

STATE OF NEW YORK

9507--B

IN ASSEMBLY

January 18, 2018

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

AN ACT to amend the public health law, in relation to distributing the general hospital indigent care pool; establishing a temporary workgroup on the general hospital indigent care pool methodology; to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs; and directing the commissioner of health to conduct a study on the feasibility of creating a burn center in Kings County Medical Center in collaboration with SUNY Downstate Medical Center's University Hospital of Brooklyn (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 and long term care plans; and to amend the public health law, in relation to community based service providers, home health care and medical assistance payments for care in hospice residences (Part B); to amend the social services law, in relation to health homes and penalties for managed care providers (Part C); to amend the social services law and the public health law, in relation to drug coverage, updating the professional dispensing fee, and in relation to extending the preferred drug program to medicaid managed care providers and offering the program to other health plans; and to repeal certain provisions of the social services law relating thereto (Part D); to amend the social services law, in relation to reimbursement of transportation costs (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); to amend the social services law and the public health law, in relation to managed care providers (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

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

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relation to authorizing the department of health to require certain health care providers to report on costs incurred; 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); intentionally omitted (Part N); to amend the public health law, in relation to funding early intervention services; and to repeal certain provisions of the public health law and the insurance law relating thereto (Part O); to amend the public health law, in relation to the empire clinical research investigator program and hospital resident hour audits (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 social services law, in relation to telehealth under medical assistance; and to repeal article 29-G of the public health law relating to telehealth delivery of services (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, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof relating to authorizing the commissioner of health to establish a statewide Medicaid integrity and efficiency initiative, 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; and to amend the social services law, in relation to agreements relating to pharmaceutical utilization (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 summary action for 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 immunizations; 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 extending the effectiveness thereof; 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 technical corrections (Part DD); 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 EE); to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part FF); to amend the insurance law, in relation to the purchase of prescription drugs (Part GG); to amend the mental hygiene law, in relation to establishing the office of the independent behavioral health ombudsman (Part HH); to amend the public health law and the state finance law, in relation to disposition of charitable assets and establishing a health care stabilization account (Part II); and in relation to the availability of federal financial participation and payments made to certain managed care providers; and to repeal section 3-d of part B of chapter 58 of the laws of 2010, amending chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to reimbursement (Part JJ)

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

1 Section 1. This act enacts into law major components of legislation
2 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 JJ. 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.

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

4 5-d. (a) Notwithstanding any inconsistent provision of this section,
5 section twenty-eight hundred seven-w of this article or any other
6 contrary provision of law, and subject to the availability of federal
7 financial participation, for periods on and after January first, two
8 thousand thirteen, through December thirty-first, two thousand [eigh-
9 teen] nineteen, all funds available for distribution pursuant to this
10 section, except for funds distributed pursuant to subparagraph (v) of
11 paragraph (b) of subdivision five-b of this section, and all funds
12 available for distribution pursuant to section twenty-eight hundred
13 seven-w of this article, shall be reserved and set aside and distributed
14 in accordance with the provisions of this subdivision.

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

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

29 (ii) Annual distributions pursuant to such regulations for the two
30 thousand thirteen through two thousand [eighteen] nineteen calendar
31 years shall be in accord with the following:

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

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

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

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

53 (C) No facility shall experience a reduction in indigent care pool
54 payments pursuant to this subdivision that: for the calendar year begin-
55 ning January first, two thousand thirteen, is greater than two and one-
56 half percent; for the calendar year beginning January first, two thou-



1 sand fourteen, is greater than five percent; and, for the calendar year
2 beginning on January first, two thousand fifteen[,]; is greater than
3 seven and one-half percent, and for the calendar year beginning on Janu-
4 ary first, two thousand sixteen, is greater than ten percent; and for
5 the calendar year beginning on January first, two thousand seventeen, is
6 greater than twelve and one-half percent; and for the calendar year
7 beginning on January first, two thousand eighteen, is greater than
8 fifteen percent; and for the calendar year beginning on January first,
9 two thousand nineteen, is greater than seventeen and one-half percent.

