

STATE OF NEW YORK

S. 7507--C

A. 9507--C

SENATE - ASSEMBLY

January 18, 2018

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

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

AN ACT to amend the public health law, in relation to rate methodology for capital expenditures to hospitals and residential nursing facilities; to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs; to direct a review of the feasibility of a burn center in Kings county; and in relation to rates of reimbursement for certain residential health care facilities (Part A); to amend the public health law, in relation to payments to residential health care facilities; to amend the social services law and the public health law, in relation to assisted living program providers licensed in the state; to amend the social services law, in relation to payments for certain medical assistance provided to eligible persons participating in the New York traumatic brain injury waiver program; to amend the public health law, in relation to limitations on licensed home care service agency contracts and registration of licensed home care services agencies; to amend the social services law, in relation to advertising by fiscal intermediaries; and in relation to medicaid reimbursement rates for hospice providers (Part B); to amend the social services law and the public health law, in relation to health homes and penalties for managed care providers (Part C); to amend the

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

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social services law and the public health law, in relation to drug coverage, updating the professional dispensing fee and copayments; and in relation to the Medicaid drug cap (Part D); intentionally omitted (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); intentionally omitted (Part I); to amend the state finance law, in relation to the false claims act (Part J); to amend the public health law and the social services law in relation to home care services and direct care costs; and to amend chapter 59 of the laws of 2011 amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the medicaid global cap (Part K); intentionally omitted (Part L); 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 apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part M); to amend part C of chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services, in relation to the determination thereof; and to repeal certain provisions thereof relating to eligible programs (Part N); intentionally omitted (Part O); intentionally omitted (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); intentionally omitted (Part R); intentionally omitted (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the public health law, in relation to the definitions of telehealth, and to amend the social services law, in relation to payment for telehealth services and remote patient monitoring and to repeal certain provisions of the public health law relating thereto (Subpart C)(Part S); to amend chapter 59 of the laws of 2016, amending the social services law and other laws relating to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data, in relation to the effectiveness of certain provisions of such chapter; to amend 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 of such chapter; to amend chapter 54 of the laws of 2016, amending part C of chapter 58 of the laws of 2005 relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof, in relation to the effectiveness thereof; to amend chapter 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 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 relating to the cap on local Medicaid expenditures, in relation to rates of payments; to amend the social services law, in relation to agreements with pharmaceutical manufacturers; 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; and to amend the public health law, in relation to participation and membership in a demonstration period (Part T); to amend part NN of chapter 58 of the laws of 2015, amending the mental hygiene law relating to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs, in relation to the effectiveness thereof (Part U); to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto (Part V); intentionally omitted (Part W); to amend chapter 111 of the laws of 2010, amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part X); to amend the education law, in relation to persons practicing in certain licensed programs or services who are exempt from practice requirements of professionals licensed by the department of education; to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to extending the expiration of certain provisions thereof; to amend chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, in relation to extending the expiration of certain provisions; and to amend chapter 130 of the laws of 2010, amending the education law and other laws relating to the registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof (Part Y); to amend the social services law, in relation to adding demonstration waivers to waivers allowable for home and community-based services; to amend the social services law, in relation to adding successor federal waivers to waivers granted under subsection (c) of section 1915 of the federal social security law, in relation to nursing facility services; to amend the social services law, in relation to waivers for high quality and integrated care; to amend the mental hygiene law, in relation to adding new and successor federal waivers to waivers in relation to home and community-based services; 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; to amend the public health law, in relation to expansion of comprehensive health services plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to extending provisions thereof; to amend the public health law, in relation to managed long term care plans, health and long term care services and developmental disability individual support and care coordination organizations; to amend chapter 165 of

the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to extending the provisions thereof; to amend the mental hygiene law, in relation to reimbursement rates; and to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to extending the provisions thereof (Part Z); to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to the inclusion and development of certain cost of living adjustments (Part AA); to amend the public health law, in relation to expanding the list of controlled substances (Part BB); to amend the public health law, in relation to inquiries or complaints of professional misconduct (Part CC); to amend the education law, in relation to authorizing a licensed pharmacist to administer influenza vaccine to children between two and eighteen years of age pursuant to a non-patient specific regimen; to amend the public health law, in relation to reporting requirements for vaccines administered by pharmacists to individuals less than nineteen years of age; to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, in relation to making the provisions permanent; to amend chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, in relation to making certain provisions permanent; and to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to making certain provisions permanent (Part DD); to amend the social services law, in relation to insurance payments for independent practitioner services for individuals with developmental disabilities (Part EE); to amend the mental hygiene law, in relation to establishing the office of the independent substance use disorder and mental health ombudsman (Part FF); to amend the mental hygiene law, in relation to a certified peer recovery advocate services program (Part GG); to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams; and to repeal certain provisions of the public health law relating thereto (Part HH); to amend the mental hygiene law, in relation to state-operated individualized residential alternatives; and to amend part Q of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the closure or transfer of a state-operated individualized residential alternative, in relation to the effectiveness thereof (Part II); to amend the mental hygiene law, the public health law and the executive law, in relation to establishing a training program for first responders for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities (Part JJ); to amend the state finance law, in relation to requiring bids submitted to the state or any agency or department of the state to contain a certification concerning sexual harassment (Subpart A); to amend the civil practice law and rules, in relation to prohibiting mandatory arbitration clauses (Subpart B); to amend the public officers law, in relation to reimbursement of funds paid by state agencies, state entities and public entities for the payment of awards adjudicated in sexual harassment claims (Subpart C); to amend the

general obligations law and the civil practice law and rules, in relation to nondisclosure agreements (Subpart D); to amend the labor law, in relation to the establishment of a model policy regarding the prevention of sexual harassment and a model training program to prevent sexual harassment in the workplace (Subpart E); and to amend the executive law, in relation to sexual harassment relating to non-employees (Subpart F) (Part KK); to amend the public health law, in relation to authorizing a voluntary public water system consolidation study (Part LL); to amend the public health law, in relation to pharmacy audits by pharmacy benefit managers; to amend the public health law, in relation to contracts between pharmacy benefit managers and pharmacies; to amend the insurance law, in relation to outpatient treatment; to amend the public health law, in relation to establishing the children and recovering mothers program and a workgroup to study and evaluate barriers and challenges in identifying and treating expectant mothers, newborns and new parents with a substance use disorder; to amend the public health law, in relation to screening students for lead when enrolling in child care, pre-school or kindergarten; to amend the public health law, in relation to the lead service line replacement grant program; to direct the New York state department of health to conduct a study of the high burden of asthma in the boroughs of Brooklyn and Manhattan in the city of New York; and to amend the insurance law, in relation to providing coverage for pasteurized donor human milk (PDHM) (Part MM); and to amend the public health law and the state finance law, in relation to enacting the opioid stewardship act; and providing for the repeal of such provisions upon expiration thereof (Part NN)

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 which are necessary to implement the state fiscal plan for the 2018-2019
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through NN. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Intentionally omitted.

14 § 2. Subdivision 5-d of section 2807-k of the public health law, as
15 amended by section 1 of part E of chapter 57 of the laws of 2015, is
16 amended to read as follows:

17 5-d. (a) Notwithstanding any inconsistent provision of this section,
18 section twenty-eight hundred seven-w of this article or any other
19 contrary provision of law, and subject to the availability of federal
20 financial participation, for periods on and after January first, two
21 thousand thirteen, through [~~December~~ **March** thirty-first, two thousand
22 [~~eighteen~~ **twenty**, all funds available for distribution pursuant to this

1 section, except for funds distributed pursuant to subparagraph (v) of
2 paragraph (b) of subdivision five-b of this section, and all funds
3 available for distribution pursuant to section twenty-eight hundred
4 seven-w of this article, shall be reserved and set aside and distributed
5 in accordance with the provisions of this subdivision.

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

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

20 (ii) Annual distributions pursuant to such regulations for the two
21 thousand thirteen through two thousand [~~eighteen~~ nineteen calendar
22 years shall be in accord with the following:

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

26 (B) nine hundred ninety-four million nine hundred thousand dollars as
27 Medicaid DSH payments to eligible general hospitals, other than major
28 public general hospitals.

29 (iii)(A) Such regulations shall establish transition adjustments to
30 the distributions made pursuant to clauses (A) and (B) of subparagraph
31 (ii) of this paragraph such that no facility experiences a reduction in
32 indigent care pool payments pursuant to this subdivision that is greater
33 than the percentages, as specified in clause (C) of this subparagraph as
34 compared to the average distribution that each such facility received
35 for the three calendar years prior to two thousand thirteen pursuant to
36 this section and section twenty-eight hundred seven-w of this article.

37 (B) Such regulations shall also establish adjustments limiting the
38 increases in indigent care pool payments experienced by facilities
39 pursuant to this subdivision by an amount that will be, as determined by
40 the commissioner and in conjunction with such other funding as may be
41 available for this purpose, sufficient to ensure full funding for the
42 transition adjustment payments authorized by clause (A) of this subpara-
43 graph.

44 (C) No facility shall experience a reduction in indigent care pool
45 payments pursuant to this subdivision that: for the calendar year begin-
46 ning January first, two thousand thirteen, is greater than two and one-
47 half percent; for the calendar year beginning January first, two thou-
48 sand fourteen, is greater than five percent; and, for the calendar year
49 beginning on January first, two thousand fifteen[7]; is greater than
50 seven and one-half percent, and for the calendar year beginning on Janu-
51 ary first, two thousand sixteen, is greater than ten percent; and for
52 the calendar year beginning on January first, two thousand seventeen, is
53 greater than twelve and one-half percent; and for the calendar year
54 beginning on January first, two thousand eighteen, is greater than
55 fifteen percent; and for the calendar year beginning on January first,
56 two thousand nineteen, is greater than seventeen and one-half percent.

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

11 (c) The commissioner shall annually report to the governor and the
12 legislature on the distribution of funds under this subdivision includ-
13 ing, but not limited to:

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

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

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

19 § 3. Intentionally omitted.

20 § 4. Intentionally omitted.

21 § 5. Paragraph (h) of subdivision 2 of section 365-a of the social
22 services law, as amended by chapter 220 of the laws of 2011, is amended
23 to read as follows:

24 (h) speech therapy, and when provided at the direction of a physician
25 or nurse practitioner, physical therapy including related rehabilitative
26 services and occupational therapy; provided, however, that speech thera-
27 py[~~, physical therapy~~] and occupational therapy each shall be limited to
28 coverage of twenty visits per year; physical therapy shall be limited to
29 coverage of forty visits per year; such limitation shall not apply to
30 persons with developmental disabilities or, notwithstanding any other
31 provision of law to the contrary, to persons with traumatic brain inju-
32 ry;

33 § 6. The commissioner of health is directed to conduct a study to
34 review the feasibility of creating a burn center in Kings County.

35 The commissioner of health shall report his or her findings to the
36 governor, the speaker of the assembly, the minority leader of the assem-
37 bly, the temporary president of the senate and the minority leader of
38 the senate on or before one year from the date this act shall take
39 effect.

40 § 7. Section 4403-f of the public health law is amended by adding a
41 new subdivision 8-a to read as follows:

42 8-a. Rates for certain residential health care facilities. Notwith-
43 standing any other provision of law or regulation to the contrary, any
44 residential health care facility established pursuant to article twen-
45 ty-eight of this chapter located in a county with a population of more
46 than seventy-two thousand and less than seventy-five thousand persons
47 based on the two thousand ten federal census shall be reimbursed by any
48 managed long term care plan, approved pursuant to this section and
49 contracting with the department, at a rate of no less than one hundred
50 four percent of the average rate of reimbursement in existence on March
51 first, two thousand eighteen for such county.

52 § 8. Subdivision 2-c of section 2808 of the public health law is
53 amended by adding a new paragraph (g) to read as follows:

54 (g) Notwithstanding any other provision of law or regulation to the
55 contrary, any residential health care facility established pursuant to
56 this article located in a county with a population of more than seven-

1 ty-two thousand and less than seventy-five thousand persons based on the
2 two thousand ten federal census, and operating between one hundred ten
3 and one hundred thirty beds, being reimbursed by the department on a
4 fee-for-services basis, shall be reimbursed at a rate of no less than
5 one hundred seventeen percent of the fee-for-service rate of reimburse-
6 ment calculated pursuant to this section for that facility for inpatient
7 services provided on or after March first, two thousand eighteen.

8 § 9. This act shall take effect immediately; provided, however, that
9 the amendments to section 4403-f of the public health law made by
10 section seven of this act shall not affect the repeal of such section
11 and shall be deemed repealed therewith.

12 PART B

13 Section 1. Subdivision 2-c of section 2808 of the public health law is
14 amended by adding a new paragraph (g) to read as follows:

15 (g) The commissioner shall reduce Medicaid revenue to a residential
16 health care facility in a payment year by two percent if in each of the
17 two most recent payment years for which New York state nursing home
18 quality initiative data is available, the facility was ranked in the
19 lowest two quintiles of facilities based on its nursing home quality
20 initiative performance, and was ranked in the lowest quintile in the
21 most recent payment year. The commissioner shall waive the application
22 of this paragraph to a facility if the commissioner determines that the
23 facility is in financial distress.

24 § 2. Subdivision 3 of section 461-1 of the social services law is
25 amended by adding four new paragraphs (k), (l), (m) and (n) to read as
26 follows:

27 (k) (i) Existing assisted living program providers may apply to the
28 department of health for approval to add up to nine additional assisted
29 living program beds that do not require major renovation or
30 construction. Eligible applicants are those that agree to dedicate such
31 beds to serve only individuals receiving medical assistance, are in good
32 standing with the department of health, and are in compliance with
33 appropriate state and local requirements as determined by the department
34 of health.

35 (ii) Existing assisted living program providers licensed on or before
36 April first, two thousand eighteen may submit applications under this
37 paragraph beginning no later than June thirtieth, two thousand eighteen
38 and until a deadline to be determined by the department of health.
39 Existing assisted living program providers licensed on or before April
40 first, two thousand twenty may submit such applications beginning no
41 later than June thirtieth, two thousand twenty and until a deadline to
42 be determined by the department of health.

43 (iii) The number of additional assisted living program beds approved
44 under this paragraph shall be based on the total number of previously
45 awarded beds either withdrawn by applicants or denied by the department
46 of health. The commissioner of health shall utilize an expedited review
47 process allowing certification of the additional beds within ninety days
48 of such department's receipt of a satisfactory application.

49 (l) (i) The commissioner of health is authorized to solicit and award
50 applications for up to a total of five hundred new assisted living
51 program beds in those counties where there is one or no assisted living
52 program providers, pursuant to criteria to be determined by the commis-
53 sioner.

1 (ii) The commissioner of health is authorized to solicit and award
2 applications for up to five hundred new assisted living program beds in
3 counties where utilization of existing assisted living program beds
4 exceeds eighty-five percent. All applicants shall comply with federal
5 home and community-based settings requirements, as set forth in 42 CFR
6 Part 441 Subpart G. To be eligible for an award, an applicant must agree
7 to:

8 (A) Dedicate such beds to serve only individuals receiving medical
9 assistance;

10 (B) Develop and execute collaborative agreements within twenty-four
11 months of an application being made to the department of health, in
12 accordance with guidance to be published by such department, between at
13 least one of each of the following entities: an adult care facility; a
14 residential health care facility; and a general hospital; and

15 (C) Enter into an agreement with an existing managed care entity.

16 (iii) The commissioner of health is authorized to award any assisted
17 living program beds for which a solicitation is made under subparagraph
18 (i) of this paragraph, but which are not awarded, to applicants that
19 meet all applicable criteria pursuant to a solicitation made under
20 subparagraph (ii) of this paragraph.

21 (m) Beginning April first, two thousand twenty-three, additional
22 assisted living program beds shall be approved on a case by case basis
23 whenever the commissioner of health is satisfied that public need exists
24 at the time and place and under circumstances proposed by the applicant.

25 (i) The consideration of public need may take into account factors
26 such as, but not limited to, regional occupancy rates for adult care
27 facilities and assisted living program occupancy rates and the extent to
28 which the project will serve individuals receiving medical assistance.

29 (ii) Existing assisted living program providers may apply for approval
30 to add up to nine additional assisted living program beds that do not
31 require major renovation or construction under an expedited review proc-
32 ess. The expedited review process is available to applicants that are in
33 good standing with the department of health, and are in compliance with
34 appropriate state and local requirements as determined by the department
35 of health. The expedited review process shall allow certification of
36 the additional beds for which the commissioner of health is satisfied
37 that public need exists within ninety days of such department's receipt
38 of a satisfactory application.

39 (n) The commissioner of health is authorized to create a program to
40 subsidize the cost of assisted living for those individuals living with
41 Alzheimer's disease and dementia who are not eligible for medical
42 assistance pursuant to title eleven of article five of this chapter. The
43 program shall authorize up to two hundred vouchers to individuals
44 through an application process and pay for up to seventy-five percent of
45 the average private pay rate in the respective region. The commissioner
46 of health may propose rules and regulations to effectuate this
47 provision.

48 § 3. Subparagraph (i) of paragraph (b) of subdivision 7 of section
49 4403-f of the public health law, as amended by section 41-b of part H of
50 chapter 59 of the laws of 2011, is amended to read as follows:

51 (i) The commissioner shall, to the extent necessary, submit the appro-
52 priate waivers, including, but not limited to, those authorized pursuant
53 to sections eleven hundred fifteen and nineteen hundred fifteen of the
54 federal social security act, or successor provisions, and any other
55 waivers necessary to achieve the purposes of high quality, integrated,
56 and cost effective care and integrated financial eligibility policies

1 under the medical assistance program or pursuant to title XVIII of the
2 federal social security act. In addition, the commissioner is authorized
3 to submit the appropriate waivers, including but not limited to those
4 authorized pursuant to sections eleven hundred fifteen and nineteen
5 hundred fifteen of the federal social security act or successor
6 provisions, and any other waivers necessary to require on or after April
7 first, two thousand twelve, medical assistance recipients who are twen-
8 ty-one years of age or older and who require community-based long term
9 care services, as specified by the commissioner, for a continuous period
10 of more than one hundred and twenty days, to receive such services
11 through an available plan certified pursuant to this section or other
12 program model that meets guidelines specified by the commissioner that
13 support coordination and integration of services. Such guidelines shall
14 address the requirements of paragraphs (a), (b), (c), (d), (e), (f),
15 (g), (h), and (i) of subdivision three of this section as well as
16 payment methods that ensure provider accountability for cost effective
17 quality outcomes. Such other program models may include long term home
18 health care programs that comply with such guidelines. Copies of such
19 original waiver applications and amendments thereto shall be provided to
20 the chairs of the senate finance committee, the assembly ways and means
21 committee and the senate and assembly health committees simultaneously
22 with their submission to the federal government.

23 § 4. Subparagraphs (vii) and (viii) of paragraph (b) of subdivision 7
24 of section 4403-f of the public health law are redesignated subpara-
25 graphs (viii) and (ix) and a new subparagraph (vii) is added to read as
26 follows:

27 (vii) If another long term care plan certified under this section is
28 available, medical assistance recipients required to enroll in such
29 plans pursuant to this section, including recipients who have been
30 assigned to a provider by the commissioner, may change plans without
31 cause within ninety days of either notification of enrollment or the
32 effective date of enrollment into a plan, whichever is later, by submit-
33 ting a request to the entity designated by the department in a format to
34 be determined by the department. In accordance with federal statutes and
35 regulations, after such ninety-day period, the department may prohibit a
36 recipient from changing plans more frequently than once every twelve
37 months, except for good cause. Good cause may include poor quality of
38 care, lack of access to covered services, lack of access to providers
39 experienced in dealing with the enrollee's care needs, or as otherwise
40 determined by the commissioner.

41 § 5. Clauses 11 and 12 of subparagraph (v) of paragraph (b) of subdi-
42 vision 7 of section 4403-f of the public health law, as amended by
43 section 48 of part A of chapter 56 of the laws of 2013, are amended to
44 read as follows:

45 (11) a person who is eligible for medical assistance pursuant to para-
46 graph (b) of subdivision four of section three hundred sixty-six of the
47 social services law; ~~and~~

48 (12) Native Americans; ~~and~~

49 (13) a person who is permanently placed in a nursing home for a
50 consecutive period of three months or more. In implementing this
51 provision, the department shall continue to support service delivery and
52 outcomes that result in community living for enrollees.

53 § 6. Section 4403-f of the public health law is amended by adding a
54 new subdivision 11-b to read as follows:

55 11-b. In cases of a managed long term care plan merger, acquisition,
56 or other similar arrangement approved by the department, any receiving

1 plan that is a party to the arrangement shall submit a report to the
2 department within twelve months of the effective date of the trans-
3 action. Such reports shall be in a form and format to be determined by
4 the department and shall include, but not be limited to, information
5 about the enrollees transferred and enrollee service authorization data
6 before and after transfer. The department shall make a summary of the
7 report available to the public.

8 § 7. Intentionally omitted.

9 § 8. Subdivision 1 of section 367-a of the social services law is
10 amended by adding a new paragraph (h) to read as follows:

11 (h) Amounts payable under this title for medical assistance in the
12 form of freestanding clinic services pursuant to article twenty-eight of
13 the public health law provided to eligible persons participating in the
14 New York traumatic brain injury waiver program who are also benefici-
15 aries under part B of title XVIII of the federal social security act or
16 who are qualified medicare beneficiaries under part B of title XVIII of
17 such act shall not be less than the approved medical assistance payment
18 level less the amount payable under part B.

19 § 9. The commissioner of health, in consultation with the rural health
20 council, shall conduct a study of home and community based services
21 available to recipients of the Medicaid program in rural areas of the
22 state. Such study shall include a review and analysis of factors affect-
23 ing such availability, including but not limited to transportation
24 costs, costs of direct care personnel including home health aides,
25 personal care attendants and other direct service personnel, opportu-
26 nities for telehealth services, and technological advances to improve
27 efficiencies. Consistent with the results of the study, the commissioner
28 of health is authorized to provide a targeted Medicaid rate enhancement
29 to fee-for-service personal care rates and rates under Medicaid waiver
30 programs such as the nursing home transition and diversion waiver and
31 the traumatic brain injury program waiver, in an aggregate amount of
32 three million dollars minus the cost of conducting the study; provided
33 further, that nothing in this section shall be deemed to affect payment
34 for the costs of the study and any related Medicaid rate enhancement if
35 federal participation is not available for such costs.

36 § 9-a. Subdivision 7 of section 4403-f of the public health law is
37 amended by adding a new paragraph (j) to read as follows:

38 (j) Limitations on licensed home care service agency contracts. (i)
39 The commissioner may establish methodologies to limit the number of
40 licensed home care services agencies licensed pursuant to article thir-
41 ty-six of the public health law with which managed long term care plans
42 may enter into contracts, provided that such limitations are consistent
43 with the specifications set forth in this paragraph.

44 (ii) Managed long term care plans operating in the city of New York
45 and/or the counties of Nassau, Suffolk, and Westchester may enter into
46 contracts with licensed home care services agencies in such region in a
47 maximum number calculated based upon the following methodology:

48 (A) As of October first, two thousand eighteen, one contract per
49 seventy-five members enrolled in the plan within such region; and

50 (B) As of October first, two thousand nineteen, one contract per one
51 hundred members enrolled in the plan within such region.

52 (iii) Managed long term care plans operating in counties other than
53 those in the city of New York and the counties of Nassau, Suffolk, and
54 Westchester may enter into contracts with licensed home care services
55 agencies in such region in a maximum number calculated based upon the
56 following methodology:

1 (A) As of October first, two thousand eighteen, one contract per
2 forty-five members enrolled in the plan within such region.

3 (B) As of October first, two thousand nineteen, one contract per sixty
4 members enrolled in the plan within such region.

5 (iv) Notwithstanding subparagraphs (ii) and (iii) of this paragraph, a
6 managed long term care plan shall not enter into less than the number of
7 contracts with licensed home care services agencies in each county in
8 which the plan operates as is necessary to remain consistent with
9 network adequacy standards, as determined by the department in accord-
10 ance with federal regulations.

11 (v) When calculating the number of additional contracts that a managed
12 long term care plan may enter using the methodologies established pursu-
13 ant to this paragraph, any fractional result shall be rounded down.

14 (vi) The commissioner may increase the number of licensed home care
15 services agencies with which a managed long term care plan may contract,
16 on a county by county basis, if the commissioner determines that such
17 increase is necessary to: ensure adequate access to services in the
18 geographic area including, but not limited to, special needs services
19 and services that are culturally and linguistically appropriate; or to
20 avoid disruption in services in the geographic area.

21 (vii) Any licensed home care services agency that ceases operation as
22 a result of this paragraph shall conform with all applicable require-
23 ments, including but not limited to demonstrating to the department's
24 satisfaction continuity of care for individuals receiving services from
25 the agency.

26 (viii) The commissioner may require managed long term care plans to
27 provide evidence of compliance with this paragraph, on an annual basis.

28 (ix) In implementing the provisions of this paragraph, the commission-
29 er shall, to the extent practicable, consider and select methodologies
30 that seek to maximize continuity of care and minimize disruption to the
31 provider labor workforce, and shall, to the extent practicable and
32 consistent with the ratios set forth herein, continue to support
33 contracts between managed long term care plans and licensed home care
34 services agencies that are based on a commitment to quality and value.

35 (x) This subparagraph applies where implementation of the limits on
36 contracts with licensed home care service agencies of this paragraph (i)
37 would otherwise require an enrollee's care to be transferred from the
38 enrollee's current licensed home care service agency to another licensed
39 care service agency, and (ii) the enrollee (or the enrollee's authorized
40 representative) wants the enrollee to continue to be cared for by one or
41 more employees of the current licensed home care service agency, and
42 that continuation would otherwise be provided. In such a case: the
43 enrollee's managed long term care plan may contract with the enrollee's
44 current licensed home care service agency for the purpose of continuing
45 the enrollee's care by such employee or employees, and the contract
46 shall not count towards the limits on contracts under this paragraph for
47 a period of three months.

48 § 9-b. Subdivisions 4 and 6 of section 3605 of the public health law,
49 subdivision 4 as amended by section 62 of part A of chapter 58 of the
50 laws of 2010, subdivision 6 as added by chapter 959 of the laws of 1984,
51 are amended to read as follows:

52 4. The public health and health planning council shall not approve an
53 application for licensure unless it is satisfied as to: (a) the public
54 need for the existence of the licensed home health care service agency
55 at the time and place and under the circumstances proposed; (b) the
56 character, competence and standing in the community of the applicant's

1 incorporators, directors, sponsors, stockholders or operators; (c) the
2 financial resources of the proposed licensed home health care service
3 agency and its sources of financial revenues; and (d) such other matters
4 as it shall deem pertinent.

5 6. Neither [~~public need,~~] tax status nor profit-making status shall be
6 criteria for licensure.

7 § 9-c. Subdivision 2 of section 3605-a of the public health law, as
8 added by chapter 959 of the laws of 1984, is amended to read as follows:

9 2. No such license shall be revoked, suspended, limited, annulled or
10 denied without a hearing. However, a license may be temporarily
11 suspended or limited without a hearing for a period not in excess of
12 thirty days upon written notice to the agency following a finding by the
13 department that the public health or safety is in imminent danger.

14 Notwithstanding the provisions of this section, no licensed home care
15 services agency shall be permitted to operate unless it has registered
16 with the department pursuant to section thirty-six hundred five-b of
17 this article.

18 § 9-d. The public health law is amended by adding a new section 3605-b
19 to read as follows:

20 § 3605-b. Registration of licensed home care services agencies. 1.

21 (a) Notwithstanding any provision of law to the contrary, no licensed
22 home care services agency (LHCSA) licensed pursuant to section thirty-
23 six hundred five of this article shall be operated, provide nursing
24 services, home health aide services, or personal care services, or
25 receive reimbursement from any source for the provision of such services
26 during any period of time on or after January first, two thousand nine-
27 teen, unless it has registered with the commissioner in a manner
28 prescribed by the department.

29 (b) A LHCSA that fails to submit a complete and accurate set of all
30 required registration materials by the deadline established by the
31 commissioner shall be required to pay a fee of five hundred dollars for
32 each month or part thereof that the LHCSA is in default. A LHCSA that
33 failed to register in the prior year by the deadline of the current year
34 shall not be permitted to register for the upcoming registration period
35 unless it submits any unpaid late fees.

36 (c) The department shall post on its public website a list of all
37 LHCSAs, which shall indicate the current registration status of each
38 LHCSA.

39 (d) The department shall institute proceedings to revoke the license
40 of any LHCSA that fails to register for two annual registration periods,
41 whether or not such periods are consecutive. The department shall have
42 the discretion to pursue revocation of the license of a LHCSA on grounds
43 that it evidences a pattern of late registration over the course of
44 multiple years.

45 § 9-e. Effective April 1, 2018, the commissioner of health shall place
46 a moratorium on the processing and approval of applications seeking
47 licensure of a licensed home care services agency pursuant to section
48 3605 of the public health law that have not received establishment
49 approval or contingent establishment approval by the public health and
50 health planning council, except for: (a) an application seeking licen-
51 sure of a licensed home care services agency that is submitted with an
52 application for approval as an assisted living program authorized pursu-
53 ant to section 461-1 of the social services law; (b) an application
54 seeking approval to transfer ownership for an existing licensed home
55 care services agency that has been licensed and operating for a minimum
56 of five years for the purpose of consolidating ownership of two or more

1 licensed home care services agencies; and (c) an application seeking
2 licensure of a home care services agency where the applicant demon-
3 strates to the satisfaction of the commissioner of health that
4 submission of the application to the public health and health planning
5 council for consideration would be appropriate on grounds that the
6 application addresses a serious concern such as a lack of access to home
7 care services in the geographic area or a lack of adequate and appropri-
8 ate care, language and cultural competence, or special needs services.
9 Such moratorium shall expire on March 31, 2020. In implementing the
10 provisions of this section, the commissioner shall, to the extent prac-
11 ticable, review and, where appropriate, prioritize presentation to the
12 public health and health planning council of complete applications under
13 paragraph (b) of this section where the applicants demonstrate, to the
14 satisfaction of the commissioner, that the proposed change in ownership
15 is consistent with the goals of paragraph (j) of subdivision 7 of
16 section 4403-f of the public health law.

17 § 9-f. Section 365-f of the social services law is amended by adding a
18 new subdivision 4-c to read as follows:

19 4-c. Advertising by fiscal intermediaries. (a) A fiscal intermediary
20 shall not publish any advertisement that is false or misleading. For
21 purposes of this subdivision, an advertisement is any material produced
22 in any medium that can reasonably be interpreted as intended to market
23 the fiscal intermediary's services to medical assistance recipients.

24 (b) Fiscal intermediaries shall submit all advertisements to the
25 department prior to dissemination. Fiscal intermediaries shall not
26 disseminate any advertisement until it has been approved by the depart-
27 ment. The department shall render a decision on such submissions within
28 thirty days.

29 (c) Upon a fiscal intermediary's receipt of notification by the
30 commissioner that the fiscal intermediary has disseminated a false or
31 misleading advertisement, or that the fiscal intermediary disseminated
32 an advertisement without the department's approval, the fiscal interme-
33 diary shall have thirty days to cease disseminating or remove such
34 advertisement.

35 (d) Upon the commissioner's determination that a fiscal intermediary
36 has disseminated two advertisements that are either false or misleading
37 or that were not approved by the department, such entity shall be
38 prohibited from providing fiscal intermediary services and any authori-
39 zation granted shall be immediately revoked, suspended, limited or
40 annulled pursuant to subdivision four-b of this section. The department
41 shall maintain a list of such entities and shall make such list avail-
42 able to contracting entities listed in subparagraph (i) of paragraph (a)
43 of subdivision four-a of this section.

44 § 10. Paragraph (d-2) of subdivision 3 of section 364-j of the social
45 services law, as added by section 20-a of part B of chapter 59 of the
46 laws of 2016, is amended to read as follows:

47 (d-2) Services provided pursuant to waivers, granted pursuant to
48 subsection (c) of section 1915 of the federal social security act, to
49 persons suffering from traumatic brain injuries or qualifying for nurs-
50 ing home diversion and transition services, shall not be provided to
51 medical assistance recipients through managed care programs until at
52 least January first, two thousand [~~eighteen~~] twenty-two.

