§ 409-c. Powers and duties of the commissioner; administrative and fiscal functions. 1. Notwithstanding the provisions of sections forty-four, forty-nine, fifty, fifty-one and ninety-three of the state finance law, section nine of the public buildings law or any other provision of law to the contrary, the commissioner is authorized and empowered:

(a) to expend all lump sum or consolidated appropriations and other appropriations made for the institutional program. Within aggregate funds available for expenditures, the state comptroller shall draw warrants for the payment of all vouchers approved by the commissioner, or by such person as shall be designated by the commissioner by a rule or written direction filed with the state comptroller. Such lump sum or consolidated appropriations made for personal service, or for maintenance and operation or for non-personal service, or maintenance undistributed including personal service, other than appropriations from proprietary or fiduciary funds, shall be available for payments for personal service, or maintenance and operation or for non-personal service, or for maintenance undistributed including personal service upon the filing of a schedule of positions and salaries and the amounts to be available for other personal service classes of expenditure, and for the expenses of maintenance and operation, or for non-personal service with the director of the budget, chairman of the senate finance committee, chairman of the assembly ways and means committee, and the state comptroller. Any such schedule may be amended and such amendment shall be filed with the officers named above. The state comptroller is authorized to pay any amounts required for the salaries and related employment benefits of employees of the institutional program from any appropriations available therefor.

(b) To increase or decrease capital projects fund appropriations by transfer or interchange as follows:

(i) Amounts appropriated for the programs or purposes or for any item or items within such programs or purposes of the institutional program in the department from a particular fund or funds, excluding appropriations for major new facility construction or comprehensive facility renovation or modernization projects, in a fiscal year may be interchanged between items within the same program or purposes of an institution, or with other items appropriated from such fund not in the

same program or purpose within an institution, but which are contained in the state comptroller's classification of items as last promulgated pursuant to a certificate of allocation. Such certificate shall be submitted by the commissioner to the state comptroller with copies to be sent to the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget for informational purposes only.

2. (a) Notwithstanding any inconsistent provision of section ninety-three of the state finance law or any other law to the contrary, any capital projects fund appropriation for state hospitals in the department shall be available to the department upon issuance of a certificate of approval of availability by the director of the budget. The certificate shall be for so much as shall be necessary to accomplish the purposes described in the report from the department specifying the scope of the project and the project budget within the limits of the appropriation and a copy of such certificate of approval shall be filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee. Moneys so approved shall be paid on the audit and warrant of the state comptroller pursuant to vouchers approved by the commissioner.

(b) Notwithstanding any inconsistent provision of section nine of the public buildings law or any other law to the contrary, when the commissioner shall determine that there is a construction emergency, as defined in section nine of the public buildings law, the commissioner is empowered and authorized to exceed the limit of forty thousand dollars but not to exceed the limit of two hundred thousand dollars for such project and may utilize any capital projects fund appropriation for state hospitals within the department for the purposes of addressing such construction emergency.

3. The commissioner shall provide the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget with: (i) quarterly reports of all expenditures within the institutional program pursuant to this section on the fifteenth day of July, October, January and April of each year; and (ii) a report on the health care activities of the facilities within the institutional

program pursuant to this section and their participation in health care delivery networks, either directly or under contract on or around submission of the annual budget request, but in no event later than October fifteenth of each year. This report shall provide information regarding: the impact of existing managed care contracts on services, census levels, operational costs and revenue; and the impact of planned expansion of existing managed care networks, including anticipated changes in service areas, census, operating costs and revenue projected as a result of such expansion.