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

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

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

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

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

28 § 2-a. Temporary workgroup on the general hospital indigent care pool
29 methodology. No later than June first, two thousand eighteen, the
30 commissioner of health shall convene a temporary workgroup to develop
31 recommendations for modifying the distribution methodology of the indi-
32 gent care pool to target payments to facilities that provide a
33 disproportionate share of uncompensated care to uninsured, underinsured
34 and medicaid populations; to develop recommendations for modifying indi-
35 gent care distributions in the event of aggregate reductions in federal
36 Medicaid disproportionate share hospital funding; to evaluate the finan-
37 cial impacts of recent modifications to the indigent care pool made
38 pursuant to subdivision five-d of section 2807-k of the public health
39 law; and to evaluate the effectiveness of financial aid policies and
40 procedures as mandated by subdivision nine-a of section 2807-k of the
41 public health law. The workgroup shall include representatives of
42 providers that provide such care, consumer advocates, members of the
43 legislature, health care workers, the department of health, and other
44 appropriate stakeholders. No later than December first, two thousand
45 eighteen, the workgroup shall report on its findings and recommendations
46 to the governor, the temporary president of the senate, and the speaker
47 of the assembly, including any analysis of facility impacts by region
48 and sponsorship as well as any additional information it deems appropri-
49 ate.

50 § 3. Notwithstanding any inconsistent provision of law or regulation
51 to the contrary, the medical assistance program shall allocate ten
52 million dollars annually to expand preventative services as the commis-
53 sioner of health may determine in regulation. Such preventative services
54 may include but not be limited to mental health counseling provided by a
55 licensed clinical social worker or a licensed master social worker,



1 physical therapy, diabetes prevention, or treatment by an applied behav-
2 ior analyst.

3 § 4. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
4 2807 of the public health law, as amended by section 43 of part B of
5 chapter 58 of the laws of 2010, is amended to read as follows:

6 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this
7 subdivision, for periods on and after January first, two thousand nine,
8 the following services provided by general hospital outpatient depart-
9 ments and diagnostic and treatment centers shall be reimbursed with
10 rates of payment based entirely upon the ambulatory patient group meth-
11 odology as described in paragraph (e) of this subdivision, provided,
12 however, that the commissioner may utilize existing payment methodol-
13 ogies or may promulgate regulations establishing alternative payment
14 methodologies for one or more of the services specified in this subpara-
15 graph, effective for periods on and after March first, two thousand
16 nine:

17 (A) services provided in accordance with the provisions of paragraphs
18 (q) and (r) of subdivision two of section three hundred sixty-five-a of
19 the social services law; and

20 (B) all services, but only with regard to additional payment amounts,
21 as determined in accordance with regulations issued in accordance with
22 paragraph (e) of this subdivision, for the provision of such services
23 during times outside the facility's normal hours of operation, as deter-
24 mined in accordance with criteria set forth in such regulations; and

25 (C) individual psychotherapy services provided by licensed social
26 workers, in accordance with licensing criteria set forth in applicable
27 regulations[, to persons under the age of twenty-one and to persons
28 requiring such services as a result of or related to pregnancy or giving
29 birth]; and

30 (D) individual psychotherapy services provided by licensed social
31 workers, in accordance with licensing criteria set forth in applicable
32 regulations, at diagnostic and treatment centers that provided, billed
33 for, and received payment for these services between January first, two
34 thousand seven and December thirty-first, two thousand seven;

35 (E) services provided to pregnant women pursuant to paragraph (s) of
36 subdivision two of section three hundred sixty-five-a of the social
37 services law and, for periods on and after January first, two thousand
38 ten, all other services provided pursuant to such paragraph (s) and
39 services provided pursuant to paragraph (t) of subdivision two of
40 section three hundred sixty-five-a of the social services law;

41 (F) wheelchair evaluation services and eyeglass dispensing services;
42 and

43 (G) immunization services, effective for services rendered on and
44 after June tenth, two thousand nine.

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

48 (h) speech therapy, and when provided at the direction of a physician
49 or nurse practitioner, physical therapy including related rehabilitative
50 services and occupational therapy; provided, however, that speech thera-
51 py[, physical therapy] and occupational therapy [each] shall be limited
52 to coverage of [twenty] forty visits per year; physical therapy shall be
53 limited to coverage of forty visits per year; such limitation shall not
54 apply to persons with developmental disabilities or, notwithstanding any
55 other provision of law to the contrary, to persons with traumatic brain
56 injury;

1 § 5-a. The commissioner of health is directed to conduct a study and
2 do research as to the feasibility of creating a burn center in Kings
3 County Medical Center in collaboration with SUNY Downstate Medical
4 Center's University Hospital of Brooklyn.

5 The study shall be conducted in accordance with rules, regulations and
6 standards determined by the commissioner of health. The study shall
7 concentrate on provisions of optimal care to burn patients for the time
8 of injury through rehabilitation with the goal of establishing a frame-
9 work for the establishment of an accredited burn unit that provides high
10 quality patient care while meeting the standards for organizational
11 structure, personnel qualifications, facilities resources and medical
12 care services pursuant to the Guidelines for the Operation of Burn
13 Centers of the American Burn Association.