53 § 11. Section 4012 of the public health law is amended by adding a new
54 subdivision 5 to read as follows:

55 5. The commissioner shall establish a methodology as of July first,
56 two thousand eighteen subject to federal financial participation that

1 shall ensure a prospective ten-percent increase in the medicaid
2 reimbursement rates for hospice providers, relative to the reimbursement
3 rate, as of March thirty-first, two thousand eighteen, for services
4 provided by such providers on and after April first, two thousand eigh-
5 teen.

6 § 12. This act shall take effect immediately; provided, however, that
7 the amendments to paragraph (b) of subdivision 7 of section 4403-f of
8 the public health law made by sections three, four and five of this act
9 shall not affect the expiration of such paragraph pursuant to subdivi-
10 sion (i) of section 111 of part H of chapter 59 of the laws of 2011, as
11 amended, and shall be deemed to expire therewith; provided, further,
12 that the amendments to section 4403-f of the public health law made by
13 sections three, four, five, six and nine-a of this act shall not affect
14 the repeal of such section pursuant to chapter 659 of the laws of 1997,
15 as amended, and shall be deemed repealed therewith; provided, further,
16 that section four of this act shall take effect on October 1, 2018;
17 provided, further, that section nine-b of this act shall take effect
18 April 1, 2020; provided further that the commissioner of health is
19 authorized to issue regulations establishing the methodology for the
20 determination of public need pursuant to subdivision 4 of section 3605
21 of the public health law, as amended by section two of this act, prior
22 to such date; provided, further, that section nine-f of this act shall
23 apply to marketing contracts entered into after the effective date of
24 this act; and provided, further that the amendments to section 364-j of
25 the social services law made by section ten of this act shall not affect
26 the repeal of such section and shall be deemed repealed therewith.

27 PART C

28 Section 1. Intentionally omitted.

29 § 2. Section 365-1 of the social services law is amended by adding a
30 new subdivision 2-d to read as follows:

31 2-d. The commissioner shall establish reasonable targets for health
32 home participation by enrollees of special needs managed care plans
33 designated pursuant to subdivision four of section three hundred sixty-
34 five-m of this title and by high-risk enrollees of other Medicaid
35 managed care plans operating pursuant to section three hundred sixty-
36 four-j of this title, and shall encourage both the managed care provid-
37 ers and the health homes to work collaboratively with each other to
38 achieve such targets. The commissioner may assess penalties under this
39 subdivision in instances of failure to meet the participation targets
40 established pursuant to this subdivision, where the department has
41 determined that such failure reflected the absence of a good faith and
42 reasonable effort to achieve the participation targets, except that
43 managed care providers shall not be penalized for the failure of a
44 health home to work collaboratively toward meeting the participation
45 targets and a health home shall not be penalized for the failure of a
46 managed care provider to work collaboratively toward meeting the partic-
47 ipation targets.

48 § 3. Subdivision 6 of section 2899 of the public health law, as
49 amended by chapter 471 of the laws of 2016, is amended to read as
50 follows:

51 6. "Provider" shall mean: (a) any residential health care facility
52 licensed under article twenty-eight of this chapter; or any certified
53 home health agency, licensed home care services agency or long term home
54 health care program certified under article thirty-six of this chapter;

1 any hospice program certified pursuant to article forty of this chapter;
2 or any adult home, enriched housing program or residence for adults
3 licensed under article seven of the social services law; or (b) a health
4 home, or any subcontractor of such health home, who contracts with or is
5 approved or otherwise authorized by the department to provide health
6 home services to all those enrolled pursuant to a diagnosis of a devel-
7 opmental disability as defined in subdivision twenty-two of section 1.03
8 of the mental hygiene law and enrollees who are under twenty-one years
9 of age under section three hundred sixty-five-1 of the social services
10 law, or any entity that provides home and community based services to
11 enrollees who are under twenty-one years of age under a demonstration
12 program pursuant to section eleven hundred fifteen of the federal social
13 security act.

14 § 3-a. Subdivision 7 of section 2899-a of the public health law, as
15 amended by chapter 88 of the laws of 2016, is amended to read as
16 follows:

17 7. The department promptly shall make all determinations and actions
18 required by subdivision five of section eight hundred forty-five-b of
19 the executive law upon receipt of the information from the division of
20 criminal justice services and the federal bureau of investigation,
21 provided that when rendering a determination to propose denial of
22 employment eligibility, the department shall provide the individual who
23 is the subject of the criminal history information check with a copy of
24 such criminal history information and a copy of article twenty-three-A
25 of the correction law and inform such individual of his or her right to
26 seek correction of any incorrect information contained in such criminal
27 history information pursuant to the regulations and procedures estab-
28 lished by the division of criminal justice services. The department
29 shall create a permanent record, update the information in accordance
30 with section eight hundred forty-five-b of the executive law and make
31 only records or information received from the division of criminal
32 justice services available to providers pursuant to this section.

33 § 4. Paragraph (b) of subdivision 9 of section 2899-a of the public
34 health law, as added by chapter 331 of the laws of 2006, is amended to
35 read as follows:

36 (b) Residential health care facilities licensed pursuant to article
37 twenty-eight of this chapter and certified home health care agencies and
38 long-term home health care programs certified or approved pursuant to
39 article thirty-six of this chapter or a health home, or any subcontrac-
40 tor of such health home, who contracts with or is approved or otherwise
41 authorized by the department to provide health home services to all
42 those enrolled pursuant to a diagnosis of a developmental disability as
43 defined in subdivision twenty-two of section 1.03 of the mental hygiene
44 law and enrollees who are under twenty-one years of age under section
45 three hundred sixty-five-1 of the social services law, or any entity
46 that provides home and community based services to enrollees who are
47 under twenty-one years of age under a demonstration program pursuant to
48 section eleven hundred fifteen of the federal social security act, may,
49 subject to the availability of federal financial participation, claim as
50 reimbursable costs under the medical assistance program, costs reflect-
51 ing the fee established pursuant to law by the division of criminal
52 justice services for processing a criminal history information check,
53 the fee imposed by the federal bureau of investigation for a national
54 criminal history check, and costs associated with obtaining the finger-
55 prints, provided, however, that for the purposes of determining rates of
56 payment pursuant to article twenty-eight of this chapter for residential

1 health care facilities, such reimbursable fees and costs shall be
2 reflected as timely as practicable in such rates within the applicable
3 rate period.

4 § 5. Subdivision 10 of section 2899-a of the public health law, as
5 amended by chapter 206 of the laws of 2017, is amended to read as
6 follows:

7 10. Notwithstanding subdivision eleven of section eight hundred
8 forty-five-b of the executive law, a certified home health agency,
9 licensed home care services agency or long term home health care program
10 certified, licensed or approved under article thirty-six of this chapter
11 or a home care services agency exempt from certification or licensure
12 under article thirty-six of this chapter, a hospice program under arti-
13 cle forty of this chapter, or an adult home, enriched housing program or
14 residence for adults licensed under article seven of the social services
15 law, or a health home, or any subcontractor of such health home, who
16 contracts with or is approved or otherwise authorized by the department
17 to provide health home services to all enrollees enrolled pursuant to a
18 diagnosis of a developmental disability as defined in subdivision twen-
19 ty-two of section 1.03 of the mental hygiene law and enrollees who are
20 under twenty-one years of age under section three hundred sixty-five-1
21 of the social services law, or any entity that provides home and commu-
22 nity based services to enrollees who are under twenty-one years of age
23 under a demonstration program pursuant to section eleven hundred fifteen
24 of the federal social security act may temporarily approve a prospective
25 employee while the results of the criminal history information check and
26 the determination are pending, upon the condition that the provider
27 conducts appropriate direct observation and evaluation of the temporary
28 employee, while he or she is temporarily employed, and the care recipi-
29 ent; provided, however, that for a health home, or any subcontractor of
30 a health home, who contracts with or is approved or otherwise authorized
31 by the department to provide health home services to all enrollees
32 enrolled pursuant to a diagnosis of developmental disability as defined
33 in subdivision twenty-two of section 1.03 of the mental hygiene law and
34 enrollees who are under twenty-one years of age under section three
35 hundred sixty-five-1 of the social services law, or any entity that
36 provides home and community based services to enrollees who are under
37 twenty-one years of age under a demonstration program pursuant to
38 section eleven hundred fifteen of the federal social security act,
39 direct observation and evaluation of temporary employees shall not be
40 required until April first, two thousand nineteen. The results of such
41 observations shall be documented in the temporary employee's personnel
42 file and shall be maintained. For purposes of providing such appropriate
43 direct observation and evaluation, the provider shall utilize an indi-
44 vidual employed by such provider with a minimum of one year's experience
45 working in an agency certified, licensed or approved under article thir-
46 ty-six of this chapter or an adult home, enriched housing program or
47 residence for adults licensed under article seven of the social services
48 law, a health home, or any subcontractor of such health home, who
49 contracts with or is approved or otherwise authorized by the department
50 to provide health home services to those enrolled pursuant to a diagno-
51 sis of a developmental disability as defined in subdivision twenty-two
52 of section 1.03 of the mental hygiene law and enrollees who are under
53 twenty-one years of age under section three hundred sixty-five-1 of the
54 social services law, or any entity that provides home and community
55 based services to enrollees who are under twenty-one years of age under
56 a demonstration program pursuant to section eleven hundred fifteen of

1 the federal social security act. If the temporary employee is working
2 under contract with another provider certified, licensed or approved
3 under article thirty-six of this chapter, such contract provider's
4 appropriate direct observation and evaluation of the temporary employee,
5 shall be considered sufficient for the purposes of complying with this
6 subdivision.

7 § 6. Subdivision 3 of section 424-a of the social services law, as
8 amended by section 3 of part Q of chapter 56 of the laws of 2017, is
9 amended to read as follows:

10 3. For purposes of this section, the term "provider" or "provider
11 agency" shall mean: an authorized agency; the office of children and
12 family services; juvenile detention facilities subject to the certifi-
13 cation of the office of children and family services; programs estab-
14 lished pursuant to article nineteen-H of the executive law; non-residen-
15 tial or residential programs or facilities licensed or operated by the
16 office of mental health or the office for people with developmental
17 disabilities except family care homes; licensed child day care centers,
18 including head start programs which are funded pursuant to title V of
19 the federal economic opportunity act of nineteen hundred sixty-four, as
20 amended; early intervention service established pursuant to section
21 twenty-five hundred forty of the public health law; preschool services
22 established pursuant to section forty-four hundred ten of the education
23 law; school-age child care programs; special act school districts as
24 enumerated in chapter five hundred sixty-six of the laws of nineteen
25 hundred sixty-seven, as amended; programs and facilities licensed by the
26 office of alcoholism and substance abuse services; residential schools
27 which are operated, supervised or approved by the education department;
28 health homes, or any subcontractor of such health homes, who contracts
29 with or is approved or otherwise authorized by the department of health
30 to provide health home services to all those enrolled pursuant to a
31 diagnosis of a developmental disability as defined in subdivision twen-
32 ty-two of section 1.03 of the mental hygiene law and enrollees who are
33 under twenty-one years of age under section three hundred sixty-five-1
34 of this chapter, or any entity that provides home and community based
35 services to enrollees who are under twenty-one years of age under a
36 demonstration program pursuant to section eleven hundred fifteen of the
37 federal social security act; publicly-funded emergency shelters for
38 families with children, provided, however, for purposes of this section,
39 when the provider or provider agency is a publicly-funded emergency
40 shelter for families with children, then all references in this section
41 to the "potential for regular and substantial contact with individuals
42 who are cared for by the agency" shall mean the potential for regular
43 and substantial contact with children who are served by such shelter;
44 and any other facility or provider agency, as defined in subdivision
45 four of section four hundred eighty-eight of this chapter, in regard to
46 the employment of staff, or use of providers of goods and services and
47 staff of such providers, consultants, interns and volunteers.

48 § 7. Paragraph (a) of subdivision 1 of section 413 of the social
49 services law, as amended by section 2 of part Q of chapter 56 of the
50 laws of 2017, is amended to read as follows:

51 (a) The following persons and officials are required to report or
52 cause a report to be made in accordance with this title when they have
53 reasonable cause to suspect that a child coming before them in their
54 professional or official capacity is an abused or maltreated child, or
55 when they have reasonable cause to suspect that a child is an abused or
56 maltreated child where the parent, guardian, custodian or other person

1 legally responsible for such child comes before them in their profes-
2 sional or official capacity and states from personal knowledge facts,
3 conditions or circumstances which, if correct, would render the child an
4 abused or maltreated child: any physician; registered physician assist-
5 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
6 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
7 psychologist; registered nurse; social worker; emergency medical techni-
8 cian; licensed creative arts therapist; licensed marriage and family
9 therapist; licensed mental health counselor; licensed psychoanalyst;
10 licensed behavior analyst; certified behavior analyst assistant; hospi-
11 tal personnel engaged in the admission, examination, care or treatment
12 of persons; a Christian Science practitioner; school official, which
13 includes but is not limited to school teacher, school guidance counse-
14 lor, school psychologist, school social worker, school nurse, school
15 administrator or other school personnel required to hold a teaching or
16 administrative license or certificate; full or part-time compensated
17 school employee required to hold a temporary coaching license or profes-
18 sional coaching certificate; social services worker; employee of a publ-
19 ically-funded emergency shelter for families with children; director of a
20 children's overnight camp, summer day camp or traveling summer day camp,
21 as such camps are defined in section thirteen hundred ninety-two of the
22 public health law; day care center worker; school-age child care worker;
23 provider of family or group family day care; employee or volunteer in a
24 residential care facility for children that is licensed, certified or
25 operated by the office of children and family services; or any other
26 child care or foster care worker; mental health professional; substance
27 abuse counselor; alcoholism counselor; all persons credentialed by the
28 office of alcoholism and substance abuse services; employees, who are
29 expected to have regular and substantial contact with children, of a
30 health home or health home care management agency contracting with a
31 health home as designated by the department of health and authorized
32 under section three hundred sixty-five-1 of this chapter or such employ-
33 ees who provide home and community based services under a demonstration
34 program pursuant to section eleven hundred fifteen of the federal social
35 security act who are expected to have regular and substantial contact
36 with children; peace officer; police officer; district attorney or
37 assistant district attorney; investigator employed in the office of a
38 district attorney; or other law enforcement official.

39 § 8. Notwithstanding any inconsistent provision of sections 112 and
40 163 of the state finance law, or sections 142 and 143 of the economic
41 development law, or any other contrary provision of law, excepting the
42 13 responsible vendor requirements of the state finance law, including,
43 but not limited to, sections 163 and 139-k of the state finance law, the
44 commissioner of health is authorized to amend or otherwise extend the
45 terms of a contract awarded prior to the effective date and entered into
46 pursuant to subdivision 24 of section 206 of the public health law, as
47 added by section 39 of part C of chapter 58 of the laws of 2008, and a
48 contract awarded prior to the effective date and entered into to conduct
49 enrollment broker and conflict-free evaluation services for the Medicaid
50 program, both for a period of three years, without a competitive bid or
51 request for proposal process, upon determination that the existing
52 contractor is qualified to continue to provide such services, and
53 provided that efficiency savings are achieved during the period of
54 extension; and provided, further, that the department of health shall
55 submit a request for applications for such contract during the time
56 period specified in this section and may terminate the contract identi-

1 fied herein prior to expiration of the extension authorized by this
2 section.

3 § 9. This act shall take effect immediately; provided, however, that
4 the amendments to subdivision 6 of section 2899 of the public health law
5 made by section three of this act shall take effect on the same date and
6 in the same manner as section 8 of chapter 471 of the laws of 2016, as
7 amended, takes effect and shall not affect the expiration of such subdivi-
8 sion and shall be deemed to expire therewith; provided, further that
9 section three-a of this act shall take effect on the one hundred eight-
10 ieth day after it shall have become a law.

11 PART D

12 Section 1. Paragraph (d) of subdivision 9 of section 367-a of the
13 social services law, as amended by section 7 of part D of chapter 57 of
14 the laws of 2017, is amended to read as follows:

15 (d) In addition to the amounts paid pursuant to paragraph (b) of this
16 subdivision, the department shall pay a professional pharmacy dispensing
17 fee for each such drug dispensed in the amount of ten dollars **and eight**
18 **cents** per prescription or written order of a practitioner; provided,
19 however that this professional dispensing fee will not apply to drugs
20 that are available without a prescription as required by section sixty-
21 eight hundred ten of the education law but do not meet the definition of
22 a covered outpatient drug pursuant to Section 1927K of the Social Secu-
23 rity Act.

24 § 2. Intentionally omitted.

25 § 3. Intentionally omitted.

26 § 4. Intentionally omitted.

27 § 5. Intentionally omitted.

28 § 6. Intentionally omitted.

29 § 7. Subdivision 4 of section 365-a of the social services law is
30 amended by adding a new paragraph (h) to read as follows:

31 **(h) opioids prescribed in violation of the treatment plan standards of**
32 **subdivision eight of section thirty-three hundred thirty-one of the**
33 **public health law or treatment plan standards as otherwise required by**
34 **the commissioner.**

35 § 7-a. Section 3331 of the public health law is amended by adding a
36 new subdivision 8 to read as follows:

37 **8. No opioids shall be prescribed to a patient initiating or being**
38 **maintained on opioid treatment for pain which has lasted more than three**
39 **months or past the time of normal tissue healing, unless the medical**
40 **record contains a written treatment plan that follows generally accepted**
41 **national professional or governmental guidelines. The requirements of**
42 **this paragraph shall not apply in the case of patients who are being**
43 **treated for cancer that is not in remission, who are in hospice or other**
44 **end-of-life care, or whose pain is being treated as part of palliative**
45 **care practices.**

46 § 8. Section 280 of the public health law, as added by section 1 of
47 part D of chapter 57 of the laws of 2017, is amended to read as follows:

48 § 280. Medicaid drug cap. 1. The legislature hereby finds and declares
49 that there is a significant public interest for the Medicaid program to
50 manage drug costs in a manner that ensures patient access while provid-
51 ing financial stability for the state and participating providers.
52 Since two thousand eleven, the state has taken significant steps to
53 contain costs in the Medicaid program by imposing a statutory limit on
54 annual growth. Drug expenditures, however, continually outpace other

1 cost components causing significant pressure on the state, providers,
2 and patient access operating under the Medicaid global cap. It is there-
3 fore intended that the department establish a Medicaid drug cap as a
4 separate component within the Medicaid global cap as part of a focused
5 and sustained effort to balance the growth of drug expenditures with the
6 growth of total Medicaid expenditures.

7 2. The commissioner shall establish a year to year department of
8 health [~~state funds~~] state funds Medicaid drug [~~expending~~] expenditure
9 growth target as follows:

10 (a) for state fiscal year two thousand seventeen--two thousand eigh-
11 teen, be limited to the ten-year rolling average of the medical compo-
12 nent of the consumer price index plus five percent and minus a pharmacy
13 savings target of fifty-five million dollars; and

14 (b) for state fiscal year two thousand eighteen--two thousand nine-
15 teen, be limited to the ten-year rolling average of the medical compo-
16 nent of the consumer price index plus four percent and minus a pharmacy
17 savings target of eighty-five million dollars[+]; and

18 (c) for state fiscal year two thousand nineteen--two thousand twenty,
19 be limited to the ten-year rolling average of the medical component of
20 the consumer price index plus four percent and minus a pharmacy savings
21 target of eighty-five million dollars.

22 3. The department and the division of the budget shall assess on a
23 quarterly basis the projected total amount to be expended in the year on
24 a cash basis by the Medicaid program for each drug, and the projected
25 annual amount of state funds Medicaid drug expenditures on a cash basis
26 for all drugs, which shall be a component of the projected department of
27 health state funds Medicaid expenditures calculated for purposes of
28 sections ninety-one and ninety-two of part H of chapter fifty-nine of
29 the laws of two thousand eleven. For purposes of this section, state
30 funds Medicaid drug expenditures include amounts expended for drugs in
31 both the Medicaid fee-for-service program and Medicaid managed care
32 programs, minus the amount of any drug rebates or supplemental drug
33 rebates received by the department, including rebates pursuant to subdi-
34 vision five of this section with respect to rebate targets. The depart-
35 ment and the division of the budget shall report quarterly to the drug
36 utilization review board the projected state funds Medicaid drug expend-
37 itures including the amounts, in aggregate thereof, attributable to the
38 net cost of: changes in the utilization of drugs by Medicaid recipients;
39 changes in the number of Medicaid recipients; changes to the cost of
40 brand name drugs and changes to the cost of generic drugs. The informa-
41 tion contained in the report shall not be publicly released in a manner
42 that allows for the identification of an individual drug or manufacturer
43 or that is likely to compromise the financial competitive, or proprie-
44 tary nature of the information.

45 (a) In the event the director of the budget determines, based on Medi-
46 caid drug expenditures for the previous quarter or other relevant infor-
47 mation, that the total department of health state funds Medicaid drug
48 expenditure is projected to exceed the annual growth limitation imposed
49 by subdivision two of this section, the commissioner may identify and
50 refer drugs to the drug utilization review board established by section
51 three hundred sixty-nine-bb of the social services law for a recommenda-
52 tion as to whether a target supplemental Medicaid rebate should be paid
53 by the manufacturer of the drug to the department and the target amount
54 of the rebate.

55 (b) If the department intends to refer a drug to the drug utilization
56 review board pursuant to paragraph (a) of this subdivision, the depart-

1 ment shall notify the manufacturer of such drug and shall attempt to
2 reach agreement with the manufacturer on a rebate for the drug prior to
3 referring the drug to the drug utilization review board for review.

4 (c) In the event that the commissioner and the manufacturer have
5 previously agreed to a supplemental rebate for a drug pursuant to para-
6 graph (b) of this subdivision or paragraph (e) of subdivision seven of
7 section three hundred sixty-seven-a of the social services law, the drug
8 shall not be referred to the drug utilization review board for any
9 further supplemental rebate for the duration of the previous rebate
10 agreement.

11 (d) The department shall consider a drug's actual cost to the state,
12 including current rebate amounts, prior to seeking an additional rebate
13 pursuant to paragraph (b) or (c) of this subdivision and shall take into
14 consideration whether the manufacturer of the drug is providing signif-
15 icant discounts relative to other drugs covered by the Medicaid program.

16 (e) The commissioner shall be authorized to take the actions described
17 in this section only so long as total Medicaid drug expenditures are
18 projected to exceed the annual growth limitation imposed by subdivision
19 two of this section.

20 4. In determining whether to recommend a target supplemental rebate
21 for a drug, the drug utilization review board shall consider the actual
22 cost of the drug to the Medicaid program, including federal and state
23 rebates, and may consider, among other things:

24 (a) the drug's impact on the Medicaid drug spending growth target and
25 the adequacy of capitation rates of participating Medicaid managed care
26 plans, and the drug's affordability and value to the Medicaid program;
27 or

28 (b) significant and unjustified increases in the price of the drug; or

29 (c) whether the drug may be priced disproportionately to its therapeu-
30 tic benefits.

31 5. (a) If the drug utilization review board recommends a target rebate
32 amount on a drug referred by the commissioner, the commissioner shall
33 require a supplemental rebate to be paid by the drug's manufacturer in
34 an amount not to exceed such target rebate amount. With respect to a
35 rebate required in state fiscal year two thousand seventeen--two thou-
36 sand eighteen, the rebate requirement shall apply beginning with the
37 month of April, two thousand seventeen, without regard to the date the
38 department enters into the rebate agreement with the manufacturer.

39 (b) The supplemental rebate required by paragraph (a) of this subdivi-
40 sion shall apply to drugs dispensed to enrollees of managed care provid-
41 ers pursuant to section three hundred sixty-four-j of the social
42 services law and to drugs dispensed to Medicaid recipients who are not
43 enrollees of such providers.

44 (c) If the drug utilization review board recommends a target rebate
45 amount for a drug and the department is unable to negotiate a rebate
46 from the manufacturer in an amount that is at least seventy-five percent
47 of the target rebate amount, the commissioner is authorized to waive the
48 provisions of paragraph (b) of subdivision three of section two hundred
49 seventy-three of this article and the provisions of subdivisions twen-
50 ty-five and twenty-five-a of section three hundred sixty-four-j of the
51 social services law with respect to such drug; however, this waiver
52 shall not be implemented in situations where it would prevent access by
53 a Medicaid recipient to a drug which is the only treatment for a partic-
54 ular disease or condition. Under no circumstances shall the commissioner
55 be authorized to waive such provisions with respect to more than two
56 drugs in a given time.

1 (d) Where the department and a manufacturer enter into a rebate agree-
2 ment pursuant to this section, which may be in addition to existing
3 rebate agreements entered into by the manufacturer with respect to the
4 same drug, no additional rebates shall be required to be paid by the
5 manufacturer to a managed care provider or any of a managed care provid-
6 er's agents, including but not limited to any pharmacy benefit manager,
7 while the department is collecting the rebate pursuant to this section.

8 (e) In formulating a recommendation concerning a target rebate amount
9 for a drug, the drug utilization review board may consider:

10 (i) publicly available information relevant to the pricing of the
11 drug;

12 (ii) information supplied by the department relevant to the pricing of
13 the drug;

14 (iii) information relating to value-based pricing;

15 (iv) the seriousness and prevalence of the disease or condition that
16 is treated by the drug;

17 (v) the extent of utilization of the drug;

18 (vi) the effectiveness of the drug in treating the conditions for
19 which it is prescribed, or in improving a patient's health, quality of
20 life, or overall health outcomes;

21 (vii) the likelihood that use of the drug will reduce the need for
22 other medical care, including hospitalization;

23 (viii) the average wholesale price, wholesale acquisition cost, retail
24 price of the drug, and the cost of the drug to the Medicaid program
25 minus rebates received by the state;

26 (ix) in the case of generic drugs, the number of pharmaceutical
27 manufacturers that produce the drug;

28 (x) whether there are pharmaceutical equivalents to the drug; and

29 (xi) information supplied by the manufacturer, if any, explaining the
30 relationship between the pricing of the drug and the cost of development
31 of the drug and/or the therapeutic benefit of the drug, or that is
32 otherwise pertinent to the manufacturer's pricing decision; any such
33 information provided shall be considered confidential and shall not be
34 disclosed by the drug utilization review board in a form that identifies
35 a specific manufacturer or prices charged for drugs by such manufactur-
36 er.

37 6. (a) If the drug utilization review board recommends a target rebate
38 amount and the department is unsuccessful in entering into a rebate
39 agreement with the manufacturer of the drug satisfactory to the depart-
40 ment, the drug manufacturer shall in that event be required to provide
41 to the department, on a standard reporting form developed by the depart-
42 ment, the following information:

43 (i) the actual cost of developing, manufacturing, producing (including
44 the cost per dose of production), and distributing the drug;

45 (ii) research and development costs of the drug, including payments to
46 predecessor entities conducting research and development, such as
47 biotechnology companies, universities and medical schools, and private
48 research institutions;

49 (iii) administrative, marketing, and advertising costs for the drug,
50 apportioned by marketing activities that are directed to consumers,
51 marketing activities that are directed to prescribers, and the total
52 cost of all marketing and advertising that is directed primarily to
53 consumers and prescribers in New York, including but not limited to
54 prescriber detailing, copayment discount programs, and direct-to-consum-
55 er marketing;

56 (iv) the extent of utilization of the drug;

1 (v) prices for the drug that are charged to purchasers outside the
2 United States;

3 (vi) prices charged to typical purchasers in the state, including but
4 not limited to pharmacies, pharmacy chains, pharmacy wholesalers, or
5 other direct purchasers;

6 (vii) the average rebates and discounts provided per payer type in the
7 State; and

8 (viii) the average profit margin of each drug over the prior five-year
9 period and the projected profit margin anticipated for such drug.

10 (b) All information disclosed pursuant to paragraph (a) of this subdi-
11 vision shall be considered confidential and shall not be disclosed by
12 the department in a form that identifies a specific manufacturer or
13 prices charged for drugs by such manufacturer.

14 7. (a) If, after taking into account all rebates and supplemental
15 rebates received by the department, including rebates received to date
16 pursuant to this section, total Medicaid drug expenditures are still
17 projected to exceed the annual growth limitation imposed by subdivision
18 two of this section, the commissioner [~~of health~~] may: [~~subject drugs to~~
19 ~~prior approval in accordance with existing processes and procedures,~~
20 ~~which may include all drugs of a manufacturer that has not entered into~~
21 ~~a supplemental rebate agreement required by this section;~~] subject any
22 drug of a manufacturer referred to the drug utilization review board
23 under this section to prior approval in accordance with existing proc-
24 esses and procedures when such manufacturer has not entered into a
25 supplemental rebate agreement as required by this section; directing
26 managed care plans to remove from their Medicaid formularies those drugs
27 [~~with respect to which a~~] that the drug utilization review board recom-
28 mends a target rebate amount for and the manufacturer has failed to
29 enter into a rebate agreement required by this section; promoting the
30 use of cost effective and clinically appropriate drugs other than those
31 of a manufacturer who has a drug that the drug utilization review board
32 recommends a target rebate amount and the manufacturer has failed to
33 enter into a rebate agreement required by this section; allowing
34 manufacturers to accelerate rebate payments under existing rebate
35 contracts; and such other actions as authorized by law. The commissioner
36 shall provide written notice to the legislature thirty days prior to
37 taking action pursuant to this paragraph, unless action is necessary in
38 the fourth quarter of a fiscal year to prevent total Medicaid drug
39 expenditures from exceeding the limitation imposed by subdivision two of
40 this section, in which case such notice to the legislature may be less
41 than thirty days.

42 (b) The commissioner shall be authorized to take the actions described
43 in paragraph (a) of this subdivision only so long as total Medicaid drug
44 expenditures are projected to exceed the annual growth limitation
45 imposed by subdivision two of this section. In addition, no such actions
46 shall be deemed to supersede the provisions of paragraph (b) of subdivi-
47 sion three of section two hundred seventy-three of this article or the
48 provisions of subdivisions twenty-five and twenty-five-a of section
49 three hundred sixty-four-j of the social services law, except as allowed
50 by paragraph (c) of subdivision five of this section; provided further
51 that nothing in this section shall prevent access by a Medicaid recipi-
52 ent to a drug which is the only treatment for a particular disease or
53 condition.

54 8. The commissioner shall report by February first annually to the
55 drug utilization review board on savings achieved through the drug cap
56 in the last year. Such report shall provide data on what savings were

1 achieved through actions pursuant to subdivisions three, five and seven
2 of this section, respectively, and what savings were achieved through
3 other means and how such savings were calculated and implemented.

4 § 9. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2018; provided,
6 however, that the amendments to paragraph (d) of subdivision 9 of
7 section 367-a of the social services law made by section one of this act
8 shall not affect the expiration or repeal of such provisions and shall
9 expire or be deemed repealed therewith.

10 PART E

11 Intentionally Omitted

12 PART F

13 Intentionally Omitted

14 PART G

15 Intentionally Omitted

16 PART H

17 Intentionally Omitted

18 PART I

19 Intentionally Omitted

20 PART J

21 Section 1. Paragraph (h) of subdivision 1 of section 189 of the state
22 finance law, as amended by section 8 of part A of chapter 56 of the laws
23 of 2013, is amended to read as follows:

24 (h) knowingly conceals or knowingly and improperly avoids or decreases
25 an obligation to pay or transmit money or property to the state or a
26 local government, or conspires to do the same; shall be liable to the
27 state or a local government, as applicable, for a civil penalty of not
28 less than six thousand dollars and not more than twelve thousand
29 dollars, as adjusted to be equal to the civil penalty allowed under the
30 federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, as
31 adjusted for inflation by the Federal Civil Penalties Inflation Adjust-
32 ment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410),
33 plus three times the amount of all damages, including consequential
34 damages, which the state or local government sustains because of the act
35 of that person.

36 § 2. The state finance law is amended by adding a new section 190-b to
37 read as follows:

38 § 190-b. Medicaid fraud recovery reporting. The attorney general shall
39 make an annual report to the temporary president of the senate, speaker
40 of the assembly, chair of the senate finance committee, chair of the
41 assembly ways and means committee, chair of the senate health committee,
42 and chair of the assembly health committee by April fifteenth of each
43 year. Such report shall include the amount of monies recovered by the

1 medicaid fraud control unit pursuant to the false claims act for the
2 preceding calendar year.

3 § 3. This act shall take effect September 30, 2018.

