17, 2027

* NB There are 2 § 2808-e's