14 The commissioner of health shall report his or her findings to the
15 governor, the speaker of the assembly, the minority leader of the assem-
16 bly, the temporary president of the senate and the minority leader of
17 the senate on or before one year from the date this act shall take
18 effect.

19 § 6. This act shall take effect immediately.

20

PART B

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

23 (g) The commissioner shall reduce Medicaid revenue to a residential
24 health care facility in a payment year by two percent if in each of the
25 two most recent payment years for which New York state nursing home
26 quality initiative data is available, the facility was ranked in the
27 lowest two quintiles of facilities based on its nursing home quality
28 initiative performance, and was ranked in the lowest quintile in the
29 most recent payment year. The commissioner shall waive the application
30 of this paragraph to a facility if the commissioner determines that the
31 facility is in financial distress.

32 § 2. Subdivision 3 of section 461-1 of the social services law is
33 amended by adding five new paragraphs (k), (l), (m), (n) and (o) to read
34 as follows:

35 (k)(i) Existing assisted living program providers licensed on or
36 before April first, two thousand eighteen may apply to the department
37 for up to nine additional assisted living program beds, by a deadline to
38 be determined by the department. The department may utilize an expedited
39 review process to allow eligible applicants in good standing the ability
40 to be licensed for the additional beds within ninety days of the depart-
41 ment's receipt of a satisfactory application. Eligible applicants are
42 those that: do not require major renovation or construction; serve only
43 public pay individuals; and are in substantial compliance with appropri-
44 ate state and local requirements as determined by the department.

45 (ii) Existing assisted living program providers licensed on or before
46 April first, two thousand twenty may submit additional applications for
47 up to nine additional assisted living program beds by a deadline to be
48 determined by the department. Every two years thereafter, existing
49 providers licensed on or before April first of such year may submit such
50 applications on June thirtieth of such year, and by a deadline to be
51 determined by the department. The number of additional assisted living
52 program beds shall be based on the total number of previously awarded
53 beds either withdrawn by the applicant or denied by the department.



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

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

13 (i) Serve only public pay individuals;

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

19 (iii) Enter into an agreement with an existing managed care entity;
20 and

21 (iv) Participate in value based payment models, where such models are
22 available for participation.

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

31 (o) For periods on and after April first, two thousand twenty, the
32 commissioner of health is authorized to issue assisted living program
33 beds for any eligible applicant, other than an applicant that applied
34 under subparagraph (ii) of paragraph (k) of this subdivision, that
35 satisfactorily demonstrates the public need for such beds in the area to
36 be served and meets all other applicable requirements of this section.
37 Demonstrated public need shall be determined on a case by case basis
38 whenever the public health and health planning council is satisfied that
39 public need exists at the time and place and under circumstances
40 proposed by the applicant; provided, however, the prior bed authori-
41 zations in paragraphs (h), (i), (j) and (k) of this subdivision shall
42 continue in full force and effect.

43 § 3. Subparagraph (i) of paragraph (b) of subdivision 7 of section
44 4403-f of the public health law, as amended by section 41-b of part H of
45 chapter 59 of the laws of 2011, is amended to read as follows:

46 (i) (1) The commissioner shall, to the extent necessary, submit the
47 appropriate waivers, including, but not limited to, those authorized
48 pursuant to sections eleven hundred fifteen and nineteen hundred fifteen
49 of the federal social security act, or successor provisions, and any
50 other waivers necessary to achieve the purposes of high quality, inte-
51 grated, and cost effective care and integrated financial eligibility
52 policies under the medical assistance program or pursuant to title XVIII
53 of the federal social security act. In addition, the commissioner is
54 authorized to submit the appropriate waivers, including but not limited
55 to those authorized pursuant to sections eleven hundred fifteen and
56 nineteen hundred fifteen of the federal social security act or successor

1 provisions, and any other waivers necessary to require on or after April
2 first, two thousand twelve, medical assistance recipients who are twen-
3 ty-one years of age or older and who require community-based long term
4 care services, as specified by the commissioner, for more than one
5 hundred and twenty days, to receive such services through an available
6 plan certified pursuant to this section or other program model that
7 meets guidelines specified by the commissioner that support coordination
8 and integration of services. Such guidelines shall address the require-
9 ments of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) of
10 subdivision three of this section as well as payment methods that ensure
11 provider accountability for cost effective quality outcomes. Such other
12 program models may include long term home health care programs that
13 comply with such guidelines. Copies of such original waiver applications
14 and amendments thereto shall be provided to the chairs of the senate
15 finance committee, the assembly ways and means committee and the senate
16 and assembly health committees simultaneously with their submission to
17 the federal government.