4 PART K

5 Section 1. Section 3612 of the public health law is amended by adding
6 a new subdivision 8 to read as follows:

7 8. (a) The commissioner may require a health home or licensed home
8 care services agency to report on the costs incurred by the health home
9 or licensed home care services agency in rendering health care services
10 to Medicaid beneficiaries. The department of health may specify the
11 frequency and format of such reports, determine the type and amount of
12 information to be submitted, and require the submission of supporting
13 documentation, provided, however, that the department shall provide no
14 less than ninety calendar days' notice before such reports are due.

15 (b) If the department determines that the cost report submitted by a
16 provider is inaccurate or incomplete, the department shall notify the
17 provider in writing and advise the provider of the correction or addi-
18 tional information that the provider must submit. The provider must
19 submit the corrected or additional information within thirty calendar
20 days from the date the provider receives the notice.

21 (c) The department shall grant a provider an additional thirty calen-
22 dar days to submit the original, corrected or additional cost report
23 when the provider, prior to the date the report is due, submits a writ-
24 ten request to the department for an extension and establishes to the
25 department's satisfaction that the provider cannot submit the report by
26 the date due for reasons beyond the provider's control.

27 (d) All reports shall be certified by the owner, administrator, chief
28 executive officer, or public official responsible for the operation of
29 the provider. The cost report form shall include a certification form,
30 which shall specify who must certify the report.

31 § 1-a. Subdivision 4-a of section 365-f of the social services law is
32 amended by adding a new paragraph (i) to read as follows:

33 (i) (i) The commissioner may require a fiscal intermediary to report
34 on the direct care and administrative costs of personal assistance
35 services as accounted for by the fiscal intermediary. The department may
36 specify the frequency and format of such reports, determine the type and
37 amount of information to be submitted, and require the submission of
38 supporting documentation, provided, however, that the department shall
39 provide no less than ninety calendar days' notice before such reports
40 are due.

41 (ii) If the department determines that the cost report submitted by a
42 provider is inaccurate or incomplete, the department shall notify the
43 provider in writing and advise the provider of the correction or addi-
44 tional information that the provider must submit. The provider must
45 submit the corrected or additional information within thirty calendar
46 days from the date the provider receives the notice.

47 (iii) The department shall grant a provider an additional thirty
48 calendar days to submit the original, corrected or additional cost
49 report when the provider, prior to the date the report is due, submits a
50 written request to the department for an extension and establishes to
51 the department's satisfaction that the provider cannot submit the report
52 by the date due for reasons beyond the provider's control.

53 (iv) All reports shall be certified by the owner, administrator, chief
54 executive officer, or public official responsible for the operation of

1 the provider. The cost report form shall include a certification form,
2 which shall specify who must certify the report.

3 § 2. Subdivision 1 of section 92 of part H of chapter 59 of the laws
4 of 2011, amending the public health law and other laws relating to known
5 and projected department of health state fund medicaid expenditures, as
6 amended by section 1 of part G of chapter 57 of the laws of 2017, is
7 amended to read as follows:

8 1. For state fiscal years 2011-12 through [~~2018-19~~] 2019-20, the
9 director of the budget, in consultation with the commissioner of health
10 referenced as "commissioner" for purposes of this section, shall assess
11 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
12 sion five of this section known and projected department of health state
13 funds medicaid expenditures by category of service and by geographic
14 regions, as defined by the commissioner, and if the director of the
15 budget determines that such expenditures are expected to cause medicaid
16 disbursements for such period to exceed the projected department of
17 health medicaid state funds disbursements in the enacted budget finan-
18 cial plan pursuant to subdivision 3 of section 23 of the state finance
19 law, the commissioner of health, in consultation with the director of
20 the budget, shall develop a medicaid savings allocation plan to limit
21 such spending to the aggregate limit level specified in the enacted
22 budget financial plan, provided, however, such projections may be
23 adjusted by the director of the budget to account for any changes in the
24 New York state federal medical assistance percentage amount established
25 pursuant to the federal social security act, changes in provider reven-
26 ues, reductions to local social services district medical assistance
27 administration, minimum wage increases, and beginning April 1, 2012 the
28 operational costs of the New York state medical indemnity fund and state
29 costs or savings from the basic health plan. Such projections may be
30 adjusted by the director of the budget to account for increased or expe-
31 dited department of health state funds medicaid expenditures as a result
32 of a natural or other type of disaster, including a governmental decla-
33 ration of emergency.

34 § 3. Section 2807-c of the public health law is amended by adding a
35 new subdivision 34 to read as follows:

36 34. Enhanced safety net hospital program. (a) For the purposes of this
37 subdivision, "enhanced safety net hospital" shall mean a hospital which:
38 (i) in any of the previous three calendar years, has met the following
39 criteria:

40 (A) not less than fifty percent of the patients it treats receive
41 medicaid or are medically uninsured;

42 (B) not less than forty percent of its inpatient discharges are
43 covered by medicaid;

44 (C) twenty-five percent or less of its discharged patients are commer-
45 cially insured;

46 (D) not less than three percent of the patients it provides services
47 to are attributed to the care of uninsured patients; and

48 (E) provides care to uninsured patients in its emergency room, hospi-
49 tal based clinics and community based clinics, including the provision
50 of important community services, such as dental care and prenatal care;

51 (ii) is a public hospital operated by a county, municipality, public
52 benefit corporation or the state university of New York;

53 (iii) is federally designated as a critical access hospital; or

54 (iv) is federally designated as a sole community hospital.

55 (b) Within amounts appropriated, the commissioner shall adjust medical
56 assistance rates to enhanced safety net hospitals for the purposes of

1 supporting critically needed health care services and to ensure the
2 continued maintenance and operation of such hospitals.

3 (c) Payments made pursuant to this subdivision may be added to rates
4 of payment or made as aggregate payments to eligible general hospitals.

5 § 4. This act shall take effect immediately.

6 PART L

7 Intentionally Omitted

8 PART M

9 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter
10 266 of the laws of 1986, amending the civil practice law and rules and
11 other laws relating to malpractice and professional medical conduct, as
12 amended by section 15 of part H of chapter 57 of the laws of 2017, is
13 amended to read as follows:

14 (a) The superintendent of financial services and the commissioner of
15 health or their designee shall, from funds available in the hospital
16 excess liability pool created pursuant to subdivision 5 of this section,
17 purchase a policy or policies for excess insurance coverage, as author-
18 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
19 law; or from an insurer, other than an insurer described in section 5502
20 of the insurance law, duly authorized to write such coverage and actual-
21 ly writing medical malpractice insurance in this state; or shall
22 purchase equivalent excess coverage in a form previously approved by the
23 superintendent of financial services for purposes of providing equiv-
24 alent excess coverage in accordance with section 19 of chapter 294 of
25 the laws of 1985, for medical or dental malpractice occurrences between
26 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
27 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
28 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
29 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
30 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
31 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
32 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
33 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
34 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
35 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
36 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
37 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
38 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
39 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
40 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
41 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
42 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
43 between July 1, 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and
44 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse
45 the hospital where the hospital purchases equivalent excess coverage as
46 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this
47 section for medical or dental malpractice occurrences between July 1,
48 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
49 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
50 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
51 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
52 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July

1 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
2 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
3 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
4 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
5 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
6 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
7 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
8 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
9 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
10 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
11 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015
12 and June 30, 2016, between July 1, 2016 and June 30, 2017, [~~and~~] between
13 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
14 2019 for physicians or dentists certified as eligible for each such
15 period or periods pursuant to subdivision 2 of this section by a general
16 hospital licensed pursuant to article 28 of the public health law;
17 provided that no single insurer shall write more than fifty percent of
18 the total excess premium for a given policy year; and provided, however,
19 that such eligible physicians or dentists must have in force an individ-
20 ual policy, from an insurer licensed in this state of primary malprac-
21 tice insurance coverage in amounts of no less than one million three
22 hundred thousand dollars for each claimant and three million nine
23 hundred thousand dollars for all claimants under that policy during the
24 period of such excess coverage for such occurrences or be endorsed as
25 additional insureds under a hospital professional liability policy which
26 is offered through a voluntary attending physician ("channeling")
27 program previously permitted by the superintendent of financial services
28 during the period of such excess coverage for such occurrences. During
29 such period, such policy for excess coverage or such equivalent excess
30 coverage shall, when combined with the physician's or dentist's primary
31 malpractice insurance coverage or coverage provided through a voluntary
32 attending physician ("channeling") program, total an aggregate level of
33 two million three hundred thousand dollars for each claimant and six
34 million nine hundred thousand dollars for all claimants from all such
35 policies with respect to occurrences in each of such years provided,
36 however, if the cost of primary malpractice insurance coverage in excess
37 of one million dollars, but below the excess medical malpractice insur-
38 ance coverage provided pursuant to this act, exceeds the rate of nine
39 percent per annum, then the required level of primary malpractice insur-
40 ance coverage in excess of one million dollars for each claimant shall
41 be in an amount of not less than the dollar amount of such coverage
42 available at nine percent per annum; the required level of such coverage
43 for all claimants under that policy shall be in an amount not less than
44 three times the dollar amount of coverage for each claimant; and excess
45 coverage, when combined with such primary malpractice insurance cover-
46 age, shall increase the aggregate level for each claimant by one million
47 dollars and three million dollars for all claimants; and provided
48 further, that, with respect to policies of primary medical malpractice
49 coverage that include occurrences between April 1, 2002 and June 30,
50 2002, such requirement that coverage be in amounts no less than one
51 million three hundred thousand dollars for each claimant and three
52 million nine hundred thousand dollars for all claimants for such occur-
53 rences shall be effective April 1, 2002.

54 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
55 amending the civil practice law and rules and other laws relating to
56 malpractice and professional medical conduct, as amended by section 16

1 of part H of chapter 57 of the laws of 2017, is amended to read as
2 follows:

3 (3)(a) The superintendent of financial services shall determine and
4 certify to each general hospital and to the commissioner of health the
5 cost of excess malpractice insurance for medical or dental malpractice
6 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
7 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
8 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
9 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
10 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
11 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
12 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
13 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
14 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
15 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
16 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
17 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
18 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
19 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
20 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
21 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
22 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
23 2016 and June 30, 2017, [~~and~~] between July 1, 2017 and June 30, 2018,
24 and between July 1, 2018 and June 30, 2019 allocable to each general
25 hospital for physicians or dentists certified as eligible for purchase
26 of a policy for excess insurance coverage by such general hospital in
27 accordance with subdivision 2 of this section, and may amend such deter-
28 mination and certification as necessary.

29 (b) The superintendent of financial services shall determine and
30 certify to each general hospital and to the commissioner of health the
31 cost of excess malpractice insurance or equivalent excess coverage for
32 medical or dental malpractice occurrences between July 1, 1987 and June
33 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
34 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
35 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
36 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
37 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
38 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
39 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
40 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
41 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
42 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
43 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
44 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
45 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
46 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
47 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
48 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
49 30, 2016, [~~and~~] between July 1, 2016 and June 30, 2017, [~~and~~] between
50 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
51 2019 allocable to each general hospital for physicians or dentists
52 certified as eligible for purchase of a policy for excess insurance
53 coverage or equivalent excess coverage by such general hospital in
54 accordance with subdivision 2 of this section, and may amend such deter-
55 mination and certification as necessary. The superintendent of financial
56 services shall determine and certify to each general hospital and to the

1 commissioner of health the ratable share of such cost allocable to the
2 period July 1, 1987 to December 31, 1987, to the period January 1, 1988
3 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to
4 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989
5 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to
6 the period July 1, 1990 to December 31, 1990, to the period January 1,
7 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,
8 to the period January 1, 1992 to June 30, 1992, to the period July 1,
9 1992 to December 31, 1992, to the period January 1, 1993 to June 30,
10 1993, to the period July 1, 1993 to December 31, 1993, to the period
11 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
12 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
13 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
14 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
15 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
16 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
17 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
18 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
19 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
20 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
21 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
22 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
23 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
24 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
25 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
26 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
27 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
28 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
29 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
30 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
31 30, 2017, and to the period July 1, 2017 ~~[and]~~ to June 30, 2018, and to
32 the period July 1, 2018 to June 30, 2019.

33 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
34 18 of chapter 266 of the laws of 1986, amending the civil practice law
35 and rules and other laws relating to malpractice and professional
36 medical conduct, as amended by section 17 of part H of chapter 57 of the
37 laws of 2017, are amended to read as follows:

38 (a) To the extent funds available to the hospital excess liability
39 pool pursuant to subdivision 5 of this section as amended, and pursuant
40 to section 6 of part J of chapter 63 of the laws of 2001, as may from
41 time to time be amended, which amended this subdivision, are insuffi-
42 cient to meet the costs of excess insurance coverage or equivalent
43 excess coverage for coverage periods during the period July 1, 1992 to
44 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
45 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
46 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
47 during the period July 1, 1997 to June 30, 1998, during the period July
48 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
49 2000, during the period July 1, 2000 to June 30, 2001, during the period
50 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
51 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
52 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
53 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
54 during the period July 1, 2006 to June 30, 2007, during the period July
55 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
56 2009, during the period July 1, 2009 to June 30, 2010, during the period

1 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
2 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
3 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
4 June 30, 2015, during the period July 1, 2015 ~~[and]~~ to June 30, 2016,
5 during the period July 1, 2016 ~~[and]~~ to June 30, 2017, ~~[and]~~ during the
6 period July 1, 2017 ~~[and]~~ to June 30, 2018, and during the period July
7 1, 2018 to June 30, 2019 allocated or reallocated in accordance with
8 paragraph (a) of subdivision 4-a of this section to rates of payment
9 applicable to state governmental agencies, each physician or dentist for
10 whom a policy for excess insurance coverage or equivalent excess cover-
11 age is purchased for such period shall be responsible for payment to the
12 provider of excess insurance coverage or equivalent excess coverage of
13 an allocable share of such insufficiency, based on the ratio of the
14 total cost of such coverage for such physician to the sum of the total
15 cost of such coverage for all physicians applied to such insufficiency.

16 (b) Each provider of excess insurance coverage or equivalent excess
17 coverage covering the period July 1, 1992 to June 30, 1993, or covering
18 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
19 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
20 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
21 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
22 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
23 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
24 the period July 1, 2001 to October 29, 2001, or covering the period
25 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
26 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
27 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
28 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
29 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
30 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
31 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
32 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
33 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
34 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
35 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
36 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
37 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
38 June 30, 2019 shall notify a covered physician or dentist by mail,
39 mailed to the address shown on the last application for excess insurance
40 coverage or equivalent excess coverage, of the amount due to such
41 provider from such physician or dentist for such coverage period deter-
42 mined in accordance with paragraph (a) of this subdivision. Such amount
43 shall be due from such physician or dentist to such provider of excess
44 insurance coverage or equivalent excess coverage in a time and manner
45 determined by the superintendent of financial services.

46 (c) If a physician or dentist liable for payment of a portion of the
47 costs of excess insurance coverage or equivalent excess coverage cover-
48 ing the period July 1, 1992 to June 30, 1993, or covering the period
49 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
50 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
51 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
52 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
53 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
54 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
55 od July 1, 2001 to October 29, 2001, or covering the period April 1,
56 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,

1 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
2 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
3 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
4 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
5 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
6 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
7 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
8 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
9 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
10 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
11 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
12 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
13 2019 determined in accordance with paragraph (a) of this subdivision
14 fails, refuses or neglects to make payment to the provider of excess
15 insurance coverage or equivalent excess coverage in such time and manner
16 as determined by the superintendent of financial services pursuant to
17 paragraph (b) of this subdivision, excess insurance coverage or equiv-
18 alent excess coverage purchased for such physician or dentist in accord-
19 ance with this section for such coverage period shall be cancelled and
20 shall be null and void as of the first day on or after the commencement
21 of a policy period where the liability for payment pursuant to this
22 subdivision has not been met.

23 (d) Each provider of excess insurance coverage or equivalent excess
24 coverage shall notify the superintendent of financial services and the
25 commissioner of health or their designee of each physician and dentist
26 eligible for purchase of a policy for excess insurance coverage or
27 equivalent excess coverage covering the period July 1, 1992 to June 30,
28 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
29 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
30 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
31 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
32 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
33 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
34 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
35 ing the period April 1, 2002 to June 30, 2002, or covering the period
36 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
37 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
38 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
39 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
40 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
41 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
42 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
43 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
44 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
45 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
46 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
47 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
48 od July 1, 2018 to June 30, 2019 that has made payment to such provider
49 of excess insurance coverage or equivalent excess coverage in accordance
50 with paragraph (b) of this subdivision and of each physician and dentist
51 who has failed, refused or neglected to make such payment.

52 (e) A provider of excess insurance coverage or equivalent excess
53 coverage shall refund to the hospital excess liability pool any amount
54 allocable to the period July 1, 1992 to June 30, 1993, and to the period
55 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
56 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the

1 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
2 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
3 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
4 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
5 and to the period April 1, 2002 to June 30, 2002, and to the period July
6 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
7 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
8 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
9 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
10 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
11 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
12 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
13 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
14 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
15 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
16 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
17 2018 to June 30, 2019 received from the hospital excess liability pool
18 for purchase of excess insurance coverage or equivalent excess coverage
19 covering the period July 1, 1992 to June 30, 1993, and covering the
20 period July 1, 1993 to June 30, 1994, and covering the period July 1,
21 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
22 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
23 ing the period July 1, 1997 to June 30, 1998, and covering the period
24 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
25 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
26 and covering the period July 1, 2001 to October 29, 2001, and covering
27 the period April 1, 2002 to June 30, 2002, and covering the period July
28 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
29 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
30 covering the period July 1, 2005 to June 30, 2006, and covering the
31 period July 1, 2006 to June 30, 2007, and covering the period July 1,
32 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
33 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
34 ing the period July 1, 2010 to June 30, 2011, and covering the period
35 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
36 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
37 and covering the period July 1, 2014 to June 30, 2015, and covering the
38 period July 1, 2015 to June 30, 2016, and covering the period July 1,
39 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
40 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-
41 cian or dentist where such excess insurance coverage or equivalent
42 excess coverage is cancelled in accordance with paragraph (c) of this
43 subdivision.

44 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
45 practice law and rules and other laws relating to malpractice and
46 professional medical conduct, as amended by section 18 of part H of
47 chapter 57 of the laws of 2017, is amended to read as follows:

48 § 40. The superintendent of financial services shall establish rates
49 for policies providing coverage for physicians and surgeons medical
50 malpractice for the periods commencing July 1, 1985 and ending June 30,
51 [~~2018~~] 2019; provided, however, that notwithstanding any other provision
52 of law, the superintendent shall not establish or approve any increase
53 in rates for the period commencing July 1, 2009 and ending June 30,
54 2010. The superintendent shall direct insurers to establish segregated
55 accounts for premiums, payments, reserves and investment income attrib-
56 utable to such premium periods and shall require periodic reports by the

1 insurers regarding claims and expenses attributable to such periods to
2 monitor whether such accounts will be sufficient to meet incurred claims
3 and expenses. On or after July 1, 1989, the superintendent shall impose
4 a surcharge on premiums to satisfy a projected deficiency that is
5 attributable to the premium levels established pursuant to this section
6 for such periods; provided, however, that such annual surcharge shall
7 not exceed eight percent of the established rate until July 1, [~~2018~~
8 2019], at which time and thereafter such surcharge shall not exceed twen-
9 ty-five percent of the approved adequate rate, and that such annual
10 surcharges shall continue for such period of time as shall be sufficient
11 to satisfy such deficiency. The superintendent shall not impose such
12 surcharge during the period commencing July 1, 2009 and ending June 30,
13 2010. On and after July 1, 1989, the surcharge prescribed by this
14 section shall be retained by insurers to the extent that they insured
15 physicians and surgeons during the July 1, 1985 through June 30, [~~2018~~
16 2019] policy periods; in the event and to the extent physicians and
17 surgeons were insured by another insurer during such periods, all or a
18 pro rata share of the surcharge, as the case may be, shall be remitted
19 to such other insurer in accordance with rules and regulations to be
20 promulgated by the superintendent. Surcharges collected from physicians
21 and surgeons who were not insured during such policy periods shall be
22 apportioned among all insurers in proportion to the premium written by
23 each insurer during such policy periods; if a physician or surgeon was
24 insured by an insurer subject to rates established by the superintendent
25 during such policy periods, and at any time thereafter a hospital,
26 health maintenance organization, employer or institution is responsible
27 for responding in damages for liability arising out of such physician's
28 or surgeon's practice of medicine, such responsible entity shall also
29 remit to such prior insurer the equivalent amount that would then be
30 collected as a surcharge if the physician or surgeon had continued to
31 remain insured by such prior insurer. In the event any insurer that
32 provided coverage during such policy periods is in liquidation, the
33 property/casualty insurance security fund shall receive the portion of
34 surcharges to which the insurer in liquidation would have been entitled.
35 The surcharges authorized herein shall be deemed to be income earned for
36 the purposes of section 2303 of the insurance law. The superintendent,
37 in establishing adequate rates and in determining any projected defi-
38 ciency pursuant to the requirements of this section and the insurance
39 law, shall give substantial weight, determined in his discretion and
40 judgment, to the prospective anticipated effect of any regulations
41 promulgated and laws enacted and the public benefit of stabilizing
42 malpractice rates and minimizing rate level fluctuation during the peri-
43 od of time necessary for the development of more reliable statistical
44 experience as to the efficacy of such laws and regulations affecting
45 medical, dental or podiatric malpractice enacted or promulgated in 1985,
46 1986, by this act and at any other time. Notwithstanding any provision
47 of the insurance law, rates already established and to be established by
48 the superintendent pursuant to this section are deemed adequate if such
49 rates would be adequate when taken together with the maximum authorized
50 annual surcharges to be imposed for a reasonable period of time whether
51 or not any such annual surcharge has been actually imposed as of the
52 establishment of such rates.

53 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
54 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
55 1986, amending the civil practice law and rules and other laws relating
56 to malpractice and professional medical conduct, relating to the effec-

1 tiveness of certain provisions of such chapter, as amended by section 19
2 of part H of chapter 57 of the laws of 2017, are amended to read as
3 follows:

4 § 5. The superintendent of financial services and the commissioner of
5 health shall determine, no later than June 15, 2002, June 15, 2003, June
6 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
7 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
8 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [~~and~~]
9 June 15, 2018, and June 15, 2019 the amount of funds available in the
10 hospital excess liability pool, created pursuant to section 18 of chap-
11 ter 266 of the laws of 1986, and whether such funds are sufficient for
12 purposes of purchasing excess insurance coverage for eligible partic-
13 ipating physicians and dentists during the period July 1, 2001 to June
14 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
15 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
16 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
17 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
18 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
19 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
20 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
21 2016, or July 1, 2016 to June 30, 2017, or [~~to~~] July 1, 2017 to June 30,
22 2018, or July 1, 2018 to June 30, 2019 as applicable.

23 (a) This section shall be effective only upon a determination, pursu-
24 ant to section five of this act, by the superintendent of financial
25 services and the commissioner of health, and a certification of such
26 determination to the state director of the budget, the chair of the
27 senate committee on finance and the chair of the assembly committee on
28 ways and means, that the amount of funds in the hospital excess liabil-
29 ity pool, created pursuant to section 18 of chapter 266 of the laws of
30 1986, is insufficient for purposes of purchasing excess insurance cover-
31 age for eligible participating physicians and dentists during the period
32 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
33 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
34 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
35 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
36 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
37 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
38 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
39 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
40 2018, or July 1, 2018 to June 30, 2019 as applicable.

41 (e) The commissioner of health shall transfer for deposit to the
42 hospital excess liability pool created pursuant to section 18 of chapter
43 266 of the laws of 1986 such amounts as directed by the superintendent
44 of financial services for the purchase of excess liability insurance
45 coverage for eligible participating physicians and dentists for the
46 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
47 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
48 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
49 2007, as applicable, and the cost of administering the hospital excess
50 liability pool for such applicable policy year, pursuant to the program
51 established in chapter 266 of the laws of 1986, as amended, no later
52 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
53 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
54 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
55 2015, June 15, 2016, June 15, 2017, [~~and~~] June 15, 2018, and June 15,
56 2019 as applicable.

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

4 § 20. Notwithstanding any law, rule or regulation to the contrary,
5 only physicians or dentists who were eligible, and for whom the super-
6 intendent of financial services and the commissioner of health, or their
7 designee, purchased, with funds available in the hospital excess liabil-
8 ity pool, a full or partial policy for excess coverage or equivalent
9 excess coverage for the coverage period ending the thirtieth of June,
10 two thousand [~~seventeen~~] eighteen, shall be eligible to apply for such
11 coverage for the coverage period beginning the first of July, two thou-
12 sand [~~seventeen~~] eighteen; provided, however, if the total number of
13 physicians or dentists for whom such excess coverage or equivalent
14 excess coverage was purchased for the policy year ending the thirtieth
15 of June, two thousand [~~seventeen~~] eighteen exceeds the total number of
16 physicians or dentists certified as eligible for the coverage period
17 beginning the first of July, two thousand [~~seventeen~~] eighteen, then the
18 general hospitals may certify additional eligible physicians or dentists
19 in a number equal to such general hospital's proportional share of the
20 total number of physicians or dentists for whom excess coverage or
21 equivalent excess coverage was purchased with funds available in the
22 hospital excess liability pool as of the thirtieth of June, two thousand
23 [~~seventeen~~] eighteen, as applied to the difference between the number of
24 eligible physicians or dentists for whom a policy for excess coverage or
25 equivalent excess coverage was purchased for the coverage period ending
26 the thirtieth of June, two thousand [~~seventeen~~] eighteen and the number
27 of such eligible physicians or dentists who have applied for excess
28 coverage or equivalent excess coverage for the coverage period beginning
29 the first of July, two thousand [~~seventeen~~] eighteen.

30 § 7. This act shall take effect immediately.

31 PART N

32 Section 1. The opening paragraph of subdivision 1 of section 1 of part
33 C of chapter 57 of the laws of 2006, establishing a cost of living
34 adjustment for designated human services, is amended to read as follows:

35 Subject to available appropriations, the commissioners of the office
36 of mental health, office of mental retardation and developmental disa-
37 bilities, office of alcoholism and substance abuse services, [~~department~~
38 ~~of health,~~] office of children and family services and the state office
39 for the aging shall establish an annual cost of living adjustment
40 (COLA), subject to the approval of the director of the budget, effective
41 April first of each state fiscal year, provided, however, that in state
42 fiscal year 2006-07, the cost of living adjustment will be effective
43 October first, to project for the effects of inflation, for rates of
44 payments, contracts or any other form of reimbursement for the programs
45 listed in paragraphs (i), (ii), (iii), (iv)[~~7~~] and (v) [~~and (vi)~~] of
46 subdivision four of this section. The COLA shall be applied to the
47 appropriate portion of reimbursable costs or contract amounts.

48 § 2. Paragraph (iv) of subdivision 4 of section 1 of part C of chapter
49 57 of the laws of 2006, establishing a cost of living adjustment for
50 designated human services, is REPEALED and paragraphs (v) and (vi) are
51 renumbered paragraphs (iv) and (v).

52 § 3. This act shall take effect immediately.

53 PART O

1 Intentionally Omitted

2 PART P

3 Intentionally Omitted

4 PART Q

5 Section 1. The public health law is amended by adding a new section
6 2825-f to read as follows:

7 § 2825-f. Health care facility transformation program: statewide III.
8 1. A statewide health care facility transformation program is hereby
9 established under the joint administration of the commissioner and the
10 president of the dormitory authority of the state of New York for the
11 purpose of strengthening and protecting continued access to health care
12 services in communities. The program shall provide funding in support of
13 capital projects, debt retirement, working capital or other non-capital
14 projects that facilitate health care transformation activities includ-
15 ing, but not limited to, merger, consolidation, acquisition or other
16 activities intended to: (a) create financially sustainable systems of
17 care; (b) preserve or expand essential health care services; (c) modern-
18 ize obsolete facility physical plants and infrastructure; (d) foster
19 participation in alternative payment arrangements including, but not
20 limited to, contracts with managed care plans and accountable care
21 organizations; (e) for residential health care facilities, increase the
22 quality of resident care or experience; or (f) improve health informa-
23 tion technology infrastructure, including telehealth, to strengthen the
24 acute, post-acute and long-term care continuum. Grants shall not be
25 available to support general operating expenses. The issuance of any
26 bonds or notes hereunder shall be subject to section sixteen hundred
27 eighty-r of the public authorities law and the approval of the director
28 of the division of the budget, and any projects funded through the iss-
29 uance of bonds or notes hereunder shall be approved by the New York state
30 public authorities control board, as required under section fifty-one of
31 the public authorities law.

32 2. The commissioner and the president of the dormitory authority shall
33 enter into an agreement, subject to approval by the director of the
34 budget, and subject to section sixteen hundred eighty-r of the public
35 authorities law, for the purposes of awarding, distributing, and admin-
36 istering the funds made available pursuant to this section. Such funds
37 may be distributed by the commissioner for grants to general hospitals,
38 residential health care facilities, adult care facilities licensed under
39 title two of article seven of the social services law, diagnostic and
40 treatment centers and clinics licensed pursuant to this chapter or the
41 mental hygiene law, children's residential treatment facilities licensed
42 pursuant to article thirty-one of the mental hygiene law, assisted
43 living programs approved by the department pursuant to section four
44 hundred sixty-one-1 of the social services law, and community-based
45 health care providers as defined in subdivision three of this section
46 for grants in support of the purposes set forth in this section. A copy
47 of such agreement, and any amendments thereto, shall be provided to the
48 chair of the senate finance committee, the chair of the assembly ways
49 and means committee, and the director of the division of the budget no
50 later than thirty days prior to the release of a request for applica-
51 tions for funding under this program. Projects awarded, in whole or
52 part, under sections twenty-eight hundred twenty-five-a and twenty-eight

1 hundred twenty-five-b of this article shall not be eligible for grants
2 or awards made available under this section.

3 3. Notwithstanding section one hundred sixty-three of the state
4 finance law or any inconsistent provision of law to the contrary, up to
5 four hundred seventy-five million dollars of the funds appropriated for
6 this program shall be awarded without a competitive bid or request for
7 proposal process for grants to health care providers (hereafter "appli-
8 cants"). Provided, however, that a minimum of: (a) sixty million dollars
9 of total awarded funds shall be made to community-based health care
10 providers, which for purposes of this section shall be defined as a
11 diagnostic and treatment center licensed or granted an operating certif-
12 icate under this article; a mental health clinic licensed or granted an
13 operating certificate under article thirty-one of the mental hygiene
14 law; a substance use disorder treatment clinic licensed or granted an
15 operating certificate under article thirty-two of the mental hygiene
16 law; a primary care provider; a clinic licensed or granted an operating
17 certificate under article sixteen of the mental hygiene law; a home care
18 provider certified or licensed pursuant to article thirty-six of this
19 chapter; or hospices licensed or granted an operating certificate pursu-
20 ant to article forty of this chapter and (b) forty-five million dollars
21 of the total awarded funds shall be made to residential health care
22 facilities.

23 4. Notwithstanding any inconsistent subdivision of this section or any
24 other provision of law to the contrary, the commissioner, with the
25 approval of the director of the budget, may expend up to twenty million
26 dollars of the funds appropriated for this program pursuant to subdivi-
27 sion three of this section, not including funds dedicated for communi-
28 ty-based health care providers under paragraph (a) of such subdivision
29 or for residential health care facilities under paragraph (b) of such
30 subdivision, for awards made pursuant to paragraph (1) of subdivision
31 three of section four hundred sixty-one-1 of the social services law,
32 provided that funding shall be prioritized for awards made pursuant to
33 subparagraph (i) of such paragraph, with remaining funding available for
34 awards made pursuant to subparagraphs (ii) and (iii) of such paragraph.

35 5. In determining awards for eligible applicants under this section,
36 the commissioner shall consider criteria including, but not limited to:

37 (a) the extent to which the proposed project will contribute to the
38 integration of health care services or the long term sustainability of
39 the applicant or preservation of essential health services in the commu-
40 nity or communities served by the applicant;

41 (b) the extent to which the proposed project or purpose is aligned
42 with delivery system reform incentive payment ("DSRIP") program goals
43 and objectives;

44 (c) the geographic distribution of funds;

45 (d) the relationship between the proposed project and identified
46 community need;

47 (e) the extent to which the applicant has access to alternative
48 financing;

49 (f) the extent to which the proposed project furthers the development
50 of primary care and other outpatient services;

51 (g) the extent to which the proposed project benefits Medicaid enrol-
52 lees and uninsured individuals;

53 (h) the extent to which the applicant has engaged the community
54 affected by the proposed project and the manner in which community
55 engagement has shaped such project; and

1 (i) the extent to which the proposed project addresses potential risk
2 to patient safety and welfare.