4. Notwithstanding any provision of section one hundred sixty-three of the state finance law or any other law, rule or regulation to the contrary, the commissioner may:

(a) authorize contracts with public, non-profit or business entities for the provision of general comprehensive and specialty health care services in department inpatient or outpatient hospitals, clinics or other ancillary facilities, as defined in section four hundred three of this title, through managed care networks or other health care contractual arrangements for the provision of health care services. Consistent with applicable laws and regulations, the commissioner shall develop policies concerning the terms and conditions for such contracts including length of term, contributions, evidence of insurance, risk assumption and indemnification. Health care services to be provided under such contracts may be delivered directly by state hospitals in the department, as defined in section four hundred three of this title, or, with respect to health care services not provided by such hospitals, through contract, agreement or other arrangement with physicians and other health practitioners and providers or professional corporations, not-for-profit or business entities comprised thereof. Contracts for the provision of health care services hereunder: (i) shall be consistent with applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law; (ii) may be entered into without formal competitive bidding subject to the policies of the commissioner which shall include requirements for comparative review or other competitive processes where appropriate; and (iii) shall not increase operating costs above resulting increases in revenue such that expenditures related to services provided pursuant to

such contracts will be limited to revenues projected to be received over the life of the contract. Before entering into any contract pursuant to this paragraph, the commissioner shall provide a written assurance to the director of the budget that such contract will not require any additional resources from the state of New York not supported by contract revenues, based on the projected financial and economic analyses of the proposed contract submitted by the facility, including relevant assumptions regarding the projection.

* (b) notwithstanding section one hundred twelve of the state finance law to the contrary, authorize contracts for the purchase of goods and services for state hospitals in the department, as defined in section four hundred three of this title, without prior review and approval of any other state office or agency and subject to the commissioner's rules and regulations: (i) for any contract which does not exceed one hundred thousand dollars; or (ii) for joint or group purchasing arrangements which do not exceed three hundred thousand dollars. The state comptroller shall have ninety days to review arrangements over the limitations prescribed pursuant to this subparagraph. Purchases made pursuant to such joint or group purchasing arrangements shall not include services and be made from contracts awarded by a regionally or nationally recognized purchasing organization, and contracts with a regionally or nationally recognized purchasing organization shall be made on a competitive basis.

* NB Repealed March 31, 2027

(c) authorize contracts for the participation by state hospitals in the department, as defined in section four hundred three of this title, in joint and cooperative programs and arrangements for the delivery of health care services, or for the planning and administration thereof, with public, non-profit or business entities, including programs and arrangements on a regional or national basis.

(d) authorize the department to: (i) lease, sublease or otherwise make available in accordance with the commissioner's policies, space or facilities within its hospitals, as defined in section four hundred three of this title, to one or more practitioners or public, non-profit or business entities for the purposes specified in paragraphs (a) and (c) of this subdivision; or (ii) to lease or sublease any facilities or other property necessary for the delivery of health care services in

accordance with the provisions of paragraphs (a) and (b) of this subdivision.

(e) nothing contained in this subdivision shall in any way alter or impair the rights provided pursuant to a collective bargaining agreement, state law implementing such agreement or under article fourteen of the civil service law of all members of certified bargaining units currently or hereafter employed by the department in hospitals, as defined in section four hundred three of this title, and all certified employee organizations and negotiating units of such employees shall continue in accordance with the provisions of article fourteen of the civil service law. The commissioner shall assure that any contract or agreement entered into for the provision of general comprehensive and specialty health care services in department hospitals, as defined in section four hundred three of this title, through participation in managed care networks or other joint and cooperative programs and arrangements including those on a regional basis in fulfillment of any provision of this subdivision, the service of which is being provided by department employees at hospitals defined in section four hundred three of this title who are members of certified bargaining units at such hospital will be subject to the terms and conditions of any current or future collectively negotiated agreement between the state and certified employee organizations pursuant to article fourteen of the civil service law.

5. The commissioner shall submit a report to the governor, the temporary president of the senate, the speaker of the assembly and the office of the state comptroller on or before May first, two thousand two, which shall include a record of all group purchasing arrangements, including for each group purchasing arrangement: the name of the purchasing organization, overall contract amount, dollar value of purchases made by fiscal year, description of the commodities purchased, and methodology used to determine the cost effectiveness of such purchase.