3 6. Disbursement of awards made pursuant to this section shall be
4 conditioned on the awardee achieving certain process and performance
5 metrics and milestones as determined in the sole discretion of the
6 commissioner. Such metrics and milestones shall be structured to ensure
7 that the goals of the project are achieved, and such metrics and mile-
8 stones shall be included in grant disbursement agreements or other
9 contractual documents as required by the commissioner.

10 7. The department shall provide a report on a quarterly basis to the
11 chairs of the senate finance, assembly ways and means, and senate and
12 assembly health committees, until such time as the department determines
13 that the projects that receive funding pursuant to this section are
14 substantially complete. Such reports shall be submitted no later than
15 sixty days after the close of the quarter, and shall include, for each
16 award, the name of the applicant, a description of the project or
17 purpose, the amount of the award, disbursement date, and status of
18 achievement of process and performance metrics and milestones pursuant
19 to subdivision six of this section.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2018.

22 PART R

23 Intentionally Omitted

24 PART S

25 Section 1. This Part enacts into law major components of legislation
26 which are necessary to effectuate recommendations made as part of the
27 Regulatory Modernization Initiative undertaken by the Department of
28 Health. Each component is wholly contained within a Subpart identified
29 as Subparts A through C. The effective date for each particular
30 provision contained within such Subpart is set forth in the last section
31 of such Subpart. Any provision in any section contained within a
32 Subpart, including the effective date of the Subpart, which makes a
33 reference to a section "of this act," when used in connection with that
34 particular component, shall be deemed to mean and refer to the corre-
35 sponding section of the Subpart in which it is found. Section three of
36 this Part sets forth the general effective date of this Part.

37 SUBPART A

38 Intentionally omitted.

39 SUBPART B

40 Section 1. Subdivision 1 of section 2801 of the public health law, as
41 amended by chapter 397 of the laws of 2016, is amended to read as
42 follows:

43 1. "Hospital" means a facility or institution engaged principally in
44 providing services by or under the supervision of a physician or, in the
45 case of a dental clinic or dental dispensary, of a dentist, or, in the
46 case of a midwifery birth center, of a midwife, for the prevention,
47 diagnosis or treatment of human disease, pain, injury, deformity or
48 physical condition, including, but not limited to, a general hospital,

1 public health center, diagnostic center, treatment center, dental clinic,
2 ic, dental dispensary, rehabilitation center other than a facility used
3 solely for vocational rehabilitation, nursing home, tuberculosis hospital,
4 chronic disease hospital, maternity hospital, midwifery birth
5 center, lying-in-asylum, out-patient department, out-patient lodge,
6 dispensary and a laboratory or central service facility serving one or
7 more such institutions, but the term hospital shall not include an
8 institution, sanitarium or other facility engaged principally in providing
9 services for the prevention, diagnosis or treatment of mental disability
10 and which is subject to the powers of visitation, examination,
11 inspection and investigation of the department of mental hygiene except
12 for those distinct parts of such a facility which provide hospital
13 service. The provisions of this article shall not apply to a facility or
14 institution engaged principally in providing services by or under the
15 supervision of the bona fide members and adherents of a recognized religious
16 organization whose teachings include reliance on spiritual means
17 through prayer alone for healing in the practice of the religion of such
18 organization and where services are provided in accordance with those
19 teachings. No provision of this article or any other provision of law
20 shall be construed to: (a) limit the volume of mental health or
21 substance use disorder services that can be provided by a provider of
22 primary care services licensed under this article and authorized to
23 provide integrated services in accordance with regulations issued by the
24 commissioner in consultation with the commissioner of the office of
25 mental health and the commissioner of the office of alcoholism and
26 substance abuse services, including regulations issued pursuant to
27 subdivision seven of section three hundred sixty-five-1 of the social
28 services law or part L of chapter fifty-six of the laws of two thousand
29 twelve; (b) require a provider licensed pursuant to article thirty-one
30 of the mental hygiene law or certified pursuant to article thirty-two of
31 the mental hygiene law to obtain an operating certificate from the
32 department if such provider has been authorized to provide integrated
33 services in accordance with regulations issued by the commissioner in
34 consultation with the commissioner of the office of mental health and
35 the commissioner of the office of alcoholism and substance abuse
36 services, including regulations issued pursuant to subdivision seven of
37 section three hundred sixty-five-1 of the social services law or part L
38 of chapter fifty-six of the laws of two thousand twelve.

39 § 2. Section 31.02 of the mental hygiene law is amended by adding a
40 new subdivision (f) to read as follows:

41 (f) No provision of this article or any other provision of law shall
42 be construed to require a provider licensed pursuant to article twenty-
43 eight of the public health law or certified pursuant to article thirty-
44 two of this chapter to obtain an operating certificate from the office
45 of mental health if such provider has been authorized to provide inte-
46 grated services in accordance with regulations issued by the commissioner
47 of the office of mental health in consultation with the commissioner
48 of the department of health and the commissioner of the office of alco-
49 holism and substance abuse services, including regulations issued pursu-
50 ant to subdivision seven of section three hundred sixty-five-1 of the
51 social services law or part L of chapter fifty-six of the laws of two
52 thousand twelve.

53 § 3. Subdivision (b) of section 32.05 of the mental hygiene law, as
54 amended by chapter 204 of the laws of 2007, is amended to read as
55 follows:

1 (b) (i) Methadone, or such other controlled substance designated by
2 the commissioner of health as appropriate for such use, may be adminis-
3 tered to an addict, as defined in section thirty-three hundred two of
4 the public health law, by individual physicians, groups of physicians
5 and public or private medical facilities certified pursuant to article
6 twenty-eight or thirty-three of the public health law as part of a chem-
7 ical dependence program which has been issued an operating certificate
8 by the commissioner pursuant to subdivision (b) of section 32.09 of this
9 article, provided, however, that such administration must be done in
10 accordance with all applicable federal and state laws and regulations.
11 Individual physicians or groups of physicians who have obtained authori-
12 zation from the federal government to administer buprenorphine to
13 addicts may do so without obtaining an operating certificate from the
14 commissioner. (ii) No provision of this article or any other provision
15 of law shall be construed to require a provider licensed pursuant to
16 article twenty-eight of the public health law or article thirty-one of
17 this chapter to obtain an operating certificate from the office of alco-
18 holism and substance abuse services if such provider has been authorized
19 to provide integrated services in accordance with regulations issued by
20 the commissioner of alcoholism and substance abuse services in consulta-
21 tion with the commissioner of the department of health and the commis-
22 sioner of the office of mental health, including regulations issued
23 pursuant to subdivision seven of section three hundred sixty-five-1 of
24 the social services law or part L of chapter fifty-six of the laws of
25 two thousand twelve.

26 § 4. This act shall take effect on the one hundred eightieth day after
27 it shall have become a law; provided, however, that the commissioner of
28 the department of health, the commissioner of the office of mental
29 health, and the commissioner of the office of alcoholism and substance
30 abuse services are authorized to issue any rule or regulation necessary
31 for the implementation of this act on or before its effective date.

32

SUBPART C

33 Section 1. Paragraphs (q), (s) and (t) of subdivision 2 of section
34 2999-cc of the public health law, as amended by chapter 454 of the laws
35 of 2015, are amended and two new paragraphs (u) and (v) are added to
36 read as follows:

37 (q) a hospital as defined in article twenty-eight of this chapter,
38 including residential health care facilities serving special needs popu-
39 lations;

40 (s) a hospice as defined in article forty of this chapter; [~~and~~]

41 (t) credentialed alcoholism and substance abuse counselors creden-
42 tialed by the office of alcoholism and substance abuse services or by a
43 credentialing entity approved by such office pursuant to section 19.07
44 of the mental hygiene law;

45 (u) providers authorized to provide services and service coordination
46 under the early intervention program pursuant to article twenty-five of
47 this chapter;

48 (v) clinics licensed or certified under article sixteen of the mental
49 hygiene law and certified and non-certified day and residential programs
50 funded or operated by the office for people with developmental disabili-
51 ties; and

52 (w) any other provider as determined by the commissioner pursuant to
53 regulation or, in consultation with the commissioner, by the commis-
54 ioner of the office of mental health, the commissioner of the office of

1 alcoholism and substance abuse services, or the commissioner of the
2 office for people with developmental disabilities pursuant to
3 regulation.

4 § 2. Subdivision 3 of section 2999-cc of the public health law, as
5 separately amended by chapters 238 and 285 of the laws of 2017, is
6 amended to read as follows:

7 3. "Originating site" means a site at which a patient is located at
8 the time health care services are delivered to him or her by means of
9 telehealth. Originating sites shall be limited to: (a) facilities
10 licensed under articles twenty-eight and forty of this chapter[7]; (b)
11 facilities as defined in subdivision six of section 1.03 of the mental
12 hygiene law[7]; (c) certified and non-certified day and residential
13 programs funded or operated by the office for people with developmental
14 disabilities; (d) private physician's or dentist's offices located with-
15 in the state of New York[7]; (e) any type of adult care facility
16 licensed under title two of article seven of the social services law[7];
17 (f) public, private and charter elementary and secondary schools, school
18 age child care programs, and child day care centers within the state of
19 New York; and[7, when a patient is receiving health care services by
20 means of remote patient monitoring,] (g) the patient's place of resi-
21 dence located within the state of New York or other temporary location
22 located within or outside the state of New York.

23 § 3. Subdivision 7 of section 2999-cc of the public health, as added
24 by chapter 6 of the laws of 2015, is amended to read as follows:

25 7. "Remote patient monitoring" means the use of synchronous or asyn-
26 chronous electronic information and communication technologies to
27 collect personal health information and medical data from a patient at
28 an originating site that is transmitted to a telehealth provider at a
29 distant site for use in the treatment and management of medical condi-
30 tions that require frequent monitoring. Such technologies may include
31 additional interaction triggered by previous transmissions, such as
32 interactive queries conducted through communication technologies or by
33 telephone. Such conditions shall include, but not be limited to, conges-
34 tive heart failure, diabetes, chronic obstructive pulmonary disease,
35 wound care, polypharmacy, mental or behavioral problems, and technolo-
36 gy-dependent care such as continuous oxygen, ventilator care, total
37 parenteral nutrition or enteral feeding. Remote patient monitoring
38 shall be ordered by a physician licensed pursuant to article one hundred
39 thirty-one of the education law, a nurse practitioner licensed pursuant
40 to article one hundred thirty-nine of the education law, or a midwife
41 licensed pursuant to article one hundred forty of the education law,
42 with which the patient has a substantial and ongoing relationship.

43 § 4. Section 2999-dd of the public health law, as added by chapter 6
44 of the laws of 2015, is amended to read as follows:

45 § 2999-dd. Telehealth delivery of services. 1. Health care services
46 delivered by means of telehealth shall be entitled to reimbursement
47 under section three hundred sixty-seven-u of the social services law.

48 2. The department of health, the office of mental health, the office
49 of alcoholism and substance abuse services, and the office for people
50 with developmental disabilities shall coordinate on the issuance of a
51 single guidance document, to be updated as appropriate, that shall: (a)
52 identify any differences in regulations or policies issued by the agen-
53 cies, including with respect to reimbursement pursuant to section three
54 hundred sixty-seven-u of the social services law; and (b) be designed to
55 assist consumers, providers, and health plans in understanding and

1 facilitating the appropriate use of telehealth in addressing barriers to
2 care.

3 § 5. This act shall take effect on the ninetieth day after it shall
4 have become a law. Effective immediately, the commissioner of the
5 department of health, the commissioner of the office of mental health,
6 the commissioner of the office of alcoholism and substance abuse
7 services, and the commissioner of the office for people with develop-
8 mental disabilities are authorized and directed to issue, amend and/or
9 repeal any rule or regulation necessary for the implementation of this
10 act on or before its effective date.

11 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or subpart of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or subpart thereof directly involved in the controversy in which such
17 judgment shall have been rendered. It is hereby declared to be the
18 intent of the legislature that this act would have been enacted even if
19 such invalid provisions had not been included herein.

20 § 3. This act shall take effect immediately; provided, however, that
21 the applicable effective date of Subparts A through C of this act shall
22 be as specifically set forth in the last section of such Subparts.

23 PART T

24 Section 1. Subdivision (a) of section 31 of part B of chapter 59 of
25 the laws of 2016, amending the social services law and other laws relat-
26 ing to authorizing the commissioner of health to apply federally estab-
27 lished consumer price index penalties for generic drugs, and authorizing
28 the commissioner of health to impose penalties on managed care plans for
29 reporting late or incorrect encounter data, is amended to read as
30 follows:

31 (a) section eleven of this act shall expire and be deemed repealed
32 March 31, [~~2018~~] 2020;

33 § 2. Subdivision 6-a of section 93 of part C of chapter 58 of the laws
34 of 2007, amending the social services law and other laws relating to
35 adjustments of rates, as amended by section 20 of part B of chapter 56
36 of the laws of 2013, is amended to read as follows:

37 6-a. section fifty-seven of this act shall expire and be deemed
38 repealed on [~~December 31, 2018~~] March 31, 2023; provided that the amend-
39 ments made by such section to subdivision 4 of section 366-c of the
40 social services law shall apply with respect to determining initial and
41 continuing eligibility for medical assistance, including the continued
42 eligibility of recipients originally determined eligible prior to the
43 effective date of this act, and provided further that such amendments
44 shall not apply to any person or group of persons if it is subsequently
45 determined by the Centers for Medicare and Medicaid services or by a
46 court of competent jurisdiction that medical assistance with federal
47 financial participation is available for the costs of services provided
48 to such person or persons under the provisions of subdivision 4 of
49 section 366-c of the social services law in effect immediately prior to
50 the effective date of this act.

51 § 3. Section 2 of part II of chapter 54 of the laws of 2016, amending
52 part C of chapter 58 of the laws of 2005 relating to authorizing
53 reimbursements for expenditures made by or on behalf of social services

1 districts for medical assistance for needy persons and administration
2 thereof, is amended to read as follows:

3 § 2. This act shall take effect immediately and shall expire and be
4 deemed repealed [~~two years after it shall have become a law~~] March 31,
5 2020.

6 § 4. Section 3 of chapter 906 of the laws of 1984, amending the social
7 services law relating to expanding medical assistance eligibility and
8 the scope of services available to certain persons with disabilities, as
9 amended by section 25-a of part B of chapter 56 of the laws of 2013, is
10 amended to read as follows:

11 § 3. This act shall take effect on the thirtieth day after it shall
12 have become a law and shall be of no further force and effect after
13 [~~December 31, 2018~~] March 31, 2023, at which time the provisions of this
14 act shall be deemed to be repealed.

15 § 5. Section 4-a of part A of chapter 56 of the laws of 2013, amending
16 chapter 59 of the laws of 2011 amending the public health law and other
17 laws relating to general hospital reimbursement for annual rates relat-
18 ing to the cap on local Medicaid expenditures, as amended by section 9
19 of part I of chapter 57 of the laws of 2017, is amended to read as
20 follows:

21 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
22 2807-c of the public health law, section 21 of chapter 1 of the laws of
23 1999, or any other contrary provision of law, in determining rates of
24 payments by state governmental agencies effective for services provided
25 on and after January 1, [~~2019~~] 2017 through March 31, 2019, for inpa-
26 tient and outpatient services provided by general hospitals, for inpa-
27 tient services and adult day health care outpatient services provided by
28 residential health care facilities pursuant to article 28 of the public
29 health law, except for residential health care facilities or units of
30 such facilities providing services primarily to children under twenty-
31 one years of age, for home health care services provided pursuant to
32 article 36 of the public health law by certified home health agencies,
33 long term home health care programs and AIDS home care programs, and for
34 personal care services provided pursuant to section 365-a of the social
35 services law, the commissioner of health shall apply no greater than
36 zero trend factors attributable to the 2017, 2018, and 2019 calendar
37 [~~year~~] years in accordance with paragraph (c) of subdivision 10 of
38 section 2807-c of the public health law, provided, however, that such no
39 greater than zero trend factors attributable to such 2017, 2018, and
40 2019 calendar [~~year~~] years shall also be applied to rates of payment
41 provided on and after January 1, [~~2019~~] 2017 through March 31, 2019 for
42 personal care services provided in those local social services
43 districts, including New York city, whose rates of payment for such
44 services are established by such local social services districts pursu-
45 ant to a rate-setting exemption issued by the commissioner of health to
46 such local social services districts in accordance with applicable regu-
47 lations[~~r~~]; and provided further, however, that for rates of payment for
48 assisted living program services provided on and after January 1, [~~2019~~]
49 2017 through March 31, 2019, such trend factors attributable to the
50 2017, 2018, and 2019 calendar [~~year~~] years shall be established at no
51 greater than zero percent.

52 § 5-a. Paragraph (e) of subdivision 7 of section 367-a of the social
53 services law, as added by section 1 of part B of chapter 57 of the laws
54 of 2015, the opening paragraph as amended by section 12 and subparagraph
55 (iv) as amended by section 13 of part B of chapter 59 of the laws of
56 2016, is amended to read as follows:

1 (e) During the period from April first, two thousand fifteen through
2 March thirty-first, two thousand ~~seventeen,~~ twenty, the commissioner
3 may, in lieu of a managed care provider, negotiate directly and enter
4 into an agreement with a pharmaceutical manufacturer for the provision
5 of supplemental rebates relating to pharmaceutical utilization by enrol-
6 lees of managed care providers pursuant to section three hundred sixty-
7 four-j of this title and may also negotiate directly and enter into such
8 an agreement relating to pharmaceutical utilization by medical assist-
9 ance recipients not so enrolled. Such rebates shall be limited to drug
10 utilization in the following classes: antiretrovirals approved by the
11 FDA for the treatment of HIV/AIDS and hepatitis C agents for which the
12 pharmaceutical manufacturer has in effect a rebate agreement with the
13 federal secretary of health and human services pursuant to 42 U.S.C. §
14 1396r-8, and for which the state has established standard clinical
15 criteria. No agreement entered into pursuant to this paragraph shall
16 have an initial term or be extended beyond ~~[March thirty-first, two~~
17 ~~thousand twenty]~~ the expiration or repeal of this paragraph.

18 (i) The manufacturer shall not pay supplemental rebates to a managed
19 care provider, or any of a managed care provider's agents, including but
20 not limited to any pharmacy benefit manager on the two classes of drugs
21 subject to this paragraph when the state is collecting supplemental
22 rebates and standard clinical criteria are imposed on the managed care
23 provider.

24 (ii) The commissioner shall establish adequate rates of reimbursement
25 which shall take into account both the impact of the commissioner nego-
26 tiating such rebates and any limitations imposed on the managed care
27 provider's ability to establish clinical criteria relating to the utili-
28 zation of such drugs. In developing the managed care provider's
29 reimbursement rate, the commissioner shall identify the amount of
30 reimbursement for such drugs as a separate and distinct component from
31 the reimbursement otherwise made for prescription drugs as prescribed by
32 this section.

33 (iii) The commissioner shall submit a report to the temporary presi-
34 dent of the senate and the speaker of the assembly annually by December
35 thirty-first. The report shall analyze the adequacy of rates to managed
36 care providers for drug expenditures related to the classes under this
37 paragraph.

38 (iv) Nothing in this paragraph shall be construed to require a pharma-
39 ceutical manufacturer to enter into a supplemental rebate agreement with
40 the commissioner relating to pharmaceutical utilization by enrollees of
41 managed care providers pursuant to section three hundred sixty-four-j of
42 this title or relating to pharmaceutical utilization by medical assist-
43 ance recipients not so enrolled.

44 (v) All clinical criteria, including requirements for prior approval,
45 and all utilization review determinations established by the state as
46 described in this paragraph for either of the drug classes subject to
47 this paragraph shall be developed using evidence-based and peer-reviewed
48 clinical review criteria in accordance with article two-A of the public
49 health law, as applicable.

50 (vi) All prior authorization and utilization review determinations
51 related to the coverage of any drug subject to this paragraph shall be
52 subject to article forty-nine of the public health law, section three
53 hundred sixty-four-j of this title, and article forty-nine of the insur-
54 ance law, as applicable. Nothing in this paragraph shall diminish any
55 rights relating to access, prior authorization, or appeal relating to

1 any drug class or drug afforded to a recipient under any other provision
2 of law.

3 § 5-b. Subdivision 1 of section 60 of part B of chapter 57 of the laws
4 of 2015, amending the social services law and other laws relating to
5 supplemental rebates, is amended and a new subdivision 1-a is added to
6 read as follows:

7 1. [~~sections~~] section one [~~and fifty-two~~] of this act shall expire
8 and be deemed repealed March 31, [~~2020~~] 2023;

9 1-a. section fifty-two of this act shall expire and be deemed repealed
10 March 31, 2020;

11 § 5-c. Subparagraph (ii) of paragraph (c) of subdivision 11 of section
12 230 of the public health law, as amended by section 24 of part B of
13 chapter 56 of the laws of 2013, is amended to read as follows:

14 (ii) Participation and membership during a three year demonstration
15 period in a physician committee of the Medical Society of the State of
16 New York or the New York State Osteopathic Society whose purpose is to
17 confront and refer to treatment physicians who are thought to be suffer-
18 ing from alcoholism, drug abuse, or mental illness. Such demonstration
19 period shall commence on April first, nineteen hundred eighty and termi-
20 nate on May thirty-first, nineteen hundred eighty-three. An additional
21 demonstration period shall commence on June first, nineteen hundred
22 eighty-three and terminate on March thirty-first, nineteen hundred
23 eighty-six. An additional demonstration period shall commence on April
24 first, nineteen hundred eighty-six and terminate on March thirty-first,
25 nineteen hundred eighty-nine. An additional demonstration period shall
26 commence April first, nineteen hundred eighty-nine and terminate March
27 thirty-first, nineteen hundred ninety-two. An additional demonstration
28 period shall commence April first, nineteen hundred ninety-two and
29 terminate March thirty-first, nineteen hundred ninety-five. An addi-
30 tional demonstration period shall commence on April first, nineteen
31 hundred ninety-five and terminate on March thirty-first, nineteen
32 hundred ninety-eight. An additional demonstration period shall commence
33 on April first, nineteen hundred ninety-eight and terminate on March
34 thirty-first, two thousand three. An additional demonstration period
35 shall commence on April first, two thousand three and terminate on March
36 thirty-first, two thousand thirteen. An additional demonstration period
37 shall commence April first, two thousand thirteen and terminate on March
38 thirty-first, two thousand eighteen. An additional demonstration period
39 shall commence April first, two thousand eighteen and terminate on March
40 thirty-first, two thousand twenty-three provided, however, that the
41 commissioner may prescribe requirements for the continuation of such
42 demonstration program, including periodic reviews of such programs and
43 submission of any reports and data necessary to permit such reviews.
44 During these additional periods, the provisions of this subparagraph
45 shall also apply to a physician committee of a county medical society.

46 § 6. This act shall take effect immediately; provided, however, that
47 the amendments to paragraph (e) of subdivision 7 of section 367-a of the
48 social services law made by section five-a of this act shall not affect
49 the repeal of such paragraph and shall be deemed repealed therewith; and
50 provided, further, however that the amendments to subparagraph (ii) of
51 paragraph (c) of subdivision 11 of section 230 of the public health law
52 made by section five-c of this act shall not affect the expiration of
53 such subparagraph and shall be deemed to expire therewith.

1 Section 1. Section 2 of part NN of chapter 58 of the laws of 2015,
 2 amending the mental hygiene law relating to clarifying the authority of
 3 the commissioners in the department of mental hygiene to design and
 4 implement time-limited demonstration programs, is amended to read as
 5 follows:

6 § 2. This act shall take effect immediately and shall expire and be
 7 deemed repealed March 31, [~~2018~~] 2021.

8 § 2. This act shall take effect immediately.

9 PART V

10 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,
 11 amending the mental hygiene law and the state finance law relating to
 12 the community mental health support and workforce reinvestment program,
 13 the membership of subcommittees for mental health of community services
 14 boards and the duties of such subcommittees and creating the community
 15 mental health and workforce reinvestment account, as amended by section
 16 3 of part G of chapter 60 of the laws of 2014, is amended to read as
 17 follows:

18 § 7. This act shall take effect immediately and shall expire March 31,
 19 [~~2018~~] 2021 when upon such date the provisions of this act shall be
 20 deemed repealed.

21 § 2. This act shall take effect immediately.

22 PART W
 23 Intentionally Omitted

24 PART X

25 Section 1. Section 3 of part A of chapter 111 of the laws of 2010,
 26 amending the mental hygiene law relating to the receipt of federal and
 27 state benefits received by individuals receiving care in facilities
 28 operated by an office of the department of mental hygiene, as amended by
 29 section 1 of part LL of chapter 58 of the laws of 2015, is amended to
 30 read as follows:

31 § 3. This act shall take effect immediately; and shall expire and be
 32 deemed repealed June 30, [~~2018~~] 2021.

33 § 2. This act shall take effect immediately.

34 PART Y

35 Section 1. Legislative intent. In order to provide a permanent
 36 solution ending the entity exemption, the intent of this legislation is
 37 to provide needed clarity as to the activities and services that need to
 38 be performed by licensed practitioners and those that do not require
 39 such license thereby no longer necessitating the need for continuing the
 40 exemption beyond what is provided herein.

41 § 2. Subdivision 10 of section 7605 of the education law, as added by
 42 section 4 of part AA of chapter 57 of the laws of 2013, is amended and
 43 two new subdivisions 12 and 13 are added to read as follows:

44 10. (a) A person without a license from: performing assessments [~~such~~
 45 ~~as~~] including but not limited to basic information collection, gathering
 46 of demographic data, and informal observations, screening and referral
 47 used for general eligibility for a program or service and determining
 48 the functional status of an individual for the purpose of determining

1 need for services [~~unrelated to a behavioral health diagnosis or treat-~~
2 ~~ment plan. Such licensure shall not be required to create, develop or~~
3 ~~implement a service plan unrelated to a behavioral health diagnosis or~~
4 ~~treatment plan~~]; advising individuals regarding the appropriateness of
5 benefits they are eligible for; providing general advice and guidance
6 and assisting individuals or groups with difficult day to day problems
7 such as finding employment, locating sources of assistance, and organiz-
8 ing community groups to work on a specific problem; providing peer
9 services; selecting for suitability and providing substance abuse treat-
10 ment services or group re-entry services to incarcerated individuals in
11 state correctional facilities; or providing substance abuse treatment
12 services or re-entry services to incarcerated individuals in local
13 correctional facilities.

14 (b) A person without a license from creating, developing or implement-
15 ing a service plan or recovery plan that is not a behavioral health
16 diagnosis or treatment plan. Such service or recovery plans shall
17 include, but are not limited to, coordinating, evaluating or determining
18 the need for, or the provision of the following services: job training
19 and employability[~~7~~]; housing[~~7~~]; homeless services and shelters for
20 homeless individuals and families; refugee services; residential, day or
21 community habilitation services; general public assistance[~~7~~]; in home
22 services and supports or home-delivered meals[~~7~~]; ~~investigations conducted~~
23 ~~or assessments made by~~; recovery supports; adult or child protective
24 services including investigations; detention as defined in section five
25 hundred two of the executive law; prevention and residential services
26 for victims of domestic violence; services for runaway and homeless
27 youth; foster care, adoption, preventive services or services in accord-
28 ance with an approved plan pursuant to section four hundred four of the
29 social services law, including, adoption and foster home studies and
30 assessments, family service plans, transition plans [~~and~~], permanency
31 planning activities, and case planning or case management as such terms
32 are defined in the regulations of the office of children and family
33 services; residential rehabilitation; home and community based services;
34 and de-escalation techniques, peer services or skill development. [~~A~~
35 ~~license under this article shall not be required for persons to partic-~~
36 ~~ipate]~~

37 (c)(i) A person without a license from participating as a member of a
38 multi-disciplinary team to [~~implement~~] assist in the development of or
39 implementation of a behavioral health services or treatment plan;
40 provided [~~however~~7] that such team shall include one or more profes-
41 sionals licensed under this article or articles one hundred thirty-one,
42 one hundred thirty-nine, one hundred fifty-four or one hundred sixty-
43 three of this chapter; and provided, further, that the activities
44 performed by members of the team shall be consistent with the scope of
45 practice for each team member licensed or authorized under title VIII of
46 this chapter, and those who are not so authorized may not engage in the
47 following restricted practices: the diagnosis of mental, emotional,
48 behavioral, addictive and developmental disorders and disabilities;
49 patient assessment and evaluating; the provision of psychotherapeutic
50 treatment; the provision of treatment other than psychotherapeutic
51 treatment; [~~and/or the development and implementation of~~] or independ-
52 ently developing and implementing assessment-based treatment plans as
53 defined in section seventy-seven hundred one of this [~~chapter~~] title.

54 (ii) For the purposes of this paragraph, "assist" shall include, but
55 not be limited to, the provision or performance of the following tasks,
56 services, or functions by an individual who has obtained the training

1 and experience required by the applicable state oversight agency to
2 perform such task, service or function in facilities or programs operat-
3 ing pursuant to article nineteen-G of the executive law; articles seven,
4 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
5 three of article seven of the social services law:

6 (1) helping an individual with the completion of forms or question-
7 naires;

8 (2) reviewing existing case records and collecting background informa-
9 tion about an individual which may be used by the licensed professional
10 or multi-disciplinary team;

11 (3) gathering and reporting information about previous behavioral
12 health interventions, hospitalizations, documented diagnosis, or prior
13 treatment for review by the licensed professional and multi-disciplinary
14 team;

15 (4) discussing with the individual his or her situation, needs,
16 concerns, and thoughts in order to help identify services that support
17 the individual's goals, independence, and quality of life;

18 (5) providing advice, information, and assistance to individuals and
19 family members to identify needs and available resources in the communi-
20 ty to help meet the needs of the individual or family member;

21 (6) engaging in immediate and long-term problem solving, engaging in
22 the development of social skills, or providing general help in areas
23 including, but not limited to, housing, employment, child care, parent-
24 ing, community based services, and finances;

25 (7) distributing paper copies of self-administered tests for the indi-
26 vidual to complete when such tests do not require the observation and
27 judgment of a licensed professional;

28 (8) monitoring treatment by the collection of written and/or observa-
29 tional data in accordance with the treatment plan and providing verbal
30 or written reports to the multi-disciplinary team;

31 (9) identifying gaps in services and coordinating access to or arrang-
32 ing services for individuals such as home care, community based
33 services, housing, employment, transportation, child care, vocational
34 training, or health care;

35 (10) offering education programs that provide information about
36 disease identification and recommended treatments that may be provided,
37 and how to access such treatment;

38 (11) reporting on behavior, actions, and responses to treatment by
39 collecting written and/or observational data as part of a multi-disci-
40 plinary team;

41 (12) using de-escalation techniques consistent with appropriate train-
42 ing;

43 (13) performing assessments using standardized, structured interview
44 tools or instruments;

45 (14) directly delivering services outlined in the service plan that
46 are not clinical in nature but have been tailored to an individual based
47 on any diagnoses such individual may have received from a licensed
48 professional; and

49 (15) advocating with educational, judicial or other systems to protect
50 an individual's rights and access to appropriate services.

51 (d) Provided, further, that nothing in this subdivision shall be
52 construed as requiring a license for any particular activity or function
53 based solely on the fact that the activity or function is not listed in
54 this subdivision.

55 12. Notwithstanding any other provision of law to the contrary, noth-
56 ing in this article shall be construed to prohibit or limit the activ-

1 ities or services provided under this article by any person who is
2 employed or who commences employment in a program or service operated,
3 regulated, funded, or approved by the department of mental hygiene, the
4 office of children and family services, or a local governmental unit as
5 that term is defined in section 41.03 of the mental hygiene law or a
6 social services district as defined in section sixty-one of the social
7 services law on or before one year from the date that the regulations
8 issued in accordance with section six of the chapter of the laws of two
9 thousand eighteen which added this subdivision appear in the state
10 register or are adopted, whichever is later. Such prohibitions or limi-
11 tations shall not apply to such employees for as long as they remain
12 employed by such programs or services and whether they remain employed
13 by the same or other employers providing such programs or services.
14 Provided, however, that any person who commences employment in such
15 program or service after such date and performs services that are
16 restricted under this article shall be appropriately licensed or author-
17 ized under this article. Each state oversight agency shall create and
18 maintain a process to verify employment history of individuals exempt
19 under this subdivision.

20 13. The activities or services provided by a person with a master's
21 level degree in psychology or its equivalent, working under the super-
22 vision of a licensed psychologist in a program or service operated,
23 regulated, funded, or approved by the department of mental hygiene, the
24 office of children and family services, or a local government unit as
25 that term is defined in section 41.03 of the mental hygiene law or a
26 social services district as defined in section sixty-one of the social
27 services law.

28 § 3. Paragraph (f) of subdivision 1 of section 7702 of the education
29 law, as amended by chapter 230 of the laws of 2004, is amended and two
30 new paragraphs (m) and (n) are added to read as follows:

31 (f) ~~[Assist]~~ Provide advice and guidance and assist individuals or
32 groups with difficult day to day problems such as finding employment,
33 locating sources of assistance, and organizing community groups to work
34 on a specific problem.

35 (m) Provide peer services.

36 (n) Collect basic information, gathering of demographic data, and
37 informal observations, screening and referral used for general eligibil-
38 ity for a program or service and determining the functional status of an
39 individual for the purpose of determining the need for services.

40 § 4. Subdivision 7 of section 7706 of the education law, as added by
41 section 5 of part AA of chapter 57 of the laws of 2013, is amended and a
42 new subdivision 8 is added to read as follows:

43 7. (a) Prevent a person without a license from: performing assessments
44 ~~[such as]~~ including but not limited to basic information collection,
45 gathering of demographic data, and informal observations, screening and
46 referral used for general eligibility for a program or service and
47 determining the functional status of an individual for the purpose of
48 determining need for services ~~[unrelated to a behavioral health diagno-~~
49 ~~sis or treatment plan. Such licensure shall not be required to create,~~
50 ~~develop or implement a service plan unrelated to a behavioral health~~
51 ~~diagnosis or treatment plan]; advising individuals regarding the appro-
52 priateness of benefits they are eligible for; providing general advice
53 and guidance and assisting individuals or groups with difficult day to
54 day problems such as finding employment, locating sources of assistance,
55 and organizing community groups to work on a specific problem; providing
56 peer services; selecting for suitability and providing substance abuse~~

1 treatment services or group re-entry services to incarcerated individ-
2 uals in state correctional facilities; or providing substance abuse
3 treatment services or re-entry services to incarcerated individuals in
4 local correctional facilities.

5 (b) Prevent a person without a license from creating, developing or
6 implementing a service plan or recovery plan that is not a behavioral
7 health diagnosis or treatment plan. Such service or recovery plans shall
8 include, but are not limited to, coordinating, evaluating or determining
9 the need for, or the provision of the following services: job training
10 and employability[7]; housing[7]; homeless services and shelters for
11 homeless individuals and families; refugee services; residential, day or
12 community habilitation services; general public assistance[7]; in home
13 services and supports or home-delivered meals[~~7~~]; ~~investigations conducted~~
14 ~~or assessments made by~~; recovery supports; adult or child protective
15 services including investigations; detention as defined in section five
16 hundred two of the executive law; prevention and residential services
17 for victims of domestic violence; services for runaway and homeless
18 youth; foster care, adoption, preventive services or services in accord-
19 ance with an approved plan pursuant to section four hundred four of the
20 social services law, including, adoption and foster home studies and
21 assessments, family service plans, transition plans [and], permanency
22 planning activities, and case planning or case management as such terms
23 are defined in the regulations of the office of children and family
24 services; residential rehabilitation; home and community based services;
25 and de-escalation techniques, peer services or skill development. [A
26 ~~license under this article shall not be required for persons to partic-~~
27 ~~ipate]~~

28 (c)(i) Prevent a person without a license from participating as a
29 member of a multi-disciplinary team to [~~implement~~] assist in the devel-
30 opment of or implementation of a behavioral health services or treatment
31 plan; provided [~~however,~~] that such team shall include one or more
32 professionals licensed under this article or articles one hundred thir-
33 ty-one, one hundred thirty-nine, one hundred fifty-three or one hundred
34 sixty-three of this chapter; and provided, further, that the activities
35 performed by members of the team shall be consistent with the scope of
36 practice for each team member licensed or authorized under title VIII of
37 this chapter, and those who are not so authorized may not engage in the
38 following restricted practices: the diagnosis of mental, emotional,
39 behavioral, addictive and developmental disorders and disabilities;
40 patient assessment and evaluating; the provision of psychotherapeutic
41 treatment; the provision of treatment other than psychotherapeutic
42 treatment; [~~and/or the development and implementation of~~] or independ-
43 ently developing and implementing assessment-based treatment plans as
44 defined in section seventy-seven hundred one of this article.

45 (ii) For the purposes of this paragraph, "assist" shall include, but
46 not be limited to, the provision or performance of the following tasks,
47 services, or functions by an individual who has obtained the training
48 and experience required by the applicable state oversight agency to
49 perform such task, service or function in facilities or programs operat-
50 ing pursuant to article nineteen-G of the executive law; articles seven,
51 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
52 three of article seven of the social services law:

53 (1) helping an individual with the completion of forms or question-
54 naires;

1 (2) reviewing existing case records and collecting background informa-
2 tion about an individual which may be used by the licensed professional
3 or multi-disciplinary team;

4 (3) gathering and reporting information about previous behavioral
5 health interventions, hospitalizations, documented diagnosis, or prior
6 treatment for review by the licensed professional and multi-disciplinary
7 team;

8 (4) discussing with the individual his or her situation, needs,
9 concerns, and thoughts in order to help identify services that support
10 the individual's goals, independence, and quality of life;

11 (5) providing advice, information, and assistance to individuals and
12 family members to identify needs and available resources in the communi-
13 ty to help meet the needs of the individual or family member;

14 (6) engaging in immediate and long-term problem solving, engaging in
15 the development of social skills, or providing general help in areas
16 including, but not limited to, housing, employment, child care, parent-
17 ing, community based services, and finances;

18 (7) distributing paper copies of self-administered tests for the indi-
19 vidual to complete when such tests do not require the observation and
20 judgment of a licensed professional;

21 (8) monitoring treatment by the collection of written and/or observa-
22 tional data in accordance with the treatment plan and providing verbal
23 or written reports to the multi-disciplinary team;

24 (9) identifying gaps in services and coordinating access to or arrang-
25 ing services for individuals such as home care, community based
26 services, housing, employment, transportation, child care, vocational
27 training, or health care;

28 (10) offering education programs that provide information about
29 disease identification and recommended treatments that may be provided,
30 and how to access such treatment;

31 (11) reporting on behavior, actions, and responses to treatment by
32 collecting written and/or observational data as part of a multi-disci-
33 plinary team;

34 (12) using de-escalation techniques consistent with appropriate train-
35 ing;

36 (13) performing assessments using standardized, structured interview
37 tools or instruments;

38 (14) directly delivering services outlined in the service plan that
39 are not clinical in nature but have been tailored to an individual based
40 on any diagnoses such individual may have received from a licensed
41 professional; and

42 (15) advocating with educational, judicial or other systems to protect
43 an individual's rights and access to appropriate services.

44 (d) Provided, further, that nothing in this subdivision shall be
45 construed as requiring a license for any particular activity or function
46 based solely on the fact that the activity or function is not listed in
47 this subdivision.

48 8. Notwithstanding any other provision of law to the contrary, nothing
49 in this article shall be construed to prohibit or limit the activities
50 or services provided under this article by any person who is employed or
51 who commences employment in a program or service operated, regulated,
52 funded, or approved by the department of mental hygiene, the office of
53 children and family services, the department of corrections and communi-
54 ty supervision, the office of temporary and disability assistance, the
55 state office for the aging and the department of health or a local
56 governmental unit as that term is defined in section 41.03 of the mental

1 hygiene law or a social services district as defined in section sixty-
 2 one of the social services law on or before one year from the date that
 3 the regulations issued in accordance with section six of the chapter of
 4 the laws of two thousand eighteen which added this subdivision appear in
 5 the state register or are adopted, whichever is later. Such prohibi-
 6 tions or limitations shall not apply to such employees for as long as
 7 they remain employed by such programs or services and whether they
 8 remain employed by the same or other employers providing such programs
 9 or services. Provided however, that any person who commences employment
 10 in such program or service after such date and performs services that
 11 are restricted under this article shall be appropriately licensed or
 12 authorized under this article. Each state oversight agency shall create
 13 and maintain a process to verify employment history of individuals
 14 exempt under this subdivision.

15 § 5. Subdivision 8 of section 8410 of the education law, as added by
 16 section 6 of part AA of chapter 57 of the laws of 2013, is amended and
 17 two new subdivisions 9 and 10 are added to read as follows:

18 8. (a) Prevent a person without a license from: performing assessments
 19 [~~such as~~] including but not limited to basic information collection,
 20 gathering of demographic data, and informal observations, screening and
 21 referral used for general eligibility for a program or service and
 22 determining the functional status of an individual for the purpose of
 23 determining need for services [~~unrelated to a behavioral health diagno-~~
 24 ~~sis or treatment plan. Such licensure shall not be required to create,~~
 25 ~~develop or implement a service plan unrelated to a behavioral health~~
 26 ~~diagnosis or treatment plan~~]; advising individuals regarding the appro-
 27 priateness of benefits they are eligible for; providing general advice
 28 and guidance and assisting individuals or groups with difficult day to
 29 day problems such as finding employment, locating sources of assistance,
 30 and organizing community groups to work on a specific problem; providing
 31 peer services; selecting for suitability and providing substance abuse
 32 treatment services or group re-entry services to incarcerated individ-
 33 uals in state correctional facilities; or providing substance abuse
 34 treatment services or re-entry services to incarcerated individuals in
 35 local correctional facilities.

36 (b) Prevent a person without a license from creating, developing or
 37 implementing a service plan or recovery plan that is not a behavioral
 38 health diagnosis or treatment plan. Such service or recovery plans shall
 39 include, but are not limited to, coordinating, evaluating or determining
 40 the need for, or the provision of the following services: job training
 41 and employability[~~7~~]; housing[~~7~~]; homeless services and shelters for
 42 homeless individuals and families; refugee services; residential, day or
 43 community habilitation services; general public assistance[~~7~~]; in home
 44 services and supports or home-delivered meals[~~7~~, ~~investigations conducted~~
 45 ~~or assessments made by~~]; recovery supports; adult or child protective
 46 services including investigations; detention as defined in section five
 47 hundred two of the executive law; prevention and residential services
 48 for victims of domestic violence; services for runaway and homeless
 49 youth; foster care, adoption, preventive services or services in accord-
 50 ance with an approved plan pursuant to section four hundred four of the
 51 social services law, including, adoption and foster home studies and
 52 assessments, family service plans, transition plans [and], permanency
 53 planning activities, and case planning or case management as such terms
 54 are defined in the regulations of the office of children and family
 55 services; residential rehabilitation; home and community based services;
 56 and de-escalation techniques, peer services or skill development. [A

1 ~~license under this article shall not be required for persons to partic-~~
2 ~~ipate]~~

3 (c)(i) Prevent a person without a license from participating as a
4 member of a multi-disciplinary team to ~~[implement]~~ assist in the devel-
5 opment of or implementation of a behavioral health services or treatment
6 plan; provided ~~[however,]~~ that such team shall include one or more
7 professionals licensed under this article or articles one hundred thir-
8 ty-one, one hundred thirty-nine, one hundred fifty-three or one hundred
9 fifty-four of this chapter; and provided, further, that the activities
10 performed by members of the team shall be consistent with the scope of
11 practice for each team member licensed or authorized under title VIII of
12 this chapter, and those who are not so authorized may not engage in the
13 following restricted practices: the diagnosis of mental, emotional,
14 behavioral, addictive and developmental disorders and disabilities;
15 patient assessment and evaluating; the provision of psychotherapeutic
16 treatment; the provision of treatment other than psychotherapeutic
17 treatment; ~~[and/or the development and implementation of]~~ or independ-
18 ently developing and implementing assessment-based treatment plans as
19 defined in section seventy-seven hundred one of this chapter.

20 (ii) For the purposes of this paragraph, "assist" shall include, but
21 not be limited to, the provision or performance of the following tasks,
22 services, or functions by an individual who has obtained the training
23 and experience required by the applicable state oversight agency to
24 perform such task, service or function in facilities or programs operat-
25 ing pursuant to article nineteen-G of the executive law; articles seven,
26 sixteen, thirty-one or thirty-two of the mental hygiene law; or title
27 three of article seven of the social services law:

28 (1) helping an individual with the completion of forms or question-
29 naires;

30 (2) reviewing existing case records and collecting background informa-
31 tion about an individual which may be used by the licensed professional
32 or multi-disciplinary team;

33 (3) gathering and reporting information about previous behavioral
34 health interventions, hospitalizations, documented diagnosis, or prior
35 treatment for review by the licensed professional and multi-disciplinary
36 team;

37 (4) discussing with the individual his or her situation, needs,
38 concerns, and thoughts in order to help identify services that support
39 the individual's goals, independence, and quality of life;

40 (5) providing advice, information, and assistance to individuals and
41 family members to identify needs and available resources in the communi-
42 ty to help meet the needs of the individual or family member;

43 (6) engaging in immediate and long-term problem solving, engaging in
44 the development of social skills, or providing general help in areas
45 including, but not limited to, housing, employment, child care, parent-
46 ing, community based services, and finances;

47 (7) distributing paper copies of self-administered tests for the indi-
48 vidual to complete when such tests do not require the observation and
49 judgment of a licensed professional;

50 (8) monitoring treatment by the collection of written and/or observa-
51 tional data in accordance with the treatment plan and providing verbal
52 or written reports to the multi-disciplinary team;

53 (9) identifying gaps in services and coordinating access to or arrang-
54 ing services for individuals such as home care, community based
55 services, housing, employment, transportation, child care, vocational
56 training, or health care;

1 (10) offering education programs that provide information about
2 disease identification and recommended treatments that may be provided,
3 and how to access such treatment;

4 (11) reporting on behavior, actions, and responses to treatment by
5 collecting written and/or observational data as part of a multi-disci-
6 plinary team;

7 (12) using de-escalation techniques consistent with appropriate train-
8 ing;

9 (13) performing assessments using standardized, structured interview
10 tools or instruments;

11 (14) directly delivering services outlined in the service plan that
12 are not clinical in nature but have been tailored to an individual based
13 on any diagnoses such individual may have received from a licensed
14 professional; and

15 (15) advocating with educational, judicial or other systems to protect
16 an individual's rights and access to appropriate services.

17 (d) Provided, further, that nothing in this subdivision shall be
18 construed as requiring a license for any particular activity or function
19 based solely on the fact that the activity or function is not listed in
20 this subdivision.

21 9. Notwithstanding any other provision of law to the contrary, nothing
22 in this article shall be construed to prohibit or limit the activities
23 or services provided under this article by any person who is employed or
24 who commences employment in a program or service operated, regulated,
25 funded, or approved by the department of mental hygiene, the office of
26 children and family services, the department of corrections and communi-
27 ty supervision, the office of temporary and disability assistance, the
28 state office for the aging and the department of health or a local
29 governmental unit as that term is defined in section 41.03 of the mental
30 hygiene law or a social services district as defined in section sixty-
31 one of the social services law on or before one year from the date that
32 the regulations issued in accordance with section six of the chapter of
33 the laws of two thousand eighteen which added this subdivision appear in
34 the state register or are adopted, whichever is later. Such prohibi-
35 tions or limitations shall not apply to such employees for as long as
36 they remain employed by such programs or services and whether they
37 remain employed by the same or other employers providing such programs
38 or services. Provided however, that any person who commences employment
39 in such program or service after such date and performs services that
40 are restricted under this article shall be appropriately licensed or
41 authorized under this article. Each state oversight agency shall create
42 and maintain a process to verify employment history of individuals
43 exempt under this subdivision.

44 10. The activities or services provided by a person with a master's
45 level degree required for licensure pursuant to this article, working
46 under the supervision of a professional licensed pursuant to article one
47 hundred fifty-three, one hundred fifty-four or this article in a program
48 or service operated, regulated, funded, or approved by the department of
49 mental hygiene, the office of children and family services, the depart-
50 ment of corrections and community supervision, the office of temporary
51 and disability assistance, the state office for the aging and the
52 department of health or a local government unit as that term is defined
53 in section 41.03 of the mental hygiene law or a social services district
54 as defined in section sixty-one of the social services law.

55 § 6. 1. Not later than September 30, 2018, the state education depart-
56 ment (hereinafter referred to as "the department"), in consultation with

1 the department of mental hygiene, the office of children and family
2 services, the office of temporary and disability assistance, the depart-
3 ment of corrections and community supervision, the state office for the
4 aging, and the department of health (hereinafter referred to as "execu-
5 tive agencies") shall develop formal guidance consistent with this chap-
6 ter for service providers authorized to operate under the respective
7 executive agencies, to identify the tasks and functions performed by
8 each agency's service provider workforce categorized as tasks and func-
9 tions restricted to licensed personnel including tasks and functions
10 that do not require a license under articles 153, 154 and 163 of the
11 education law. Subsequent to the issuance of formal guidance by the
12 department pursuant to this section, the department shall adopt regu-
13 lations consistent with this chapter. Such regulations shall not be
14 issued on an emergency basis.

15 2. Not later than sixty days from the adoption of the regulations
16 required by this section, the executive agencies together shall issue a
17 single report to the governor, the temporary president of the senate,
18 the speaker of the assembly, and the state education department that may
19 include but not be limited to, all matters where any individual agency
20 objects to or has concerns regarding regulations or guidance issued by
21 the department pursuant to subdivision one of this section; a projected
22 fiscal impact or effect of any regulations or guidance on each executive
23 agency; identification of licensed professions shortage areas under each
24 executive agency; identification of appropriate rate, policy, or legis-
25 lative changes that may address workforce shortages in licensed
26 professions or access to services; an analysis and identification of the
27 need for resources and investment to fortify the state's mental health
28 workforce; an identification of barriers to hiring licensees and the
29 mechanism and oversight structure used to track individuals that are
30 subject to: subdivision 12 of section 7605 of the education law, subdivi-
31 sion 8 of section 7706 of the education law, or subdivision 9 of
32 section 8410 of the education law; or any other pertinent information.

33 3. Upon issuance of the report required pursuant to subdivision two of
34 this section, the state education department shall have sixty days to
35 issue a report to the governor, the temporary president of the senate,
36 and the speaker of the assembly on any of the matters identified in
37 subdivision two of this section provided that such report may include an
38 analysis of, comments on, or responses to the report issued by subdivi-
39 sion two of this section. The governor shall provide to the executive
40 agencies a copy of the report required by this subdivision.

41 § 7. Programs and services operated, regulated, funded, or approved by
42 the department of mental hygiene, the office of children and family
43 services, the department of corrections and community supervision, the
44 office of temporary and disability assistance, the state office for the
45 aging and the department of health or a local governmental unit as the
46 term is defined in section 41.03 of the mental hygiene law or a social
47 services district as defined in section 61 of the social services law
48 shall not be required to receive a waiver pursuant to section 6503-a of
49 the education law and, further, such programs and services shall also be
50 considered to be approved settings for the receipt of supervised experi-
51 ence for the professions governed by articles 153, 154 and 163 of the
52 education law.

53 § 8. Subdivision a of section 9 of chapter 420 of the laws of 2002
54 amending the education law relating to the profession of social work, as
55 amended by section 1 of part J of chapter 59 of the laws of 2016, is
56 amended to read as follows:

1 a. Nothing in this act shall prohibit or limit the activities or
2 services on the part of any person in the employ of a program or service
3 operated, regulated, funded, or approved by the department of mental
4 hygiene, the office of children and family services, the office of
5 temporary and disability assistance, the department of corrections and
6 community supervision, the state office for the aging, the department of
7 health, or a local governmental unit as that term is defined in article
8 41 of the mental hygiene law or a social services district as defined in
9 section 61 of the social services law, provided, however, this section
10 shall not authorize the use of any title authorized pursuant to article
11 154 of the education law, except that this section shall be deemed
12 repealed [~~on July 1, 2018~~] one year from the date that the regulations
13 issued in accordance with section six of part Y of the chapter of the
14 laws of 2018 which amended this subdivision appear in the state regis-
15 ter, or the date such regulations are adopted, whichever is later;
16 provided however that the state education department shall notify the
17 legislative bill drafting commission upon the occurrence of the date
18 such regulations appear in the state register and the date of their
19 adoption in order that the commission may maintain an accurate and time-
20 ly effective database of the official text of the laws of the state of
21 New York in furtherance of effectuating the provisions of section 44 of
22 the legislative law and section 70-b of the public officers law.

23 § 9. Subdivision a of section 17-a of chapter 676 of the laws of 2002,
24 amending the education law relating to the practice of psychology, as
25 amended by section 2 of part J of chapter 59 of the laws of 2016, is
26 amended to read as follows:

27 a. In relation to activities and services provided under article 153
28 of the education law, nothing in this act shall prohibit or limit such
29 activities or services on the part of any person in the employ of a
30 program or service operated, regulated, funded, or approved by the
31 department of mental hygiene or the office of children and family
32 services, or a local governmental unit as that term is defined in arti-
33 cle 41 of the mental hygiene law or a social services district as
34 defined in section 61 of the social services law. In relation to activ-
35 ities and services provided under article 163 of the education law,
36 nothing in this act shall prohibit or limit such activities or services
37 on the part of any person in the employ of a program or service oper-
38 ated, regulated, funded, or approved by the department of mental
39 hygiene, the office of children and family services, the department of
40 corrections and community supervision, the office of temporary and disa-
41 bility assistance, the state office for the aging and the department of
42 health or a local governmental unit as that term is defined in article
43 41 of the mental hygiene law or a social services district as defined in
44 section 61 of the social services law, pursuant to authority granted by
45 law. This section shall not authorize the use of any title authorized
46 pursuant to article 153 or 163 of the education law by any such employed
47 person, except as otherwise provided by such articles respectively.
48 This section shall be deemed repealed [~~July 1, 2018~~] one year from the
49 date that the regulations issued in accordance with section six of part
50 Y of the chapter of the laws of 2018 which amended this subdivision
51 appear in the state register, or the date such regulations are adopted,
52 whichever is later; provided however that the state education department
53 shall notify the legislative bill drafting commission upon the occur-
54 rence of the date such regulations appear in the state register and the
55 date of their adoption in order that the commission may maintain an
56 accurate and timely effective database of the official text of the laws

1 of the state of New York in furtherance of effectuating the provisions
2 of section 44 of the legislative law and section 70-b of the public
3 officers law.

4 § 10. Section 16 of chapter 130 of the laws of 2010, amending the
5 education law and other laws relating to the registration of entities
6 providing certain professional services and the licensure of certain
7 professions, as amended by section 3 of part J of chapter 59 of the laws
8 of 2016, is amended to read as follows:

9 § 16. This act shall take effect immediately; provided that sections
10 thirteen, fourteen and fifteen of this act shall take effect immediately
11 and shall be deemed to have been in full force and effect on and after
12 June 1, 2010 and such sections shall be deemed repealed [~~July 1, 2018~~]
13 one year from the date that the regulations issued in accordance with
14 section six of part Y of the chapter of the laws of 2018 which amended
15 this section appear in the state register, or the date such regulations
16 are adopted, whichever is later; provided however that the state educa-
17 tion department shall notify the legislative bill drafting commission
18 upon the occurrence of the date such regulations appear in the state
19 register and the date of their adoption in order that the commission may
20 maintain an accurate and timely effective database of the official text
21 of the laws of the state of New York in furtherance of effectuating the
22 provisions of section 44 of the legislative law and section 70-b of the
23 public officers law; provided further that the amendments to section 9
24 of chapter 420 of the laws of 2002 amending the education law relating
25 to the profession of social work made by section thirteen of this act
26 shall repeal on the same date as such section repeals; provided further
27 that the amendments to section 17-a of chapter 676 of the laws of 2002
28 amending the education law relating to the practice of psychology made
29 by section fourteen of this act shall repeal on the same date as such
30 section repeals.

31 § 11. This act shall take effect immediately.

32 PART Z

33 Section 1. Subparagraph (vii) of paragraph e of subdivision 3 of
34 section 364-j of the social services law, as amended by section 38 of
35 part A of chapter 56 of the laws of 2013, is amended to read as follows:

36 (vii) a person with a developmental or physical disability who
37 receives home and community-based services or care-at-home services
38 through a demonstration waiver under section eleven hundred fifteen of
39 the federal social security act, existing waivers under section nineteen
40 hundred fifteen (c) of the federal social security act, or who has char-
41 acteristics and needs similar to such persons;

42 § 2. Clause (x) of subparagraph 1 of paragraph (e) of subdivision 5 of
43 section 366 of the social services law, as added by section 26-a of part
44 C of chapter 109 of the laws of 2006, is amended to read as follows:

45 (x) "nursing facility services" means nursing care and health related
46 services provided in a nursing facility; a level of care provided in a
47 hospital which is equivalent to the care which is provided in a nursing
48 facility; and care, services or supplies provided pursuant to a waiver
49 granted pursuant to subsection (c) of section 1915 of the federal social
50 security act or successor federal waiver.

51 § 3. Section 366 of the social services law is amended by adding a new
52 subdivision 7-c to read as follows:

53 7-c. The commissioner of health in consultation with the commissioner
54 of developmental disabilities is authorized to submit the appropriate

1 waivers, including, but not limited to, those authorized pursuant to
2 section eleven hundred fifteen of the federal social security act, in
3 order to achieve the purposes of high-quality and integrated care and
4 services for a population of persons with developmental disabilities, as
5 such term is defined in section 1.03 of the mental hygiene law. Such
6 waiver applications shall be executed consistent with subdivisions
7 seven, seven-a, and seven-b of this section, to the extent those
8 sections comply with the requirements of section eleven hundred fifteen
9 of the federal social security act. Nothing in subdivision seven of this
10 section shall prevent the commissioner of health, in consultation with
11 the commissioner of developmental disabilities, from submitting waiver
12 applications expanding eligibility under such waivers to children under
13 eighteen years or age who are eligible for medical assistance.

14 § 4. Paragraph (a) of subdivision 2 of section 366-c of the social
15 services law, as amended by section 68 of part A of chapter 56 of the
16 laws of 2013, is amended to read as follows:

17 (a) For purposes of this section an "institutionalized spouse" is a
18 person (i) who is in a medical institution or nursing facility and
19 expected to remain in such facility or institution for at least thirty
20 consecutive days; or (ii) who is receiving care, services and supplies
21 pursuant to a waiver pursuant to subsection (c) of section nineteen
22 hundred fifteen of the federal social security act, or successor to such
23 waiver, or is receiving care, services and supplies in a managed long-
24 term care plan pursuant to section eleven hundred fifteen of the social
25 security act; and (iii) who is married to a person who is not in a
26 medical institution or nursing facility or is not receiving waiver
27 services described in subparagraph (ii) of this paragraph; provided,
28 however, that medical assistance shall be furnished pursuant to this
29 paragraph only if, for so long as, and to the extent that federal finan-
30 cial participation is available therefor. The commissioner of health
31 shall make any amendments to the state plan for medical assistance, or
32 apply for any waiver or approval under the federal social security act
33 that are necessary to carry out the provisions of this paragraph.

34 § 5. The closing paragraph of subdivision 4 of section 366-c of the
35 social services law, as amended by section 42 of part D of chapter 58 of
36 the laws of 2009, is amended to read as follows:

37 provided, however, that, to the extent required by federal law, the
38 terms of this subdivision shall not apply to persons who are receiving
39 care, services and supplies pursuant to the following waivers under
40 section 1915(c) of the federal social security act: the nursing facility
41 transition and diversion waiver authorized pursuant to subdivision six-a
42 of section three hundred sixty-six of this title; the traumatic brain
43 injury waiver authorized pursuant to section twenty-seven hundred forty
44 of the public health law, the long term home health care program waiver
45 authorized pursuant to section three hundred sixty-seven-c of this
46 title, and the home and community based services waiver for persons with
47 developmental disabilities, or successor to such waiver, administered by
48 the office [~~of mental retardation and~~] for people with developmental
49 disabilities pursuant to an agreement with the federal centers for medi-
50 care and Medicaid services.

51 § 6. Paragraph 4 of subdivision (a) of section 16.03 of the mental
52 hygiene law, as added by section 6 of part MM of chapter 58 of the laws
53 of 2015, is amended to read as follows:

54 (4) The provision of home and community based services approved under
55 a waiver program authorized pursuant to section eleven hundred fifteen
56 of the federal social security act or subdivision (c) of section nine-

1 teen hundred fifteen of the federal social security act and subdivisions
2 seven and seven-a of section three hundred sixty-six of the social
3 services law, provided that an operating certificate issued pursuant to
4 this paragraph shall only authorize services in a home or community
5 setting.

6 § 7. Paragraph 2 of subdivision (a) of section 16.11 of the mental
7 hygiene law, as added by section 10 of part MM of chapter 58 of the laws
8 of 2015, is amended to read as follows:

9 (2) The review of providers of services, as defined in paragraph four
10 of subdivision (a) of section 16.03 of this article, shall ensure that
11 the provider of services complies with all the requirements of the
12 applicable federal home and community based services waiver program, or
13 other successor Medicaid waiver program, and applicable federal regu-
14 lation, subdivisions seven and seven-a of section three hundred sixty-
15 six of the social services law and rules and regulations adopted by the
16 commissioner.

17 § 8. Subdivision (b) of section 80.03 of the mental hygiene law, as
18 amended by chapter 37 of the laws of 2011, is amended to read as
19 follows:

20 (b) "A patient in need of surrogate decision-making" means a patient
21 as defined in subdivision twenty-three of section 1.03 of this chapter
22 who is: a resident of a mental hygiene facility including a resident of
23 housing programs funded by an office of the department or whose federal
24 funding application was approved by an office of the department or for
25 whom such facility maintains legal admission status therefor; or,
26 receiving home and community-based services for persons with mental
27 disabilities provided pursuant to section 1915 or 1115 of the federal
28 social security act; or receiving individualized support services; or,
29 case management or service coordination funded, approved, or provided by
30 the office for people with developmental disabilities; and, for whom
31 major medical treatment is proposed, and who is determined by the surro-
32 gate decision-making committee to lack the ability to consent to or
33 refuse such treatment, but shall not include minors with parents or
34 persons with legal guardians, committees or conservators who are legally
35 authorized, available and willing to make such health care decisions.
36 Once a person is eligible for surrogate decision-making, such person may
37 continue to receive surrogate decision-making as authorized by this
38 section regardless of a change in residential status.

39 § 9. Subdivision 1-a of section 84 of part A of chapter 56 of the laws
40 of 2013, amending the social services law and other laws relating to
41 enacting the major components of legislation necessary to implement the
42 health and mental hygiene budget for the 2013-2014 state fiscal year, is
43 amended and a new subdivision 1-b is added to read as follows:

44 1-a. sections seventy-three through eighty-a shall expire and be
45 deemed repealed September 30, [~~2019~~] 2023;

46 1-b. the commissioner of the office for people with developmental
47 disabilities shall assess the quality and outcomes of managed care for
48 individuals with developmental disabilities, including their experiences
49 and satisfaction, and report to the temporary president of the senate
50 and the speaker of the assembly no later than December 31, 2022;

51 § 10. Paragraph (a-1) of subdivision 8 of section 4403 of the public
52 health law, as amended by chapter 474 of the laws of 2015, is amended to
53 read as follows:

54 (a-1) If the commissioner and the commissioner of the office for
55 people with developmental disabilities determine that such organization
56 lacks the experience required in paragraph (a) of this subdivision, the

1 organization shall have an affiliation arrangement with an entity or
2 entities that are non-profit organizations or organizations whose share-
3 holders are solely controlled by non-profit organizations with experi-
4 ence serving persons with developmental disabilities, as demonstrated by
5 criteria to be determined by the commissioner and the commissioner of
6 the office for people with developmental disabilities, with such crite-
7 ria including, but not limited to, residential, day, and employment
8 services such that the affiliated entity will coordinate and plan
9 services operated, certified, funded, authorized or approved by the
10 office for people with developmental disabilities or will oversee and
11 approve such coordination and planning;

12 § 11. Section 97 of chapter 659 of the laws of 1997, amending the
13 public health law and other laws relating to creation of continuing care
14 retirement communities, as amended by section 20 of part D of chapter 57
15 of the laws of 2015, is amended to read as follows:

16 § 97. This act shall take effect immediately, provided, however, that
17 the amendments to subdivision 4 of section 854 of the general municipal
18 law made by section seventy of this act shall not affect the expiration
19 of such subdivision and shall be deemed to expire therewith and provided
20 further that sections sixty-seven and sixty-eight of this act shall
21 apply to taxable years beginning on or after January 1, 1998 and
22 provided further that sections eighty-one through eighty-seven of this
23 act shall expire and be deemed repealed on December 31, [~~2019~~] 2024 and
24 provided further, however, that the amendments to section ninety of this
25 act shall take effect January 1, 1998 and shall apply to all policies,
26 contracts, certificates, riders or other evidences of coverage of long
27 term care insurance issued, renewed, altered or modified pursuant to
28 section 3229 of the insurance law on or after such date.

29 § 12. Paragraph (a-1) of subdivision 12 of section 4403-f of the
30 public health law, as amended by chapter 474 of the laws of 2015, is
31 amended to read as follows:

32 (a-1) If the commissioner and the commissioner of the office for
33 people with developmental disabilities determine that such plan lacks
34 the experience required in paragraph (a) of this subdivision, the plan
35 shall have an affiliation arrangement with an entity or entities that
36 are non-profit organizations or organizations whose shareholders are
37 solely controlled by non-profit organizations with experience serving
38 persons with developmental disabilities, as demonstrated by criteria to
39 be determined by the commissioner and the commissioner of the office for
40 people with developmental disabilities, with such criteria including,
41 but not limited to, residential, day and employment services, such that
42 the affiliated entity will coordinate and plan services operated, certi-
43 fied, funded, authorized or approved by the office for people with
44 developmental disabilities or will oversee and approve such coordination
45 and planning;

46 § 13. Paragraph (d) of subdivision 1 of section 4403-g of the public
47 health law, as added by section 73 of part A of chapter 56 of the laws
48 of 2013, is amended to read as follows:

49 (d) "Health and long term care services" means comprehensive health
50 services and other services as determined by the commissioner and the
51 commissioner of the office for people with developmental disabilities,
52 whether provided by state-operated programs or not-for-profit entities,
53 including, but not limited to, habilitation services, home and communi-
54 ty-based and institution-based long term care services, and ancillary
55 services, that shall include medical supplies and nutritional supple-
56 ments, that are necessary to meet the needs of persons whom the plan is

1 authorized to enroll[, ~~and may include primary care and acute care if~~
2 ~~the DISCO is authorized to provide or arrange for such services~~]. Each
3 person enrolled in a DISCO shall receive health and long term care
4 services designed to achieve person-centered outcomes, to enable that
5 person to live in the most integrated setting appropriate to that
6 person's needs, and to enable that person to interact with nondisabled
7 persons to the fullest extent possible in social, workplace and other
8 community settings, provided that all such services are consistent with
9 such person's wishes to the extent that such wishes are known and in
10 accordance with such person's needs.

11 § 14. Paragraph (b) of subdivision 3 of section 4403-g of the public
12 health law, as added by section 73 of part A of chapter 56 of the laws
13 of 2013, is amended to read as follows:

14 (b) A description of the services to be covered by such DISCO, which
15 must include all health and long term care services, as defined in para-
16 graph (d) of subdivision one of this section, and other services as
17 determined by the commissioner and the commissioner of the office for
18 people with developmental disabilities;

19 § 15. Paragraph (j) of subdivision 4 of section 4403-g of the public
20 health law, as added by section 73 of part A of chapter 56 of the laws
21 of 2013, is amended to read as follows:

22 (j) Readiness and capability [~~to arrange and manage covered services~~]
23 of organizing, marketing, managing, promoting and operating a health and
24 long term care services plan, or has an affiliation agreement with an
25 entity that has such readiness and capability;

26 § 16. Subdivision (c) of section 62 of chapter 165 of the laws of
27 1991, amending the public health law and other laws relating to estab-
28 lishing payments for medical assistance, as amended by section 17 of
29 part D of chapter 57 of the laws of 2015, is amended to read as follows:

30 (c) section 364-j of the social services law, as amended by section
31 eight of this act and subdivision 6 of section 367-a of the social
32 services law as added by section twelve of this act shall expire and be
33 deemed repealed on March 31, [~~2019~~] 2024 and provided further, that the
34 amendments to the provisions of section 364-j of the social services law
35 made by section eight of this act shall only apply to managed care
36 programs approved on or after the effective date of this act;

37 § 17. Subdivision (c) of section 13.40 of the mental hygiene law, as
38 added by section 72-b of part A of chapter 56 of the laws of 2013, is
39 amended to read as follows:

40 (c) No person with a developmental disability who is receiving or
41 applying for medical assistance and who is receiving, or eligible to
42 receive, services operated, funded, certified, authorized or approved by
43 the office, shall be required to enroll in a DISCO, HMO or MLTC in order
44 to receive such services until program features and reimbursement rates
45 are approved by the commissioner and the commissioner of health, and
46 until such commissioners determine that a sufficient number of plans
47 that are authorized to coordinate care for individuals pursuant to this
48 section or that are authorized to operate and to exclusively enroll
49 persons with developmental disabilities pursuant to subdivision twenty-
50 seven of section three hundred sixty-four-j of the social services law
51 are operating in such person's county of residence to meet the needs of
52 persons with developmental disabilities, and that such entities meet the
53 standards of this section. No person shall be required to enroll in a
54 DISCO, HMO or MLTC in order to receive services operated, funded, certi-
55 fied, authorized or approved by the office until there are at least two
56 entities operating under this section in such person's county of resi-

1 dence, unless federal approval is secured to require enrollment when
2 there are less than two such entities operating in such county. Notwith-
3 standing the foregoing or any other law to the contrary, any health care
4 provider: (i) enrolled in the Medicaid program and (ii) rendering hospi-
5 tal services, as such term is defined in section twenty-eight hundred
6 one of the public health law, to an individual with a developmental
7 disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health
8 services plan operating pursuant to section forty-four hundred three-a
9 of the public health law, including, but not limited to, an individual
10 who is enrolled in a plan authorized by section three hundred sixty-
11 four-j or the social services law, shall accept as full reimbursement
12 the negotiated rate or, in the event that there is no negotiated rate,
13 the rate of payment that the applicable government agency would other-
14 wise pay for such rendered hospital services.

15 § 18. Section 11 of chapter 710 of the laws of 1988, amending the
16 social services law and the education law relating to medical assistance
17 eligibility of certain persons and providing for managed medical care
18 demonstration programs, as amended by section 1 of part F of chapter 73
19 of the laws of 2016, is amended to read as follows:

20 § 11. This act shall take effect immediately; except that the
21 provisions of sections one, two, three, four, eight and ten of this act
22 shall take effect on the ninetieth day after it shall have become a law;
23 and except that the provisions of sections five, six and seven of this
24 act shall take effect January 1, 1989; and except that effective imme-
25 diately, the addition, amendment and/or repeal of any rule or regulation
26 necessary for the implementation of this act on its effective date are
27 authorized and directed to be made and completed on or before such
28 effective date; provided, however, that the provisions of section 364-j
29 of the social services law, as added by section one of this act shall
30 expire and be deemed repealed on and after March 31, [~~2019~~ 2024, the
31 provisions of section 364-k of the social services law, as added by
32 section two of this act, except subdivision 10 of such section, shall
33 expire and be deemed repealed on and after January 1, 1994, and the
34 provisions of subdivision 10 of section 364-k of the social services
35 law, as added by section two of this act, shall expire and be deemed
36 repealed on January 1, 1995.

37 § 19. This act shall take effect immediately; provided, however, that
38 the amendments to subparagraph (vii) of paragraph e of subdivision 3 of
39 section 364-j of the social services law made by section one of this act
40 shall not affect the repeal of such section and shall be deemed repealed
41 therewith; provided further, however, that the amendments to subdivision
42 4 of section 366-c of the social services law made by section five of
43 this act shall not affect the expiration of such subdivision and shall
44 be deemed to expire therewith; provided further, however, that the
45 amendments to subdivision 8 of section 4403 of the public health law,
46 made by section ten of this act, shall not affect the repeal of such
47 subdivision and shall be deemed repealed therewith; provided further,
48 however, that the amendments to paragraph (a-1) of subdivision 12 of
49 section 4403-f of the public health law, made by section twelve of this
50 act shall not affect the repeal of such section and shall be deemed to
51 be repealed therewith; provided further, however, that the amendments to
52 subdivision 12 of section 4403-f of the public health law, made by
53 section twelve of this act, shall not affect the repeal of such subdivi-
54 sion and shall be deemed repealed therewith; provided, further, however,
55 that the amendments to section 4403-g of the public health law, made by

1 sections thirteen, fourteen and fifteen of this act shall not affect the
2 repeal of such section and shall be deemed repealed therewith.

3 PART AA

4 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
5 57 of the laws of 2006, relating to establishing a cost of living
6 adjustment for designated human services programs, as amended by section
7 1 of part Q of chapter 57 of the laws of 2017, are amended to read as
8 follows:

9 3-b. Notwithstanding any inconsistent provision of law, beginning
10 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
11 ending March 31, [~~2018~~] 2019, the commissioners shall not include a COLA
12 for the purpose of establishing rates of payments, contracts or any
13 other form of reimbursement, provided that the commissioners of the
14 office for people with developmental disabilities, the office of mental
15 health, and the office of alcoholism and substance abuse services shall
16 not include a COLA beginning April 1, 2017 and ending March 31, 2019.

17 3-c. Notwithstanding any inconsistent provision of law, beginning
18 April 1, [~~2018~~] 2019 and ending March 31, [~~2021~~] 2022, the commissioners
19 shall develop the COLA under this section using the actual U.S. consumer
20 price index for all urban consumers (CPI-U) published by the United
21 States department of labor, bureau of labor statistics for the twelve
22 month period ending in July of the budget year prior to such state
23 fiscal year, for the purpose of establishing rates of payments,
24 contracts or any other form of reimbursement.

25 § 2. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2018; provided,
27 however, that the amendments to section 1 of part C of chapter 57 of the
28 laws of 2006 made by section one of this act shall not affect the repeal
29 of such section and shall be deemed repealed therewith.

30 PART BB

31 Section 1. Intentionally omitted.

32 § 2. Intentionally omitted.

33 § 3. Intentionally omitted.

34 § 4. Subdivision (b) of schedule I of section 3306 of the public
35 health law is amended by adding two new paragraphs 56 and 57 to read as
36 follows:

37 (56) 3,4-dichloro-N-((1-dimethylamino) cyclohexylmethyl)benzamide.

38 Some trade or other names: AH-7921.

39 (57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fenta-
40 nyl).

41 § 5. Subdivision (d) of schedule I of section 3306 of the public
42 health law is amended by adding three new paragraphs 36, 37 and 38 to
43 read as follows:

44 (36) 5-methoxy-N,N-dimethyltryptamine.

45 (37) Alpha-methyltryptamine. Some trade or other names: AMT.

46 (38) 5-methoxy-N,N-diisopropyltryptamine. Some trade or other names:
47 5-MeO-DIPT.

48 § 6. Intentionally omitted.

49 § 7. Schedule I of section 3306 of the public health law is amended by
50 adding two new subdivisions (g) and (h) to read as follows:

51 (g) Synthetic cannabinoids. Unless specifically excepted or unless
52 listed in another schedule, any material, compound, mixture, or prepara-

1 tion, which contains any quantity of the following synthetic cannabinoid
2 substances, or which contains any of its salts, isomers, and salts of
3 isomers whenever the existence of such salts, isomers, and salts of
4 isomers is possible within the specific chemical designation (for
5 purposes of this paragraph only, the term "isomer" includes the optical,
6 position and geometric isomers):

7 (1) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) metha-
8 none. Some trade or other names: UR-144.

9 (2) {1-(5-fluoro-pentyl)-1H-indol-3-yl}(2,2,3,3-tetramethylcyclopropyl)
10 methanone. Some trade names or other names: 5-fluoro-UR-144, XLR11.

11 (3) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide. Some trade or
12 other names: APINACA, AKB48.

13 (4) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate. Some trade or
14 other names: PB-22; OUPIC.

15 (5) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Some
16 trade or other names: 5-fluoro-PB-22; 5F-PB-22.

17 (6) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazo-
18 le-3-carboxamide. Some trade or other names: AB-FUBINACA.

19 (7) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-
20 carboxamide. Some trade or other names: ADB-PINACA.

21 (8) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-
22 indazole-3-carboxamide. Some trade or other names: AB-CHMINACA.

23 (9) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-
24 carboxamide. Some trade or other names: AB-PINACA.

25 (10) {1-(5-fluoropentyl)-1H-indazol-3-yl}(naphthalen-1-yl)methanone.
26 Some trade or other names: THJ-2201.

27 (h) (1) Cannabimimetic agents. Unless specifically exempted or unless
28 listed in another schedule, any material, compound, mixture, or prepara-
29 tion that is not approved by the federal food and drug administration
30 (FDA) which contains any quantity of cannabimimetic agents, or which
31 contains their salts, isomers, and salts of isomers whenever the exist-
32 ence of such salts, isomers, and salts of isomers is possible within the
33 specific chemical designation.

34 (2) As used in this subdivision, the term "cannabimimetic agents"
35 means any substance that is a cannabinoid receptor type 1 (CB1 receptor)
36 agonist as demonstrated by binding studies and functional assays within
37 any of the following structural classes:

38 (i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position
39 of the phenolic ring by alkyl or alkenyl, whether or not substituted on
40 the cyclohexyl ring to any extent.

41 (ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substi-
42 tution at the nitrogen atom of the indole ring, whether or not further
43 substituted on the indole ring to any extent, whether or not substituted
44 on the naphthoyl or naphthyl ring to any extent.

45 (iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of
46 the pyrrole ring, whether or not further substituted in the pyrrole ring
47 to any extent, whether or not substituted on the naphthoyl ring to any
48 extent.

49 (iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position
50 of the indene ring, whether or not further substituted in the indene
51 ring to any extent, whether or not substituted on the naphthyl ring to
52 any extent.

53 (v) 3-phenylacetylindole or 3-benzoylindole by substitution at the
54 nitrogen atom of the indole ring, whether or not further substituted in
55 the indole ring to any extent, whether or not substituted on the phenyl
56 ring to any extent.

1 (3) Such term includes:

- 2 (i) 5-(1,1-dimethylheptyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol
3 (CP-47,497);
4 (ii) 5-(1,1-dimethyloctyl)-2-((1R,3S)-3-hydroxycyclohexyl)-phenol
5 (cannabicyclohexanol or CP-47,497 C8-homolog);
6 (iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);
7 (iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);
8 (v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);
9 (vi) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole (JWH-200);
10 (vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
11 (viii) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole (JWH-081);
12 (ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
13 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
14 (xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
15 (xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);
16 (xiii) 1-pentyl-3-{(4-methoxy)-benzoyl}indole (SR-19 and RCS-4);
17 (xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and
18 RCS-8); and
19 (xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

20 § 8. This act shall take effect on the ninetieth day after it shall
21 have become a law.

22 PART CC

23 Section 1. Intentionally omitted.

24 § 2. Intentionally omitted.

25 § 3. Paragraph (b) of subdivision 12 of section 230 of the public
26 health law, as amended by chapter 599 of the laws of 1996, is amended to
27 read as follows:

28 (b) When a licensee has pleaded or been found guilty or convicted of
29 committing an act constituting a felony under New York state law or
30 federal law, or the law of another jurisdiction which, if committed
31 within this state, would have constituted a felony under New York state
32 law, or when a licensee has been charged with committing an act consti-
33 tuting a felony under New York state or federal law or the law of anoth-
34 er jurisdiction, where the licensee's alleged conduct, which, if commit-
35 ted within this state, would have constituted a felony under New York
36 state law, and in the commissioner's opinion the licensee's alleged
37 conduct constitutes an imminent danger to the health of the people, or
38 when the duly authorized professional disciplinary agency of another
39 jurisdiction has made a finding substantially equivalent to a finding
40 that the practice of medicine by the licensee in that jurisdiction
41 constitutes an imminent danger to the health of its people, or when a
42 licensee has been disciplined by a duly authorized professional disci-
43 plinary agency of another jurisdiction for acts which if committed in
44 this state would have constituted the basis for summary action by the
45 commissioner pursuant to paragraph (a) of this subdivision, the commis-
46 sioner, after a recommendation by a committee of professional conduct of
47 the state board for professional medical conduct, may order the licen-
48 see, by written notice, to discontinue or refrain from practicing medi-
49 cine in whole or in part or to take certain actions authorized pursuant
50 to this title immediately. The order of the commissioner shall consti-
51 tute summary action against the licensee and become public upon issu-
52 ance. The summary suspension shall remain in effect until the final
53 conclusion of a hearing which shall commence within ninety days of the
54 date of service of the commissioner's order, end within ninety days

1 thereafter and otherwise be held in accordance with paragraph (a) of
2 this subdivision, provided, however, that when the commissioner's order
3 is based upon a finding substantially equivalent to a finding that the
4 practice of medicine by the licensee in another jurisdiction constitutes
5 an imminent danger to the health of its people, the hearing shall
6 commence within thirty days after the disciplinary proceedings in that
7 jurisdiction are finally concluded. If, at any time, the felony charge
8 is dismissed, withdrawn or reduced to a non-felony charge, the commis-
9 sioner's summary order shall terminate.

10 § 4. This act shall take effect immediately.

11 PART DD

12 Section 1. Subdivisions 2 and 4 of section 6801 of the education law,
13 as amended by chapter 46 of the laws of 2015, are amended to read as
14 follows:

15 2. A licensed pharmacist may execute a non-patient specific regimen
16 prescribed or ordered by a physician licensed in this state or nurse
17 practitioner certified in this state, pursuant to rules and regulations
18 promulgated by the commissioner. When a licensed pharmacist administers
19 an immunizing agent, he or she shall:

20 (a) report such administration by electronic transmission or [~~facsi-~~
21 ~~mile~~] facsimile to the patient's attending primary health care practi-
22 tioner or practitioners, if any, and, to the extent practicable, make
23 himself or herself available to discuss the outcome of such immuniza-
24 tion, including any adverse reactions, with the attending primary health
25 care practitioner, [~~or~~] and to the statewide immunization registry or
26 the citywide immunization registry, as established pursuant to and to
27 the extent permitted by section twenty-one hundred sixty-eight of the
28 public health law; and

29 (b) provide information to the patient or, where applicable, the
30 person legally responsible for the patient, on the importance of having
31 a primary health care practitioner, developed by the commissioner of
32 health; and

33 (c) report such administration, absent of any individually identifi-
34 able health information, to the department of health in a manner
35 required by the commissioner of health[~~or~~]; and

36 (d) prior to administering the immunization, inform the patient or,
37 where applicable, the person legally responsible for the patient, of the
38 total cost of the immunization or immunizations, subtracting any health
39 insurance subsidization, if applicable. In the case the immunization is
40 not covered, the pharmacist must inform the patient or, where applica-
41 ble, the person legally responsible for the patient, of the possibility
42 that the immunization may be covered when administered by a primary care
43 physician or practitioner; and

44 (e) administer the immunization or immunizations according to the most
45 current recommendations by the advisory committee for immunization prac-
46 tices (ACIP), provided however, that a pharmacist may administer any
47 immunization authorized under this section when specified by a patient
48 specific order.

49 4. When administering an immunization in a pharmacy, the licensed
50 pharmacist shall provide an area for the immunization that provides for
51 a patient's privacy. The privacy area should include:

52 a. a clearly visible posting of the most current "Recommended Adult
53 Immunization Schedule" published by the advisory committee for immuniza-
54 tion practices (ACIP); and

1 (b) education materials on influenza vaccinations for children as
2 determined by the commissioner and the commissioner of health.

3 § 2. Subdivision 22 of section 6802 of the education law, as amended
4 by chapter 46 of the laws of 2015, is amended to read as follows:

5 22. "Administer", for the purpose of section sixty-eight hundred one
6 of this article, means:

7 a. the direct application of an immunizing agent to adults, whether by
8 injection, ingestion, inhalation or any other means, pursuant to a
9 patient specific order or non-patient specific regimen prescribed or
10 ordered by a physician or certified nurse practitioner, who has a prac-
11 tice site in the county or adjoining county in which the immunization is
12 administered, for immunizations to prevent influenza, pneumococcal,
13 acute herpes zoster, meningococcal, tetanus, diphtheria or pertussis
14 disease and medications required for emergency treatment of anaphylaxis.
15 If the commissioner of health determines that there is an outbreak of
16 disease, or that there is the imminent threat of an outbreak of disease,
17 then the commissioner of health may issue a non-patient specific regimen
18 applicable statewide.

19 b. the direct application of an immunizing agent to children between
20 the ages of two and eighteen years of age, whether by injection, inges-
21 tion, inhalation or any other means, pursuant to a patient specific
22 order or non-patient specific regimen prescribed or ordered by a physi-
23 cian or certified nurse practitioner, who has a practice site in the
24 county or adjoining county in which the immunization is administered,
25 for immunization to prevent influenza and medications required for emer-
26 gency treatment of anaphylaxis resulting from such immunization. If the
27 commissioner of health determines that there is an outbreak of influen-
28 za, or that there is the imminent threat of an outbreak of influenza,
29 then the commissioner of health may issue a non-patient specific regimen
30 applicable statewide.

31 § 2-a. Paragraph (a) of subdivision 3 of section 2168 of the public
32 health law, as amended by chapter 420 of the laws of 2014, is amended to
33 read as follows:

34 (a) (i) Any health care provider who administers any vaccine to a
35 person less than nineteen years of age or, on or after September first,
36 two thousand nine, conducts a blood lead analysis of a sample obtained
37 from a person under eighteen years of age in accordance with paragraph
38 (h) of subdivision two of this section; and immunizations received by a
39 person less than nineteen years of age in the past if not already
40 reported, shall report all such immunizations and the results of any
41 blood lead analysis to the department in a format prescribed by the
42 commissioner within fourteen days of administration of such immuniza-
43 tions or of obtaining the results of any such blood lead analysis.
44 Health care providers administering immunizations to persons less than
45 nineteen years of age in the city of New York shall report, in a format
46 prescribed by the city of New York commissioner of health and mental
47 hygiene, all such immunizations to the citywide immunization registry.
48 Health care providers who conduct a blood lead analysis on a person
49 under eighteen years of age and who report the results of such analysis
50 to the city of New York commissioner of health and mental hygiene pursu-
51 ant to New York city reporting requirements shall be exempt from this
52 requirement for reporting blood lead analysis results to the state
53 commissioner of health; provided, however, blood lead analysis data
54 collected from physician office laboratories by the commissioner of
55 health and mental hygiene of the city of New York pursuant to the health

1 code of the city of New York shall be provided to the department in a
2 format prescribed by the commissioner.

3 (ii) A pharmacist who administers a vaccine pursuant to subdivision
4 two of section sixty-eight hundred one of the education law, to a person
5 less than nineteen years of age, shall report all such immunizations to
6 the department in a format prescribed by the commissioner within four-
7 teen days of administration of such immunizations. Pharmacists adminis-
8 tering immunizations pursuant to subdivision two of section sixty-eight
9 hundred one of the education law to persons less than nineteen years of
10 age in the city of New York shall report, in a format prescribed by the
11 city of New York commissioner of health and mental hygiene, all such
12 immunizations to the citywide immunization registry.

13 § 3. Section 8 of chapter 563 of the laws of 2008, amending the educa-
14 tion law and the public health law relating to immunizing agents to be
15 administered to adults by pharmacists, as amended by chapter 46 of the
16 laws of 2015, is amended to read as follows:

17 § 8. This act shall take effect on the ninetieth day after it shall
18 have become a law and shall expire and be deemed repealed July 1,
19 [~~2019~~] 2020.

20 § 4. Section 5 of chapter 116 of the laws of 2012, amending the educa-
21 tion law relating to authorizing a licensed pharmacist and certified
22 nurse practitioner to administer certain immunizing agents, as amended
23 by chapter 46 of the laws of 2015, is amended to read as follows:

24 § 5. This act shall take effect on the ninetieth day after it shall
25 have become a law [~~and~~], provided, however, that the provisions of
26 sections one, two and four of this act shall expire and be deemed
27 repealed July 1, [~~2019~~] 2020 provided, that:

28 (a) the amendments to subdivision 7 of section 6527 of the education
29 law made by section one of this act shall not affect the repeal of such
30 subdivision and shall be deemed to be repealed therewith;

31 (b) the amendments to subdivision 7 of section 6909 of the education
32 law, made by section two of this act shall not affect the repeal of such
33 subdivision and shall be deemed to be repealed therewith;

34 (c) the amendments to subdivision 22 of section 6802 of the education
35 law made by section three of this act shall not affect the repeal of
36 such subdivision and shall be deemed to be repealed therewith; and

37 (d) the amendments to section 6801 of the education law made by
38 section four of this act shall not affect the expiration of such section
39 and shall be deemed to expire therewith.

40 § 5. Section 5 of chapter 21 of the laws of 2011, amending the educa-
41 tion law relating to authorizing pharmacists to perform collaborative
42 drug therapy management with physicians in certain settings, as amended
43 by chapter 238 of the laws of 2015, is amended to read as follows:

44 § 5. This act shall take effect on the one hundred twentieth day after
45 it shall have become a law [~~and~~], provided, however, that the provisions
46 of sections two, three, and four of this act shall expire [~~7 years after~~
47 ~~such effective date when upon such date the provisions of this act~~
48 ~~shall~~] and be deemed repealed July 1, 2020; provided, however, that the
49 amendments to subdivision 1 of section 6801 of the education law made by
50 section one of this act shall be subject to the expiration and reversion
51 of such subdivision pursuant to section 8 of chapter 563 of the laws of
52 2008, when upon such date the provisions of section one-a of this act
53 shall take effect; provided, further, that effective immediately, the
54 addition, amendment and/or repeal of any rule or regulation necessary
55 for the implementation of this act on its effective date are authorized
56 and directed to be made and completed on or before such effective date.

1 § 6. This act shall take effect immediately; provided, however the
2 amendments to section 6801 of the education law made by section one of
3 this act shall not effect the expiration of such section and shall be
4 deemed to expire therewith; provided, further, that the amendments to
5 subdivision 22 of section 6802 of the education law made by section two
6 of this act shall not affect the expiration of such section and shall be
7 deemed to expire therewith.

8

PART EE

9 Section 1. Paragraph (e) of subdivision 1 of section 367-a of the
10 social services law, as amended by section 41 of part D of chapter 56 of
11 the laws of 2012, is amended to read as follows:

12 (e) Amounts payable under this title for medical assistance in the
13 form of clinic services pursuant to article twenty-eight of the public
14 health law [~~and~~], article sixteen of the mental hygiene law and inde-
15 pendent practitioner services for individuals with developmental disa-
16 bilities provided to eligible persons diagnosed with a developmental
17 disability who are also beneficiaries under part B of title XVIII of the
18 federal social security act, or provided to persons diagnosed with a
19 developmental disability who are qualified medicare beneficiaries under
20 part B of title XVIII of such act shall not be less than the approved
21 medical assistance payment level less the amount payable under part B.

22 § 2. This act shall take effect immediately.

23

PART FF

24 Section 1. The mental hygiene law is amended by adding a new section
25 33.27 to read as follows:

26 § 33.27 Independent substance use disorder and mental health ombudsman.

27 (a) There is hereby established the office of the independent
28 substance use disorder and mental health ombudsman program that will be
29 operated or selected by the office of alcoholism and substance abuse
30 services, in consultation with the office of mental health for the
31 purpose of assisting individuals with a substance use disorder and/or
32 mental illness to ensure that they receive appropriate health insurance
33 coverage.

34 (b) Such ombudsman will identify, investigate, refer and resolve
35 complaints that are made by, or on behalf of, consumers relative to
36 health insurance coverage and access to initial and continuing substance
37 use disorder care and mental health care; accept, investigate, refer and
38 help to resolve complaints that are made by treatment providers relative
39 to health insurance coverage of and reimbursement for initial or contin-
40 uing substance use disorder and mental health care; accept, investigate,
41 refer and help to resolve complaints that are made by or on behalf of
42 consumers or by providers relative to network adequacy for access to and
43 continuing substance use disorder and mental health care.

44 (c) Notwithstanding sections one hundred twelve and one hundred
45 sixty-three of the state finance law and section one hundred forty-two
46 of the economic development law, or any other inconsistent provision of
47 law, funds available for expenditure pursuant to this section for the
48 establishment of an ombudsman for substance use disorder and mental
49 health insurance coverage, may be allocated and distributed by the
50 commissioner of the office of alcoholism and substance abuse services,
51 subject to the approval of the director of the budget, without a compet-
52 itive bid or request for proposal process for the establishment of an

1 ombudsman for substance use disorder and mental health insurance cover-
 2 age. Provided, however, that such allocation or distribution must be
 3 based on objective criteria and an allocation methodology that is
 4 approved by the director of the budget.

5 § 2. This act shall take effect on the one hundred eightieth day after
 6 it shall have become a law.

7 PART GG

8 Section 1. The mental hygiene law is amended by adding a new section
 9 19.18-b to read as follows:

10 § 19.18-b Certified peer recovery advocate services program.

11 1. For purposes of this subdivision "certified peer recovery advocate
 12 services" means participant-centered services that emphasize knowledge
 13 and wisdom through lived experience in which peers are encouraged to
 14 share their own personal experience and first-hand knowledge of
 15 substance abuse, addiction, and recovery to support the recovery goals
 16 of individuals who use drugs and/or alcohol.

17 2. The commissioner shall develop and administer a certification proc-
 18 ess and standards of training and competency for certified peer recovery
 19 advocate services.

20 3. Certified peer recovery advocate services may include but not be
 21 limited to:

- 22 (a) developing recovery plans;
- 23 (b) raising awareness of existing social and other support services;
- 24 (c) modeling coping skills;
- 25 (d) assisting with applying for benefits;
- 26 (e) accompanying clients to medical appointments;
- 27 (f) providing non-clinical crisis support, especially after periods of
 28 hospitalization or incarceration;
- 29 (g) accompanying clients to court appearances and other appointments;
- 30 (h) working with participants to identify strengths;
- 31 (i) linking participants to formal recovery supports, including, but
 32 not limited to, medication assisted treatment;
- 33 (j) educating program participants about various modes of recovery,
 34 including, but not limited to, medication assisted treatment;
- 35 (k) peer engagement coordination with hospital emergency services to
 36 assist any patient that has been administered an opioid antagonist by a
 37 medical provider to establish connections to treatment, including, but
 38 not limited to, medication assisted treatment and other supports after
 39 an opioid overdose reversal or after discharge from another substance
 40 abuse related emergency department visit; and
- 41 (l) peer engagement coordination with law enforcement departments,
 42 fire departments and other first responder departments to assist any
 43 individual that has been administered an opioid antagonist by a first
 44 responder to establish connections to treatment, including, but not
 45 limited to, medication assisted treatment and other support services
 46 after an opioid overdose reversal.

47 § 2. This act shall take effect immediately; provided, however, that
 48 effective immediately, the addition, amendment and/or repeal of any rule
 49 or regulation necessary for the implementation of this act on its effec-
 50 tive date are authorized and directed to be made and completed on or
 51 before such effective date.

52 PART HH

1 Section 1. Subdivision 1 of section 2805-i of the public health law,
2 as amended by chapter 504 of the laws of 1994 and paragraph (c) as
3 amended by chapter 39 of the laws of 2012, is amended to read as
4 follows:

5 1. Every hospital providing treatment to alleged victims of a sexual
6 offense shall be responsible for:

7 (a) maintaining sexual offense evidence and the chain of custody as
8 provided in subdivision two of this section[~~7~~];

9 (b) contacting a rape crisis or victim assistance organization, if
10 any, providing victim assistance to the geographic area served by that
11 hospital to establish the coordination of non-medical services to sexual
12 offense victims who request such coordination and services[~~7~~];

13 (c) offering and making available appropriate HIV post-exposure treat-
14 ment therapies; including a seven day starter pack of HIV post-exposure
15 prophylaxis, in cases where it has been determined, in accordance with
16 guidelines issued by the commissioner, that a significant exposure to
17 HIV has occurred, and informing the victim that payment assistance for
18 such therapies may be available from the office of victim services
19 pursuant to the provisions of article twenty-two of the executive law.
20 With the consent of the victim of a sexual assault, the hospital emer-
21 gency room department shall provide or arrange for an appointment for
22 medical follow-up related to HIV post-exposure prophylaxis and other
23 care as appropriate; and

24 (d) ensuring sexual assault survivors are not billed for sexual
25 assault forensic exams and are notified orally and in writing of the
26 option to decline to provide private health insurance information and
27 have the office of victim services reimburse the hospital for the exam
28 pursuant to subdivision thirteen of section six hundred thirty-one of
29 the executive law.

30 § 2. Subdivision 2 of section 2805-i of the public health law is
31 REPEALED and a new subdivision 2 is added to read as follows:

32 2. Sexual offense evidence shall be collected and maintained as
33 follows:

34 (a) All sexual offense evidence shall be kept in a locked, separate
35 and secure area for twenty years from the date of collection; provided
36 that such evidence shall be transferred to a new location(s) pursuant to
37 this subdivision.

38 (b) Sexual offense evidence shall include, but not be limited to,
39 slides, cotton swabs, clothing and other items. Where appropriate, such
40 items shall be refrigerated and the clothes and swabs shall be dried,
41 stored in paper bags, and labeled. Each item of evidence shall be
42 marked and logged with a code number corresponding to the alleged sexual
43 offense victim's medical record.

44 (c) Upon collection, the hospital shall notify the alleged sexual
45 offense victim that, after twenty years, the sexual offense evidence
46 will be discarded in compliance with state and local health codes and
47 that the alleged sexual offense victim's clothes or personal effects
48 will be returned to the alleged sexual offense victim at any time upon
49 request. The alleged sexual offense victim shall be given the option of
50 providing contact information for purposes of receiving notice of the
51 planned destruction of such evidence after the expiration of the twen-
52 ty-year period.

53 (d) Until April first, two thousand twenty-one, or earlier if deter-
54 mined feasible by the director of budget pursuant to paragraph (g) of
55 this subdivision, hospitals shall be responsible for securing long-term
56 sexual offense evidence pursuant to this section, after which such stor-

1 age shall be the responsibility of the custodian(s) identified in the
2 plan approved by the director of budget pursuant to paragraph (g) of
3 this subdivision. Hospitals may enter into contracts with other entities
4 that will ensure appropriate and secure long-term storage of sexual
5 offense evidence pursuant to this section until April first, two thou-
6 sand twenty-one.

7 (e) Beginning April first, two thousand eighteen, the department, the
8 office of victim services, the division of criminal justice services and
9 the division of state police shall jointly study, evaluate and make
10 recommendations concerning the storage and monitoring of sexual offense
11 evidence for twenty years, including studying options for the use of:
12 state-owned or operated facilities; facilities owned or operated by
13 local government or law enforcement agencies; and facilities owned or
14 operated by private entities.

15 (f) On or before December first, two thousand nineteen, such agencies
16 shall submit a joint plan to the director of budget, speaker of the
17 assembly, and president pro tempore of the senate, which shall at a
18 minimum include: recommended storage location(s) for sexual offense
19 evidence; a schedule for sexual offense evidence held by hospitals
20 pursuant to this section to be transferred to such storage location(s)
21 by April first, two thousand twenty-one; and tracking, monitoring and
22 notification option(s).

23 (g) On or before January first, two thousand twenty, the director of
24 budget shall approve a plan that, at a minimum, establishes: storage
25 location(s) for sexual offense evidence by no later than April first,
26 two thousand twenty-one; a reasonable schedule for sexual offense
27 evidence maintained by hospitals pursuant to this section to be trans-
28 ferred to such storage location(s); and tracking, monitoring and notifi-
29 cation system(s).

30 (h) Between thirty and ten days prior to the transfer of sexual
31 offense evidence to the storage location(s) identified in the plan
32 approved by the director of budget pursuant to paragraph (g) of this
33 subdivision, hospitals shall make diligent efforts to notify the alleged
34 sexual offense victim of the transfer of custody for the remainder of
35 the twenty-year storage period.

36 (i) On April first, two thousand twenty-one, or earlier if determined
37 feasible by the director of budget, responsibility for long-term storage
38 of sexual offense evidence shall transfer to the custodian(s) identified
39 in the plan approved by the director of budget pursuant to paragraph (g)
40 of this subdivision.

41 (j) After April first, two thousand twenty-one, or earlier if deter-
42 mined feasible by the director of budget, hospitals shall ensure trans-
43 fer of sexual offense evidence collected pursuant to this section to the
44 custodian(s) identified in the plan approved by the director of budget
45 pursuant to paragraph (g) of this subdivision within ten days of
46 collection of such evidence, while maintaining chain of custody.

47 (k) At least ninety days prior to the expiration of the twenty-year
48 storage period for any sexual offense evidence, the custodian(s) of the
49 sexual offense evidence shall make diligent efforts to contact the
50 alleged sexual offense victim to notify the alleged sexual offense
51 victim that the sexual offense evidence will be discarded in compliance
52 with state and local health codes and that the alleged sexual offense
53 victim's clothes and personal effects will be returned to the alleged
54 sexual offense victim upon request.

55 (l) Notwithstanding any other provision in this section, sexual
56 offense evidence shall not continue to be stored where: (i) such

1 evidence is not privileged and law enforcement requests its release, in
2 which case the custodian(s) shall comply with such request; or (ii) such
3 evidence is privileged and either (A) the alleged sexual offense victim
4 gives permission to release the evidence to law enforcement, or (B) the
5 alleged sexual offense victim signs a statement directing the
6 custodian(s) to dispose of the evidence, in which case the sexual
7 offense evidence will be discarded in compliance with state and local
8 health codes.

9 § 3. Subdivision 13 of section 631 of the executive law, as amended by
10 chapter 39 of the laws of 2012, is amended to read as follows:

11 13. Notwithstanding any other provision of law, rule, or regulation to
12 the contrary, when any New York state accredited hospital, accredited
13 sexual assault examiner program, or licensed health care provider
14 furnishes services to any sexual assault survivor, including but not
15 limited to a health care forensic examination in accordance with the sex
16 offense evidence collection protocol and standards established by the
17 department of health, such hospital, sexual assault examiner program, or
18 licensed healthcare provider shall provide such services to the person
19 without charge and shall bill the office directly. The office, in
20 consultation with the department of health, shall define the specific
21 services to be covered by the sexual assault forensic exam reimbursement
22 fee, which must include at a minimum forensic examiner services, hospi-
23 tal or healthcare facility services related to the exam, and related
24 laboratory tests and necessary pharmaceuticals; including but not limit-
25 ed to HIV post-exposure prophylaxis provided by a hospital emergency
26 room at the time of the forensic rape examination pursuant to paragraph
27 (c) of subdivision one of section twenty-eight hundred five-i of the
28 public health law. Follow-up HIV post-exposure prophylaxis costs shall
29 continue to be reimbursed according to established office procedure. The
30 office, in consultation with the department of health, shall also gener-
31 ate the necessary regulations and forms for the direct reimbursement
32 procedure. The rate for reimbursement shall be the amount of itemized
33 charges not exceeding eight hundred dollars, to be reviewed and adjusted
34 annually by the office in consultation with the department of health.
35 The hospital, sexual assault examiner program, or licensed health care
36 provider must accept this fee as payment in full for these specified
37 services. No additional billing of the survivor for said services is
38 permissible. A sexual assault survivor may voluntarily assign any
39 private insurance benefits to which she or he is entitled for the
40 healthcare forensic examination, in which case the hospital or health-
41 care provider may not charge the office; provided, however, in the event
42 the sexual assault survivor assigns any private health insurance bene-
43 fit, such coverage shall not be subject to annual deductibles or coinsu-
44 rance or balance billing by the hospital, sexual assault examiner
45 program or licensed health care provider. A hospital, sexual assault
46 examiner program or licensed health care provider shall, at the time of
47 the initial visit, request assignment of any private health insurance
48 benefits to which the sexual assault survivor is entitled on a form
49 prescribed by the office; provided, however, such sexual assault survi-
50 vor shall be advised orally and in writing that he or she may decline to
51 provide such information regarding private health insurance benefits if
52 he or she believes that the provision of such information would substan-
53 tially interfere with his or her personal privacy or safety and in such
54 event, the sexual assault forensic exam fee shall be paid by the office.
55 Such sexual assault survivor shall also be advised that providing such
56 information may provide additional resources to pay for services to

1 other sexual assault victims. If he or she declines to provide such
2 health insurance information, he or she shall indicate such decision on
3 the form provided by the hospital, sexual assault examiner program or
4 licensed health care provider, which form shall be prescribed by the
5 office.

6 § 4. Subsection (i) of section 3216 of the insurance law is amended by
7 adding a new paragraph 34 to read as follows:

8 (34) Health care forensic examinations performed pursuant to section
9 twenty-eight hundred five-i of the public health law covered under the
10 policy shall not be subject to annual deductibles or coinsurance.

11 § 5. Subsection (l) of section 3221 of the insurance law is amended by
12 adding a new paragraph 20 to read as follows:

13 (20) Health care forensic examinations performed pursuant to section
14 twenty-eight hundred five-i of the public health law covered under the
15 policy shall not be subject to annual deductibles or coinsurance.

16 § 6. Section 4303 of the insurance law is amended by adding a new
17 subsection (rr) to read as follows:

18 (rr) Health care forensic examinations performed pursuant to section
19 twenty-eight hundred five-i of the public health law covered under the
20 contract shall not be subject to annual deductibles or coinsurance.

21 § 7. This act shall take effect immediately, and shall apply to all
22 policies and contracts issued, renewed, modified, altered or amended on
23 or after the first of January next succeeding such effective date.

24 PART II

25 Section 1. Paragraph 1 of subdivision (d) of section 13.17 of the
26 mental hygiene law, as added by section 1 of part Q of chapter 59 of the
27 laws of 2016, is amended to read as follows:

28 1. provide appropriate and timely notification to the temporary presi-
29 dent of the senate, and the speaker of the assembly, and to appropriate
30 representatives of impacted labor organizations. Such notification to
31 the representatives of impacted labor organizations shall be made as
32 soon as practicable, but no less than [~~forty-five~~] ninety days prior to
33 such closure or transfer except in the case of exigent circumstances
34 impacting the health, safety, or welfare of the residents of the IRA as
35 determined by the office. Provided, however, that nothing herein shall
36 limit the ability of the office to effectuate such closure or transfer;
37 and

38 § 2. Section 2 of part Q of chapter 59 of the laws of 2016, amending
39 the mental hygiene law relating to the closure or transfer of a state-
40 operated individualized residential alternative, is amended to read as
41 follows:

42 § 2. This act shall take effect immediately and shall expire and be
43 deemed repealed March 31, [~~2018~~] 2020.

44 § 3. This act shall take effect immediately, provided, however, that
45 the amendments to subdivision (d) of section 13.17 of the mental hygiene
46 law made by section one of this act shall not affect the repeal of such
47 subdivision and shall be deemed repealed therewith.

48 PART JJ

49 Section 1. The mental hygiene law is amended by adding a new section
50 13.43 to read as follows:

51 § 13.43 First responder training.

1 (a) The commissioner, in consultation with the commissioner of health,
2 the office of fire prevention and control, the municipal police training
3 council, and the superintendent of state police, shall develop a train-
4 ing program and associated training materials, to provide instruction
5 and information to firefighters, police officers and emergency medical
6 services personnel on appropriate recognition and response techniques
7 for handling emergency situations involving individuals with autism
8 spectrum disorder and other developmental disabilities. The training
9 program and associated training materials shall include any other infor-
10 mation deemed necessary and appropriate by the commissioner.

11 (b) Such training shall address appropriate response techniques for
12 dealing with both adults and minors with autism spectrum disorder and
13 other developmental disabilities.

14 (c) Such training program may be developed as an online program.

15 § 2. The public health law is amended by adding a new section 3054 to
16 read as follows:

17 § 3054. Emergency situations involving individuals with autism spec-
18 trum disorder and other developmental disabilities. In coordination with
19 the commissioner of the office for people with developmental disabili-
20 ties, the commissioner shall provide the training program relating to
21 handling emergency situations involving individuals with autism spectrum
22 disorder and other developmental disabilities and associated training
23 materials pursuant to section 13.43 of the mental hygiene law to all
24 emergency medical services personnel including, but not limited to,
25 first responders, emergency medical technicians, advanced emergency
26 medical technicians and emergency vehicle operators.

27 § 3. Section 156 of the executive law is amended by adding a new
28 subdivision 22 to read as follows:

29 22. In coordination with the commissioner of the office for people
30 with developmental disabilities, provide the training program relating
31 to handling emergency situations involving individuals with autism spec-
32 trum disorder and other developmental disabilities and associated train-
33 ing materials pursuant to section 13.43 of the mental hygiene law to all
34 firefighters, both paid and volunteer. The office shall adopt all
35 necessary rules and regulations relating to such training, including the
36 process by which training hours are allocated to counties as well as a
37 uniform procedure for requesting and providing additional training
38 hours.

39 § 4. Section 840 of the executive law is amended by adding a new
40 subdivision 5 to read as follows:

41 5. The council shall, in addition:

42 (a) Develop, maintain and disseminate, in consultation with the
43 commissioner of the office for people with developmental disabilities,
44 written policies and procedures consistent with section 13.43 of the
45 mental hygiene law, regarding the handling of emergency situations
46 involving individuals with autism spectrum disorder and other develop-
47 mental disabilities. Such policies and procedures shall make provisions
48 for the education and training of new and veteran police officers on the
49 handling of emergency situations involving individuals with autism spec-
50 trum disorder and other developmental disabilities; and

51 (b) Recommend to the governor, rules and regulations with respect to
52 the establishment and implementation on an ongoing basis of a training
53 program for all current and new police officers regarding the policies
54 and procedures established pursuant to this subdivision, along with
55 recommendations for periodic retraining of police officers.

1 § 5. The executive law is amended by adding a new section 214-f to
2 read as follows:

3 § 214-f. Emergency situations involving people with autism spectrum
4 disorder and other developmental disabilities. The superintendent shall,
5 for all members of the state police:

6 1. Develop, maintain and disseminate, in consultation with the commis-
7 sioner of the office for people with developmental disabilities, written
8 policies and procedures consistent with section 13.43 of the mental
9 hygiene law, regarding the handling of emergency situations involving
10 individuals with autism spectrum disorder and other developmental disa-
11 bilities. Such policies and procedures shall make provisions for the
12 education and training of new and veteran police officers on the handl-
13 ing of emergency situations involving individuals with developmental
14 disabilities; and

15 2. Recommend to the governor, rules and regulations with respect to
16 establishment and implementation on an ongoing basis of a training
17 program for all current and new police officers regarding the policies
18 and procedures established pursuant to this subdivision, along with
19 recommendations for periodic retraining of police officers.

20 § 6. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law; provided, however, that the commissioner of
22 the office for people with developmental disabilities may promulgate any
23 rules and regulations necessary for the implementation of this act on or
24 before such effective date.

25 PART KK

26 Section 1. This Part enacts into law major components of legislation
27 which are necessary to combat sexual harassment in the workplace. Each
28 component is wholly contained within a Subpart identified as Subparts A
29 through F. The effective date for each particular provision contained
30 within such Subpart is set forth in the last section of such Subpart.
31 Any provision in any section contained within a Subpart, including the
32 effective date of the Subpart, which makes a reference to a section "of
33 this act," when used in connection with that particular component, shall
34 be deemed to mean and refer to the corresponding section of the Subpart
35 in which it is found. Section three of this Part sets forth the general
36 effective date of the Part.

37 SUBPART A

38 Section 1. The state finance law is amended by adding a new section
39 139-1 to read as follows:

40 § 139-1. Statement on sexual harassment, in bids. 1. (a) Every bid
41 hereafter made to the state or any public department or agency thereof,
42 where competitive bidding is required by statute, rule or regulation,
43 for work or services performed or to be performed or goods sold or to be
44 sold, shall contain the following statement subscribed by the bidder and
45 affirmed by such bidder as true under the penalty of perjury:
46 "By submission of this bid, each bidder and each person signing on
47 behalf of any bidder certifies, and in the case of a joint bid each
48 party thereto certifies as to its own organization, under penalty of
49 perjury, that the bidder has and has implemented a written policy
50 addressing sexual harassment prevention in the workplace and provides
51 annual sexual harassment prevention training to all of its employees.

1 Such policy shall, at a minimum, meet the requirements of section two
2 hundred one-g of the labor law."

3 (b) Every bid hereafter made to the state or any public department or
4 agency thereof, where competitive bidding is not required by statute,
5 rule or regulation, for work or services performed or to be performed or
6 goods sold or to be sold, may contain, at the discretion of the depart-
7 ment, agency or official, the certification required pursuant to para-
8 graph (a) of this subdivision.

9 2. Notwithstanding the foregoing, the statement required by paragraph
10 (a) of subdivision one of this section may be submitted electronically
11 in accordance with the provisions of subdivision seven of section one
12 hundred sixty-three of this chapter.

13 3. A bid shall not be considered for award nor shall any award be made
14 to a bidder who has not complied with subdivision one of this section;
15 provided, however, that if the bidder cannot make the foregoing certif-
16 ication, such bidder shall so state and shall furnish with the bid a
17 signed statement which sets forth in detail the reasons therefor.

18 4. Any bid hereafter made to the state or any public department, agen-
19 cy or official thereof, by a corporate bidder for work or services
20 performed or to be performed or goods sold or to be sold, where such bid
21 contains the statement required by subdivision one of this section,
22 shall be deemed to have been authorized by the board of directors of
23 such bidder, and such authorization shall be deemed to include the sign-
24 ing and submission of such bid and the inclusion therein of such state-
25 ment as the act and deed of the corporation.

26 § 2. Subdivision 7 of section 163 of the state finance law, as amended
27 by section 10 of part L of chapter 55 of the laws of 2012, is amended to
28 read as follows:

29 7. Method of procurement. Consistent with the requirements of subdivi-
30 sions three and four of this section, state agencies shall select among
31 permissible methods of procurement including, but not limited to, an
32 invitation for bid, request for proposals or other means of solicitation
33 pursuant to guidelines issued by the state procurement council. State
34 agencies may accept bids electronically including submission of the
35 statement of non-collusion required by section one hundred thirty-nine-d
36 of this chapter, and the statement of certification required by section
37 one hundred thirty-nine-1 of this chapter, and, starting April first,
38 two thousand twelve, and ending March thirty-first, two thousand
39 fifteen, may, for commodity, service and technology contracts require
40 electronic submission as the sole method for the submission of bids for
41 the solicitation. State agencies shall undertake no more than eighty-
42 five such electronic bid solicitations, none of which shall be reverse
43 auctions, prior to April first, two thousand fifteen. In addition, state
44 agencies may conduct up to twenty reverse auctions through electronic
45 means, prior to April first, two thousand fifteen. Prior to requiring
46 the electronic submission of bids, the agency shall make a determi-
47 nation, which shall be documented in the procurement record, that elec-
48 tronic submission affords a fair and equal opportunity for offerers to
49 submit responsive offers. Within thirty days of the completion of the
50 eighty-fifth electronic bid solicitation, or by April first, two thou-
51 sand fifteen, whichever is earlier, the commissioner shall prepare a
52 report assessing the use of electronic submissions and make recommenda-
53 tions regarding future use of this procurement method. In addition,
54 within thirty days of the completion of the twentieth reverse auction
55 through electronic means, or by April first, two thousand fifteen,
56 whichever is earlier, the commissioner shall prepare a report assessing

1 the use of reverse auctions through electronic means and make recommen-
2 dations regarding future use of this procurement method. Such reports
3 shall be published on the website of the office of general services.
4 Except where otherwise provided by law, procurements shall be compet-
5 itive, and state agencies shall conduct formal competitive procurements
6 to the maximum extent practicable. State agencies shall document the
7 determination of the method of procurement and the basis of award in the
8 procurement record. Where the basis for award is the best value offer,
9 the state agency shall document, in the procurement record and in
10 advance of the initial receipt of offers, the determination of the eval-
11 uation criteria, which whenever possible, shall be quantifiable, and the
12 process to be used in the determination of best value and the manner in
13 which the evaluation process and selection shall be conducted.

14 § 3. This act shall take effect on the first of January next succeed-
15 ing the date on which it shall have become a law; provided, however,
16 that the amendments to subdivision 7 of section 163 of the state finance
17 law made by section one of this act shall not affect the repeal of such
18 section and shall be deemed repealed therewith.

19

SUBPART B

20 Section 1. The civil practice law and rules are amended by adding a
21 new section 7515 to read as follows:

22 § 7515. Mandatory arbitration clauses; prohibited. (a) Definitions. As
23 used in this section:

24 1. The term "employer" shall have the same meaning as provided in
25 subdivision five of section two hundred ninety-two of the executive law.

26 2. The term "prohibited clause" shall mean any clause or provision in
27 any contract which requires as a condition of the enforcement of the
28 contract or obtaining remedies under the contract that the parties
29 submit to mandatory arbitration to resolve any allegation or claim of an
30 unlawful discriminatory practice of sexual harassment.

31 3. The term "mandatory arbitration clause" shall mean a term or
32 provision contained in a written contract which requires the parties to
33 such contract to submit any matter thereafter arising under such
34 contract to arbitration prior to the commencement of any legal action to
35 enforce the provisions of such contract and which also further provides
36 language to the effect that the facts found or determination made by the
37 arbitrator or panel of arbitrators in its application to a party alleg-
38 ing an unlawful discriminatory practice based on sexual harassment shall
39 be final and not subject to independent court review.

40 4. The term "arbitration" shall mean the use of a decision making
41 forum conducted by an arbitrator or panel of arbitrators within the
42 meaning and subject to the provisions of article seventy-five of the
43 civil practice law and rules.

44 (b) (i) Prohibition. Except where inconsistent with federal law, no
45 written contract, entered into on or after the effective date of this
46 section shall contain a prohibited clause as defined in paragraph two of
47 subdivision (a) of this section.

48 (ii) Exceptions. Nothing contained in this section shall be construed
49 to impair or prohibit an employer from incorporating a non-prohibited
50 clause or other mandatory arbitration provision within such contract,
51 that the parties agree upon.

52 (iii) Mandatory arbitration clause null and void. Except where incon-
53 sistent with federal law, the provisions of such prohibited clause as
54 defined in paragraph two of subdivision (a) of this section shall be

1 null and void. The inclusion of such clause in a written contract shall
2 not serve to impair the enforceability of any other provision of such
3 contract.

4 (c) Where there is a conflict between any collective bargaining agree-
5 ment and this section, such agreement shall be controlling.

6 § 2. This act shall take effect on the ninetieth day after it shall
7 have become a law.

8 SUBPART C

9 Section 1. The public officers law is amended by adding a new section
10 17-a to read as follows:

11 § 17-a. Reimbursement of funds paid by state agencies and state enti-
12 ties for the payment of awards adjudicated in sexual harassment claims.

13 1. As used in this section, the term "employee" shall mean any person
14 holding a position by election, appointment, or employment in the
15 service of the state of New York, whether or not compensated. The term
16 "employee" shall include a former employee or judicially appointed
17 personal representative.

18 2. Notwithstanding any law to the contrary, any employee who has been
19 subject to a final judgment of personal liability for intentional wrong-
20 doing related to a claim of sexual harassment, shall reimburse any state
21 agency or entity that makes a payment to a plaintiff for an adjudicated
22 award based on a claim of sexual harassment resulting in a judgment, for
23 his or her proportionate share of such judgment. Such employee shall
24 personally reimburse such state agency or entity within ninety days of
25 the state agency or entity's payment of such award.

26 3. If such employee fails to reimburse such state agency or entity
27 pursuant to subdivision two of this section within ninety days from the
28 date such state agency or entity makes a payment for the financial
29 award, the comptroller shall, upon obtaining a money judgment, withhold
30 from such employee's compensation the amounts allowable pursuant to
31 section fifty-two hundred thirty-one of the civil practice law and
32 rules.

33 4. If such employee is no longer employed by such state agency or
34 entity such state agency or entity shall have the right to receive
35 reimbursement through the enforcement of a money judgment pursuant to
36 article fifty-two of the civil practice law and rules.

37 § 2. The public officers law is amended by adding a new section 18-a
38 to read as follows:

39 § 18-a. Reimbursement of funds paid by a public entity for the payment
40 of awards adjudicated in sexual harassment claims. 1. As used in this
41 section:

42 (a) The term "public entity" shall mean (i) a county, city, town,
43 village or any other political subdivision or civil division of the
44 state; (ii) a school district, board of cooperative educational
45 services, or any other governmental entity or combination or association
46 of governmental entities operating a public school, college, community
47 college or university; (iii) a public improvement or special district;
48 (iv) a public authority, commission, agency or public benefit corpo-
49 ration; or (v) any other separate corporate instrumentality or unit of
50 government; but shall not include the state of New York or any other
51 public entity the employees of which are covered by section seventeen-a
52 of this article.

53 (b) The term "employee" shall mean any commissioner, member of a
54 public board or commission, trustee, director, officer, employee, or any

1 other person holding a position by election, appointment or employment
2 in the service of a public entity, whether or not compensated. The term
3 "employee" shall include a former employee or judicially appointed
4 personal representative.

5 2. Notwithstanding any law to the contrary, any employee who has been
6 subject to a final judgment of personal liability for intentional wrong-
7 doing related to a claim of sexual harassment, shall reimburse any
8 public entity that makes a payment to a plaintiff for an adjudicated
9 award based on a claim of sexual harassment resulting in a judgment, for
10 his or her proportionate share of such judgment. Such employee shall
11 personally reimburse such public entity within ninety days of the public
12 entity's payment of such award.

13 3. If such employee fails to reimburse such public entity pursuant to
14 subdivision two of this section within ninety days from the date such
15 public entity makes a payment for the financial award, the chief fiscal
16 officer of such public entity shall, upon obtaining a money judgment,
17 withhold from such employee's compensation the amounts allowable pursu-
18 ant to section fifty-two hundred thirty-one of the civil practice law
19 and rules.

20 4. If such employee is no longer employed by such public entity, such
21 public entity shall have the right to receive reimbursement through the
22 enforcement of a money judgment pursuant to article fifty-two of the
23 civil practice law and rules.

24 § 3. This act shall take effect immediately.

25 SUBPART D

26 Section 1. The general obligations law is amended by adding a new
27 section 5-336 to read as follows:

28 § 5-336. Nondisclosure agreements. Notwithstanding any other law to
29 the contrary, no employer, its officers or employees shall have the
30 authority to include or agree to include in any settlement, agreement or
31 other resolution of any claim, the factual foundation for which involves
32 sexual harassment, any term or condition that would prevent the disclo-
33 sure of the underlying facts and circumstances to the claim or action
34 unless the condition of confidentiality is the complainant's preference.
35 Any such term or condition must be provided to all parties, and the
36 complainant shall have twenty-one days to consider such term or condi-
37 tion. If after twenty-one days such term or condition is the
38 complainant's preference, such preference shall be memorialized in an
39 agreement signed by all parties. For a period of at least seven days
40 following the execution of such agreement, the complainant may revoke
41 the agreement, and the agreement shall not become effective or be
42 enforceable until such revocation period has expired.

43 § 2. The civil practice law and rules is amended by adding a new
44 section 5003-b to read as follows:

45 § 5003-b. Nondisclosure agreements. Notwithstanding any other law to
46 the contrary, for any claim or cause of action, whether arising under
47 common law, equity, or any provision of law, the factual foundation for
48 which involves sexual harassment, in resolving, by agreed judgment,
49 stipulation, decree, agreement to settle, assurance of discontinuance or
50 otherwise, no employer, its officer or employee shall have the authority
51 to include or agree to include in such resolution any term or condition
52 that would prevent the disclosure of the underlying facts and circum-
53 stances to the claim or action unless the condition of confidentiality
54 is the plaintiff's preference. Any such term or condition must be

1 provided to all parties, and the plaintiff shall have twenty-one days to
2 consider such term or condition. If after twenty-one days such term or
3 condition is the plaintiff's preference, such preference shall be memo-
4 rialized in an agreement signed by all parties. For a period of at least
5 seven days following the execution of such agreement, the plaintiff may
6 revoke the agreement, and the agreement shall not become effective or be
7 enforceable until such revocation period has expired.

8 § 3. This act shall take effect on the ninetieth day after it shall
9 have become a law.

10 SUBPART E

11 Section 1. The labor law is amended by adding a new section 201-g to
12 read as follows:

13 § 201-g. Prevention of sexual harassment. 1. The department shall
14 consult with the division of human rights to create and publish a model
15 sexual harassment prevention guidance document and sexual harassment
16 prevention policy that employers may utilize in their adoption of a
17 sexual harassment prevention policy required by this section.

18 a. Such model sexual harassment prevention policy shall: (i) prohibit
19 sexual harassment consistent with guidance issued by the department in
20 consultation with the division of human rights and provide examples of
21 prohibited conduct that would constitute unlawful sexual harassment;
22 (ii) include but not be limited to information concerning the federal
23 and state statutory provisions concerning sexual harassment and remedies
24 available to victims of sexual harassment and a statement that there may
25 be applicable local laws; (iii) include a standard complaint form; (iv)
26 include a procedure for the timely and confidential investigation of
27 complaints and ensure due process for all parties; (v) inform employees
28 of their rights of redress and all available forums for adjudicating
29 sexual harassment complaints administratively and judicially; (vi)
30 clearly state that sexual harassment is considered a form of employee
31 misconduct and that sanctions will be enforced against individuals
32 engaging in sexual harassment and against supervisory and managerial
33 personnel who knowingly allow such behavior to continue; and (vii)
34 clearly state that retaliation against individuals who complain of sexu-
35 al harassment or who testify or assist in any proceeding under the law
36 is unlawful.

37 b. Every employer shall adopt the model sexual harassment prevention
38 policy promulgated pursuant to this subdivision or establish a sexual
39 harassment prevention policy to prevent sexual harassment that equals or
40 exceeds the minimum standards provided by such model sexual harassment
41 prevention policy. Such sexual harassment prevention policy shall be
42 provided to all employees in writing. Such model sexual harassment
43 prevention policy shall be publicly available and posted on the websites
44 of both the department and the division of human rights.

45 2. The department shall consult with the division of human rights and
46 produce a model sexual harassment prevention training program to prevent
47 sexual harassment in the workplace.

48 a. Such model sexual harassment prevention training program shall be
49 interactive and include: (i) an explanation of sexual harassment
50 consistent with guidance issued by the department in consultation with
51 the division of human rights; (ii) examples of conduct that would
52 constitute unlawful sexual harassment; (iii) information concerning the
53 federal and state statutory provisions concerning sexual harassment and
54 remedies available to victims of sexual harassment; and (iv) information

1 concerning employees' rights of redress and all available forums for
2 adjudicating complaints.

3 b. The department shall include information in such model sexual
4 harassment prevention training program addressing conduct by supervisors
5 and any additional responsibilities for such supervisors.

6 c. Every employer shall utilize the model sexual harassment prevention
7 training program pursuant to this subdivision or establish a training
8 program for employees to prevent sexual harassment that equals or
9 exceeds the minimum standards provided by such model training. Such
10 sexual harassment prevention training shall be provided to all employees
11 on an annual basis.

12 3. The commissioner may promulgate regulations as he or she deems
13 necessary for the purposes of carrying out the provisions of this
14 section.

15 § 2. This act shall take effect on the one hundred eightieth day after
16 it shall have become a law. Effective immediately, the department of
17 labor, in consultation with the division of human rights, is authorized
18 to create the model sexual harassment prevention policy and the model
19 sexual harassment prevention training program required to be created and
20 published pursuant to section 201-g of the labor law as added by section
21 one of this act.

22 SUBPART F

23 Section 1. The executive law is amended by adding a new section 296-d
24 to read as follows:

25 § 296-d. Sexual harassment relating to non-employees. It shall be an
26 unlawful discriminatory practice for an employer to permit sexual
27 harassment of non-employees in its workplace. An employer may be held
28 liable to a non-employee who is a contractor, subcontractor, vendor,
29 consultant or other person providing services pursuant to a contract in
30 the workplace or who is an employee of such contractor, subcontractor,
31 vendor, consultant or other person providing services pursuant to a
32 contract in the workplace, with respect to sexual harassment, when the
33 employer, its agents or supervisors knew or should have known that such
34 non-employee was subjected to sexual harassment in the employer's work-
35 place, and the employer failed to take immediate and appropriate correc-
36 tive action. In reviewing such cases involving non-employees, the extent
37 of the employer's control and any other legal responsibility which the
38 employer may have with respect to the conduct of the harasser shall be
39 considered.

40 § 2. Subdivision 4 of section 292 of the executive law, as amended by
41 chapter 97 of the laws of 2014, is amended to read as follows:

42 4. The term "unlawful discriminatory practice" includes only those
43 practices specified in sections two hundred ninety-six, two hundred
44 ninety-six-a [~~and~~], two hundred ninety-six-c and two hundred
45 ninety-six-d of this article.

46 § 3. This act shall take effect immediately.

47 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
48 sion, section or subpart of this act shall be adjudged by any court of
49 competent jurisdiction to be invalid, such judgment shall not affect,
50 impair, or invalidate the remainder thereof, but shall be confined in
51 its operation to the clause, sentence, paragraph, subdivision, section
52 or subject thereof directly involved in the controversy in which such
53 judgment shall have been rendered. It is hereby declared to be the

1 intent of the legislature that this act would have been enacted even if
2 such invalid provisions had not been included herein.

3 § 3. This act shall take effect immediately; provided, however, that
4 the applicable effective dates of Subparts A through F of this Part
5 shall be as specifically set forth in the last section of such Subparts.

6 PART LL

7 Section 1. The public health law is amended by adding a new section
8 1114-a to read as follows:

9 § 1114-a. Voluntary public water system consolidation study. 1. There
10 shall be established in the department, by the commissioner, a voluntary
11 public water system consolidation study designed to evaluate the feasi-
12 bility of the joining of public water systems in order to improve water
13 quality. Such study shall include:

14 (a) the feasibility of joining of two or more public water systems to
15 form one water system;

16 (b) the feasibility of the consolidation of one or more public water
17 systems into a larger public water system;

18 (c) the appropriate technical, managerial and financial capacity
19 necessary for consolidation, including state funding mechanisms and
20 incentives that could be utilized;

21 (d) potential public health impacts of consolidation, including abili-
22 ty to meet legally required water quality standards and the impact on
23 monitoring, reporting and enforcement of drinking water standards;

24 (e) appropriate and sufficient guidance from the department necessary
25 for those public water systems interested in consolidation; and

26 (f) recommendations for public water systems interested in voluntary
27 consolidation.

28 2. The department shall prepare and submit a report and supporting
29 materials to the governor, the temporary president of the senate and the
30 speaker of the assembly setting forth the information gathered and
31 recommendations to the legislature by January first of the following
32 year.

33 § 2. This act shall take effect immediately.

34 PART MM

35 Section 1. The public health law is amended by adding a new section
36 280-c to read as follows:

37 § 280-c. Pharmacy audits by pharmacy benefit managers. 1. Defi-
38 nitions. As used in this section, the following terms shall have the
39 following meanings:

40 (a) "Pharmacy benefit manager" shall have the same meaning as in
41 section two hundred eighty-a of this article.

42 (b) "Pharmacy" shall mean a pharmacy that has contracted with a phar-
43 macy benefit manager for the provision of pharmacy services.

44 2. When conducting an audit of a pharmacy's records, a pharmacy bene-
45 fit manager shall:

46 (a) not conduct an on-site audit of a pharmacy at any time during the
47 first three calendar days of a month;

48 (b) notify the pharmacy or its contracting agent no later than fifteen
49 days before the date of initial on-site audit. Such notification to the
50 pharmacy or its contracting agent shall be in writing delivered either
51 (i) by mail or common carrier, return receipt requested, or (ii) elec-
52 tronically with electronic receipt confirmation, addressed to the super-

1 vising pharmacist of record and pharmacy corporate office where applica-
2 ble, at least fifteen days before the date of an initial on-site audit;

3 (c) limit the audit period to twenty-four months after the date a
4 claim is submitted to or adjudicated by the pharmacy benefit manager;

5 (d) include in the written advance notice of an on-site audit the list
6 of specific prescription numbers to be included in the audit that may or
7 may not include the final two digits of the prescription numbers;

8 (e) use the written and verifiable records of a hospital, physician or
9 other authorized practitioner, which are transmitted by any means of
10 communication, to validate the pharmacy records in accordance with state
11 and federal law;

12 (f) limit the number of prescriptions audited to no more than one
13 hundred randomly selected in a twelve-month period, except in cases of
14 fraud;

15 (g) provide the pharmacy or its contracting agent with a copy of the
16 preliminary audit report within forty-five days after the conclusion of
17 the audit;

18 (h) be allowed to conduct a follow-up audit on-site if a remote or
19 desk audit reveals the necessity for a review of additional claims;

20 (i) in the case of invoice audits, accept as validation invoices from
21 any wholesaler registered with the department of education from which
22 the pharmacy has purchased prescription drugs or, in the case of durable
23 medical equipment or sickroom supplies, invoices from an authorized
24 distributor other than a wholesaler;

25 (j) provide the pharmacy or its contracting agent with the ability to
26 provide documentation to address a discrepancy or audit finding,
27 provided that such documentation must be received by the pharmacy bene-
28 fit manager no later than the forty-fifth day after the preliminary
29 audit report was provided to the pharmacy or its contracting agent. The
30 pharmacy benefit manager shall consider a reasonable request from the
31 pharmacy for an extension of time to submit documentation to address or
32 correct any findings in the report; and

33 (k) provide the pharmacy or its contracting agent with the final audit
34 report no later than sixty days after the initial audit report was
35 provided to the pharmacy or its contracting agent.

36 3. Any claim that was retroactively denied for a clerical error, typo-
37 graphical error, scrivener's error or computer error shall be paid if
38 the prescription was properly and correctly dispensed, unless a pattern
39 of such errors exists, fraudulent billing is alleged or the error
40 results in actual financial loss to the entity. A clerical error is an
41 error that does not result in actual financial harm to the covered enti-
42 ty or consumer and does not include the dispensing of an incorrect dose,
43 amount or type of medication or dispensing a prescription drug to the
44 wrong person.

45 4. This section shall not apply to:

46 (a) audits in which suspected fraudulent activity or other intentional
47 or willful misrepresentation is evidenced by a physical review, review
48 of claims data or statements, or other investigative methods; or

49 (b) audits of claims paid for by federally funded programs; or

50 (c) concurrent reviews or desk audits that occur within three business
51 days of transmission of a claim and where no chargeback or recoupment is
52 demanded.

53 § 2. Section 280-a of the public health law is amended by adding two
54 new subdivisions 3 and 4 to read as follows:

55 3. No pharmacy benefit manager shall, with respect to contracts
56 between such pharmacy benefit manager and a pharmacy or, alternatively,

1 such pharmacy benefit manager and a pharmacy's contracting agent, such
2 as a pharmacy services administrative organization:

3 (a) prohibit or penalize a pharmacist or pharmacy from disclosing to
4 an individual purchasing a prescription medication information regard-
5 ing:

6 (1) the cost of the prescription medication to the individual, or
7 (2) the availability of any therapeutically equivalent alternative
8 medications or alternative methods of purchasing the prescription medi-
9 cation, including but not limited to, paying a cash price; or

10 (b) charge or collect from an individual a copayment that exceeds the
11 total submitted charges by the pharmacy for which the pharmacy is paid.
12 If an individual pays a copayment, the pharmacy shall retain the adjudi-
13 cated costs and the pharmacy benefit manager shall not redact or recoup
14 the adjudicated cost.

15 4. Any provision of a contract that violates the provisions of this
16 section shall be deemed to be void and unenforceable.

17 § 3. Paragraph 31 of subsection (i) of section 3216 of the insurance
18 law is amended by adding a new subparagraph (E) to read as follows:

19 (E) This subparagraph shall apply to facilities in this state certi-
20 fied by the office of alcoholism and substance abuse services for the
21 provision of outpatient, intensive outpatient, outpatient rehabilitation
22 and opioid treatment that are participating in the insurer's provider
23 network. Coverage provided under this paragraph shall not be subject to
24 preauthorization. Coverage provided under this paragraph shall not be
25 subject to concurrent review for the first two weeks of continuous
26 treatment, not to exceed fourteen visits, provided the facility notifies
27 the insurer of both the start of treatment and the initial treatment
28 plan within forty-eight hours. The facility shall perform clinical
29 assessment of the patient at each visit, including the periodic consul-
30 tation with the insurer to ensure that the facility is using the
31 evidence-based and peer reviewed clinical review tool utilized by the
32 insurer which is designated by the office of alcoholism and substance
33 abuse services and appropriate to the age of the patient, to ensure that
34 the outpatient treatment is medically necessary for the patient. Any
35 utilization review of the treatment provided under this subparagraph may
36 include a review of all services provided during such outpatient treat-
37 ment, including all services provided during the first two weeks of
38 continuous treatment, not to exceed fourteen visits, of such outpatient
39 treatment. Provided, however, the insurer shall only deny coverage for
40 any portion of the initial two weeks of continuous treatment, not to
41 exceed fourteen visits, for outpatient treatment on the basis that such
42 treatment was not medically necessary if such outpatient treatment was
43 contrary to the evidence-based and peer reviewed clinical review tool
44 utilized by the insurer which is designated by the office of alcoholism
45 and substance abuse services. An insured shall not have any financial
46 obligation to the facility for any treatment under this subparagraph
47 other than any copayment, coinsurance, or deductible otherwise required
48 under the policy.

49 § 4. Paragraph 7 of subsection (1) of section 3221 of the insurance
50 law is amended by adding a new subparagraph (E) to read as follows:

51 (E) This subparagraph shall apply to facilities in this state certi-
52 fied by the office of alcoholism and substance abuse services for the
53 provision of outpatient, intensive outpatient, outpatient rehabilitation
54 and opioid treatment that are participating in the insurer's provider
55 network. Coverage provided under this paragraph shall not be subject to
56 preauthorization. Coverage provided under this paragraph shall not be

1 subject to concurrent review for the first two weeks of continuous
2 treatment, not to exceed fourteen visits, provided the facility notifies
3 the insurer of both the start of treatment and the initial treatment
4 plan within forty-eight hours. The facility shall perform clinical
5 assessment of the patient at each visit, including the periodic consul-
6 tation with the insurer to ensure that the facility is using the
7 evidence-based and peer reviewed clinical review tool utilized by the
8 insurer which is designated by the office of alcoholism and substance
9 abuse services and appropriate to the age of the patient, to ensure that
10 the outpatient treatment is medically necessary for the patient. Any
11 utilization review of the treatment provided under this subparagraph may
12 include a review of all services provided during such outpatient treat-
13 ment, including all services provided during the first two weeks of
14 continuous treatment, not to exceed fourteen visits, of such outpatient
15 treatment. Provided, however, the insurer shall only deny coverage for
16 any portion of the initial two weeks of continuous treatment, not to
17 exceed fourteen visits, for outpatient treatment on the basis that such
18 treatment was not medically necessary if such outpatient treatment was
19 contrary to the evidence-based and peer reviewed clinical review tool
20 utilized by the insurer which is designated by the office of alcoholism
21 and substance abuse services. An insured shall not have any financial
22 obligation to the facility for any treatment under this subparagraph
23 other than any copayment, coinsurance, or deductible otherwise required
24 under the policy.

25 § 5. Subsection (1) of section 4303 of the insurance law is amended by
26 adding a new paragraph 5 to read as follows:

27 (5) This paragraph shall apply to facilities in this state certified
28 by the office of alcoholism and substance abuse services for the
29 provision of outpatient, intensive outpatient, outpatient rehabilitation
30 and opioid treatment that are participating in the corporation's provid-
31 er network. Coverage provided under this subsection shall not be subject
32 to preauthorization. Coverage provided under this subsection shall not
33 be subject to concurrent review for the first two weeks of continuous
34 treatment, not to exceed fourteen visits, provided the facility notifies
35 the corporation of both the start of treatment and the initial treatment
36 plan within forty-eight hours. The facility shall perform clinical
37 assessment of the patient at each visit, including the periodic consul-
38 tation with the corporation to ensure that the facility is using the
39 evidence-based and peer reviewed clinical review tool utilized by the
40 corporation which is designated by the office of alcoholism and
41 substance abuse services and appropriate to the age of the patient, to
42 ensure that the outpatient treatment is medically necessary for the
43 patient. Any utilization review of the treatment provided under this
44 paragraph may include a review of all services provided during such
45 outpatient treatment, including all services provided during the first
46 two weeks of continuous treatment, not to exceed fourteen visits, of
47 such outpatient treatment. Provided, however, the corporation shall only
48 deny coverage for any portion of the initial two weeks of continuous
49 treatment, not to exceed fourteen visits, for outpatient treatment on
50 the basis that such treatment was not medically necessary if such outpa-
51 tient treatment was contrary to the evidence-based and peer reviewed
52 clinical review tool utilized by the corporation which is designated by
53 the office of alcoholism and substance abuse services. A subscriber
54 shall not have any financial obligation to the facility for any treat-
55 ment under this paragraph other than any copayment, coinsurance, or
56 deductible otherwise required under the contract.

1 § 6. The public health law is amended by adding two new sections 2531
2 and 2532 to read as follows:

3 § 2531. Children and recovering mothers program. Subject to appropri-
4 ation, the commissioner, in consultation with the commissioner of alco-
5 holism and substance abuse services, is authorized to establish the
6 children and recovering mothers program, a program aimed at providing
7 health care providers, hospitals and midwifery birth centers with guid-
8 ance, education and assistance when providing care to expectant mothers
9 with a substance use disorder. Such program shall:

10 1. Provide information to both health care providers as well as expect-
11 tant mothers regarding use of medication assisted treatment for pregnant
12 women, which shall include information regarding buprenorphine train-
13 ing, tools for providers on effective management of women with a
14 substance use disorder during pregnancy, and a referral list of provid-
15 ers in the area;

16 2. Provide guidance and referral information for substance use disor-
17 der services, home visiting services and other benefits and services
18 that they may be eligible for while expecting and after birth;

19 3. Develop a system for rapid consultation and referral linkage
20 services for obstetricians and primary care providers statewide who
21 provide care for expectant mothers with substance use disorders;

22 4. Provide guidance on the identification of signs and symptoms of
23 substance use disorder in expectant mothers; and

24 5. Anything else deemed necessary to implement the program.

25 § 2532. Workgroup. The commissioner, in conjunction with the commis-
26 sioner of alcoholism and substance abuse services, shall convene a work-
27 group of stakeholders, including but not limited to, hospitals, local
28 health departments, obstetricians, midwives, pediatricians, and
29 substance use disorder providers to study and evaluate barriers and
30 challenges in identifying and treating expectant mothers, newborns and
31 new parents with a substance use disorder. The workgroup shall report on
32 its findings and recommendations to the commissioner, the commissioner
33 of alcoholism and substance abuse services, the speaker of the assembly
34 and the temporary president of the senate within one year of the effec-
35 tive date of this section.

36 § 7. Subparagraph (i) of paragraph (d) of subdivision 8 of section
37 2168 of the public health law, as amended by chapter 154 of the laws of
38 2013, is amended to read as follows:

39 (i) schools for the purpose of verifying immunization status for
40 eligibility for admission, for the purpose of confirming a student has
41 been screened for lead when enrolling in child care, pre-school or
42 kindergarten, and for the provision of appropriate educational materials
43 developed by the department pursuant to section thirteen hundred seven-
44 ty-a of this chapter on the dangers of lead exposure, and the health
45 risks associated with elevated blood lead levels to the parents or legal
46 guardians of the student with an elevated blood lead level, as such term
47 is defined in subdivision six of section thirteen hundred seventy of
48 this chapter, as well as information on programs that may be available
49 to the student and the parents or legal guardians of the student;

50 § 8. Section 1114 of the public health law, as added by section 3 of
51 part T of chapter 57 of the laws of 2017, is amended to read as follows:

52 § 1114. Lead service line replacement grant program. 1. ~~[To the extent~~
53 ~~practicable, the]~~ The department shall allocate appropriated funds
54 equitably among regions of the state. Within each region, the department
55 shall give priority to municipalities that have a high percentage of
56 elevated childhood blood lead levels, based on the most recent available

1 data. In distributing the awards allocated for each region to such
2 priority municipalities, the department shall also consider whether the
3 community is low income and the number of lead service lines in need of
4 replacement. The department may request that such municipalities provide
5 such documentation as the department may require to confirm award eligi-
6 bility.

7 2. Further, the department shall establish a statewide plan for lead
8 service line replacement, which shall include, at a minimum, a report on
9 the implementation of subdivision one of this section, resources and
10 techniques for identifying lead service lines throughout the state, the
11 cost of replacing lead service lines, recommendations for municipalities
12 on methods for evaluating the status of lead service lines present and
13 guidance on replacement.

14 3. The department shall publish information, application forms, proce-
15 dures and guidelines relating to the program on its website and in a
16 manner that is accessible to the public and all potential award recipi-
17 ents.

18 § 9. a. Notwithstanding any contrary provision of law, the commission-
19 er of the New York state department of health is hereby authorized and
20 directed to prepare or have prepared a study of, and recommendations
21 for, evidence-based interventions to address the high burden of asthma
22 in the boroughs of Brooklyn and Manhattan in the city of New York. Such
23 study shall include an analysis of high risk neighborhoods examining
24 disparities in: income, race and ethnicity, public and private housing,
25 and proximity to major sources of air pollution.

26 b. The study and recommendations authorized pursuant to subdivision a
27 of this section shall be completed within twenty-four months of the
28 effective date of this act.

29 § 10. Subsection (i) of section 3216 of the insurance law is amended
30 by adding a new paragraph 34 to read as follows:

31 (34) Every policy that provides coverage for hospital, surgical or
32 medical care shall provide the following coverage for pasteurized donor
33 human milk (PDHM), which may include fortifiers as medically indicated,
34 for inpatient use, for which a licensed medical practitioner has issued
35 an order for an infant who is medically or physically unable to receive
36 maternal breast milk or participate in breast feeding or whose mother is
37 medically or physically unable to produce maternal breast milk at all or
38 in sufficient quantities or participate in breast feeding despite opti-
39 mal lactation support. Such infant shall: (i) have a documented birth
40 weight of less than one thousand five hundred grams; or (ii) have a
41 congenital or acquired condition that places the infant at a high risk
42 for development of necrotizing enterocolitis.

43 § 11. Subsection (1) of section 3221 of the insurance law is amended
44 by adding a new paragraph 20 to read as follows:

45 (20) Every insurer delivering a group or blanket policy or issuing a
46 group or blanket policy for delivery in this state that provides cover-
47 age for hospital, surgical or medical care shall provide the following
48 coverage for pasteurized donor human milk (PDHM), which may include
49 fortifiers as medically indicated, for inpatient use, for which a
50 licensed medical practitioner has issued an order for an infant who is
51 medically or physically unable to receive maternal breast milk or
52 participate in breast feeding or whose mother is medically or physically
53 unable to produce maternal breast milk at all or in sufficient quanti-
54 ties or participate in breast feeding despite optimal lactation support.
55 Such infant shall: (i) have a documented birth weight of less than one
56 thousand five hundred grams; or (ii) have a congenital or acquired

1 condition that places the infant at a high risk for development of
2 necrotizing enterocolitis.

3 § 12. Section 4303 of the insurance law is amended by adding a new
4 subsection (oo) to read as follows:

5 (oo) A medical expense indemnity corporation, a hospital service
6 corporation or a health service corporation that provides coverage for
7 hospital, surgical or medical care shall provide the following coverage
8 for pasteurized donor human milk (PDHM), which may include fortifiers as
9 medically indicated, for inpatient use, for which a licensed medical
10 practitioner has issued an order for an infant who is medically or phys-
11 ically unable to receive maternal breast milk or participate in breast
12 feeding or whose mother is medically or physically unable to produce
13 maternal breast milk at all or in sufficient quantities or participate
14 in breast feeding despite optimal lactation support. Such infant shall:
15 (i) have a documented birth weight of less than one thousand five
16 hundred grams; or (ii) have a congenital or acquired condition that
17 places the infant at a high risk for development of necrotizing entero-
18 colitis.

19 § 13. This act shall take effect immediately.

20 PART NN

21 Section 1. Article 33 of the public health law is amended by adding a
22 new title 2-A to read as follows:

23 TITLE 2-A

24 OPIOID STEWARDSHIP ACT

25 Section 3323. Opioid stewardship fund.

26 § 3323. Opioid stewardship fund. 1. Definitions:

27 (a) "Opioid stewardship payment" shall mean the total amount to be
28 paid into the opioid stewardship fund for each state fiscal year as set
29 forth in subdivision two of this section.

30 (b) "Ratable share" shall mean the individual portion of the opioid
31 stewardship payment to be paid by each manufacturer and distributor
32 licensed under this article that sells or distributes opioids in the
33 state of New York.

34 (c) Notwithstanding any inconsistent provision of law to the contrary,
35 "distribute" shall mean to deliver a controlled substance other than by
36 administering or dispensing to the ultimate user, including intra-compa-
37 ny transfers between any division, affiliate, subsidiary, parent or
38 other entity under complete common ownership and control. For purposes
39 of this section, "distribute" shall not include controlled substances
40 surrendered to reverse distributors, or donated to recipient entities or
41 third-party intermediaries pursuant to the unused prescription drug
42 donation and redispensing program of section two hundred eighty-b of
43 this chapter.

44 2. Opioid stewardship payment imposed on manufacturers and distribu-
45 tors. All manufacturers and distributors licensed under this article
46 (hereinafter referred to as "licensees"), that sell or distribute
47 opioids in the state of New York shall be required to pay an opioid
48 stewardship payment. On an annual basis, the commissioner shall certify
49 to the state comptroller the amount of all revenues collected from
50 opioid stewardship payments and any penalties imposed. The amount of
51 revenues so certified shall be deposited quarterly into the opioid
52 stewardship fund established pursuant to section ninety-seven-aaaaa of
53 the state finance law. No licensee shall pass the cost of their ratable
54 share amount to a purchaser, including the ultimate user of the opioid,

1 or such licensee shall be subject to penalties pursuant to subdivision
2 ten of this section.

3 3. Determination of opioid stewardship payment. The total opioid
4 stewardship payment amount shall be one hundred million dollars annual-
5 ly, subject to downward adjustments pursuant to subdivision nine of this
6 section.

7 4. Reports and records. Each manufacturer and distributor licensed
8 under this article that sells or distributes opioids in the state of New
9 York shall provide to the commissioner a report detailing all opioids
10 sold or distributed by such manufacturer or distributor in the state of
11 New York. Such report shall include:

12 (a) the manufacturer's or distributor's name, address, phone number,
13 federal Drug Enforcement Agency (DEA) registration number and controlled
14 substance license number issued by the department;

15 (b) the name, address and DEA registration number of the entity to
16 whom the opioid was sold or distributed;

17 (c) the date of the sale or distribution of the opioid;

18 (d) the gross receipt total, in dollars, of all opioids sold or
19 distributed;

20 (e) the name and National Drug Code (NDC) of the opioid sold or
21 distributed;

22 (f) the number of containers and the strength and metric quantity of
23 controlled substance in each container of the opioid sold or distrib-
24 uted;

25 (g) the total number of morphine milligram equivalents (MMEs) sold or
26 distributed; and

27 (h) any other elements as deemed necessary by the commissioner.

28 4-a. Initial and future reports. (a) Such information shall be
29 reported annually to the department in such form as defined by the
30 commissioner, provided however that the initial report provided pursuant
31 to subdivision four shall consist of all opioids sold or distributed in
32 the state of New York for the two thousand seventeen calendar year, and
33 must be submitted by August 1, 2018. Subsequent annual reports shall be
34 submitted on April first of each year based on the actual opioid sales
35 and distributions of the prior calendar year.

36 (b) For the purpose of such annual reporting, MMEs shall be determined
37 pursuant to a formulation to be issued by the department and updated as
38 the department deems appropriate.

39 5. Determination of ratable share. Each manufacturer and distributor
40 licensed under this article that sells or distributes opioids in the
41 state of New York shall pay a portion of the total opioid stewardship
42 payment amount. The ratable share shall be calculated as follows:

43 (a) The total amount of MMEs sold or distributed in the state of New
44 York by the licensee for the preceding calendar year, as reported by the
45 licensee pursuant to subdivision four of this section, shall be divided
46 by the total amount of MME sold in the state of New York by all licen-
47 sees pursuant to this article to determine the licensee payment percent-
48 age. The licensee payment percentage shall be multiplied by the total
49 opioid stewardship payment. The product of such calculation shall be
50 the licensee's ratable share. The department shall have the authority
51 to adjust the total number of a licensee's MMEs to account for the
52 nature and use of the product, as well as the type of entity purchasing
53 the product from the licensee, when making such determination and adjust
54 the ratable share accordingly.

55 (b) The licensee's total amount of MME sold or distributed, as well as
56 the total amount of MME sold or distributed by all licensees under this

1 article, used in the calculation of the ratable share shall not include
2 the MME of those opioids which are: (i) manufactured in New York state,
3 but whose final point of delivery or sale is outside of New York state;
4 (ii) sold or distributed to entities certified to operate pursuant to
5 article thirty-two of the mental hygiene law, or article forty of the
6 public health law; or (iii) the MMEs attributable to buprenorphine,
7 methadone or morphine.

8 (c) The department shall provide to the licensee, in writing, on or
9 before October fifteenth, two thousand eighteen, the licensee's ratable
10 share for the two thousand seventeen calendar year. Thereafter, the
11 department shall notify the licensee in writing annually on or before
12 October fifteenth of each year based on the opioids sold or distributed
13 for the prior calendar year.

14 6. Payment of ratable share. The licensee shall make payments quarter-
15 ly to the department with the first payment of the ratable share,
16 provided that the amount due on January first, two thousand nineteen
17 shall be for the full amount of the first annual payment, with addi-
18 tional payments to be due and owing on the first day of every quarter
19 thereafter.

20 7. Rebate of ratable share. In any year for which the commissioner
21 determines that a licensee failed to report required information as
22 required by this section, those licensees complying with this section
23 shall receive a reduced assessment of their ratable share in the follow-
24 ing year equal to the amount in excess of any overpayment in the prior
25 payment period.

26 8. Licensee opportunity to appeal. A licensee shall be afforded an
27 opportunity to submit information to the department to justify why the
28 ratable share provided to the licensee, pursuant to paragraph (c) of
29 subdivision five of this section, or amounts paid thereunder are in
30 error or otherwise not warranted. If the department determines thereaft-
31 er that all or a portion of such ratable share, as determined by the
32 commissioner pursuant to subdivision five of this section, is not
33 warranted, the department may: (a) adjust the ratable share; (b) adjust
34 the assessment of the ratable share in the following year equal to the
35 amount in excess of any overpayment in the prior payment period; or (c)
36 refund amounts paid in error.

37 9. Department annual review. The department shall annually review the
38 amount of state operating funds spent in the office of alcoholism and
39 substance abuse services (OASAS) budget for opioid prevention, treatment
40 and recovery. The commissioner of OASAS shall certify to the department
41 the amount of annual spending for such services, utilizing available
42 information on patient demographics and the actual cost of services
43 delivered by the state and by state-funded providers. The certification
44 of such spending shall begin in state fiscal year two thousand eigh-
45 teen-nineteen, and continue annually thereafter. The total amount of
46 such spending shall be provided to the department by the commissioner of
47 OASAS no later than June thirtieth of each year. There shall be no
48 stewardship fund payments beginning on July first in the event state
49 operating funds spent in the OASAS budget for opioid prevention, treat-
50 ment and recovery in the most recently reported year is equal to or less
51 than state operating funds spent for such purposes in state fiscal year
52 two thousand nine-ten.

53 10. Penalties. (a) The department may assess a civil penalty in an
54 amount not to exceed one thousand dollars per day against any licensee
55 that fails to comply with subdivisions four and four-a of this section.

1 (b) In addition to any other civil or criminal penalty provided by
2 law, where a licensee has failed to pay its ratable share in accordance
3 with subdivision six of this section, the department may also assess a
4 penalty of no less than ten percent and no greater than three hundred
5 percent of the ratable share due from such licensee.

6 (c) Where the ratable share, or any portion thereof, has been passed
7 on to a purchaser by a licensee, the commissioner may impose a penalty
8 not to exceed one million dollars per incident.

9 § 2. Subdivision 1 of section 3316 of the public health law is amended
10 by adding a new paragraph (c) to read as follows:

11 (c) is unlikely during the period of his or her license to complete
12 the reports or to pay the ratable share required by title two-A of this
13 article on or before the required date. Prior evidence of non-compliance
14 shall constitute substantial evidence of such.

15 § 3. The state finance law is amended by adding a new section 97-aaaaa
16 to read as follows:

17 § 97-aaaaa. Opioid stewardship fund. 1. There is hereby established
18 in the joint custody of the state comptroller and the commissioner of
19 taxation and finance an account of the miscellaneous special revenue
20 account to be known as the "opioid stewardship fund".

21 2. Moneys in opioid stewardship fund shall be kept separate and shall
22 not be commingled with any other moneys in the custody of the state
23 comptroller and the commissioner of taxation and finance.

24 3. The opioid stewardship fund shall consist of moneys appropriated
25 for the purpose of such account, moneys transferred to such account
26 pursuant to law, contributions consisting of promises or grants of any
27 money or property of any kind or value, or any other thing of value,
28 including grants or other financial assistance from any agency of
29 government and moneys required by the provisions of this section or any
30 other law to be paid into or credited to this account.

31 4. Moneys of the opioid stewardship fund, when allocated, shall be
32 available, subject to the approval of the director of the budget, to
33 support programs operated by the New York state office of alcoholism and
34 substance abuse services or agencies certified, authorized, approved or
35 otherwise funded by the New York state office of alcoholism and
36 substance abuse services to provide opioid treatment, recovery and
37 prevention and education services; and to provide support for the
38 prescription monitoring program registry as established pursuant to
39 section thirty-three hundred forty-three-a of the public health law.

40 5. At the request of the budget director, the state comptroller shall
41 transfer moneys to support the costs of opioid treatment, recovery,
42 prevention, education services, and other related programs, from the
43 opioid stewardship fund to any other fund of the state to support this
44 purpose.

45 6. (i) Notwithstanding the provisions of any general or special law,
46 no moneys shall be available from the opioid stewardship fund until a
47 certificate of allocation and a schedule of amounts to be available
48 therefor shall have been issued by the director of the budget, upon the
49 recommendation of the commissioner of the office of alcoholism and
50 substance abuse services, and a copy of such certificate filed with the
51 comptroller, the chairman of the senate finance committee and the chair-
52 man of the assembly ways and means committee.

53 (ii) Such certificate may be amended from time to time by the director
54 of the budget, upon the recommendation of the commissioner of the office
55 of alcoholism and substance abuse services, and a copy of such amendment

1 shall be filed with the comptroller, the chairman of the senate finance
2 committee and the chairman of the assembly ways and means committee.

3 7. The moneys, when allocated, shall be paid out of the opioid
4 stewardship fund, pursuant to subdivision four of this section, and
5 subject to the approval of the director of the budget, on the audit and
6 warrant of the comptroller on vouchers certified or approved by (i) the
7 commissioner of the office of alcoholism and substance abuse services or
8 his or her designee; or (ii) the commissioner of the department of
9 health or his or her designee.

10 § 4. Severability. If any clause, sentence, paragraph, subdivision, or
11 section of this act shall be adjudged by any court of competent juris-
12 diction to be invalid, such judgment shall not affect, impair, or inval-
13 idate the remainder thereof, but shall be confined in its operation to
14 the clause, sentence, paragraph, subdivision, or section directly
15 involved in the controversy in which such judgment shall have been
16 rendered. It is hereby declared to be the intent of the legislature that
17 this act would have been enacted even if such invalid provisions had not
18 been included herein.

19 § 5. This act shall take effect July 1, 2018 and shall expire and be
20 deemed to be repealed on June 30, 2024, provided that, effective imme-
21 diately, the addition, amendment and/or repeal of any rule or regulation
22 necessary for the implementation of this act on its effective date are
23 authorized to be made and completed on or before such effective date.

24 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
25 sion, section or part of this act shall be adjudged by any court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair, or invalidate the remainder thereof, but shall be confined in
28 its operation to the clause, sentence, paragraph, subdivision, section
29 or part thereof directly involved in the controversy in which such judg-
30 ment shall have been rendered. It has hereby declared to be the intent
31 of the legislature that this act would have been enacted even if such
32 invalid provisions had not been included herein.

33 § 3. This act shall take effect immediately provided, however, that
34 the applicable effective date of Parts A through NN of this act shall be
35 as specifically set forth in the last section of such Parts.