18 (2) On or after October first, two thousand eighteen, the commissioner
19 may, through such an approved waiver, limit enrollment in a plan certi-
20 fied under this section to individuals who require community-based long
21 term care services for a continuous period of more than one hundred
22 twenty days from the date of enrollment and from the dates when continu-
23 ing enrollment is reauthorized; however, medical assistance recipients
24 enrolled in a managed long term care plan on October first, two thousand
25 eighteen may continue to be eligible for such plans, irrespective of
26 whether the enrollee meets the level of care requirements, provided that
27 once such recipients are disenrolled from their managed long term care
28 plan, the requirements of this paragraph would apply to future eligibil-
29 ity determinations.

30 § 4. Subparagraphs (vii) and (viii) of paragraph (b) of subdivision 7
31 of section 4403-f of the public health law are relettered subparagraphs
32 (viii) and (ix) and a new subparagraph (vii) is added to read as
33 follows:

34 (vii) If another managed long term care plan certified under this
35 section is available, medical assistance recipients required to enroll
36 in such plans pursuant to this section or recipients who have been
37 assigned to a provider by the commissioner may change plans without
38 cause within ninety days of notification of enrollment or the effective
39 date of enrollment into a plan, whichever is later, by making a request
40 of the local social services district or entity designated by the
41 department. However, after such ninety day period, a recipient may be
42 prohibited from changing plans more frequently than once within the
43 ensuing enrollment period, as permitted by federal law, except for good
44 cause as determined by the commissioner.

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

49 (11) a person who is eligible for medical assistance pursuant to para-
50 graph (b) of subdivision four of section three hundred sixty-six of the
51 social services law; [and]

52 (12) Native Americans; and

53 (13) a person who is permanently placed in a nursing home; provided
54 however, that a person who was enrolled in a plan under this section
55 and, while enrolled, was transferred to a nursing home from community
56 based care, shall remain enrolled under this section for three months at

1 which time such person shall be deemed suspended from enrollment by such
2 plan for an additional six month period, so that the person may return
3 to community based care without requiring reenrollment in such plan.
4 Plans shall be reimbursed on a prorated basis when reinstating enroll-
5 ment under this clause.

6 § 6. Intentionally Omitted.

7 § 7. Intentionally Omitted.

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

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

18 § 8-a. Paragraph (d-2) of subdivision 3 of section 364-j of the social
19 services law, as added by section 20-a of part B of chapter 59 of the
20 laws of 2016, is amended to read as follows:

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

27 § 8-b. Paragraph (d) of subdivision one of section 3614-c of the
28 public health law, as amended by section 5 of part S of chapter 57 of
29 the laws of 2017, is amended to read as follows:

30 (d) "Home care aide" means a home health aide, personal care aide,
31 home attendant, personal assistant performing consumer directed personal
32 assistance services pursuant to section three hundred sixty-five-f of
33 the social services law, a person delivering care under the traumatic
34 brain injury program pursuant to section twenty-seven hundred forty of
35 this chapter, or other licensed or unlicensed person whose primary
36 responsibility includes the provision of in-home assistance with activ-
37 ities of daily living, instrumental activities of daily living or
38 health-related tasks; provided, however, that home care aide does not
39 include any individual (i) working on a casual basis, or (ii) (except
40 for a person employed under the consumer directed personal assistance
41 program under section three hundred sixty-five-f of the social services
42 law) who is a relative through blood, marriage or adoption of: (1) the
43 employer; or (2) the person for whom the worker is delivering services,
44 under a program funded or administered by federal, state or local
45 government.

46 § 9. The commissioner of health shall conduct a study of home and
47 community based services available to recipients of the Medicaid program
48 in rural areas of the state. Such study shall include a review and anal-
49 ysis of factors affecting such availability, including but not limited
50 to transportation costs, costs of direct care personnel including home
51 health aides, personal care attendants and other direct service person-
52 nel, opportunities for telehealth services, and technological advances
53 to improve efficiencies. Consistent with the results of the study, the
54 commissioner of health is authorized to provide a targeted Medicaid rate
55 enhancement to fee-for-service personal care rates and rates under Medi-
56 caid waiver programs such as the nursing home transition and diversion

1 waiver and the traumatic brain injury program waiver, in an aggregate
2 amount of three million dollars minus the cost of conducting the study;
3 provided further, that nothing in this section shall be deemed to affect
4 payment for the costs of the study and any related Medicaid rate
5 enhancement if federal participation is not available for such costs.

6 § 10. Paragraphs (c) and (c) of subdivision 18 of section 364-j of the
7 social services law, as added by sections 40-c and 55 of part B of chap-
8 ter 57 of the laws of 2015, are amended to read as follows:

9 (c) (i) In setting such reimbursement methodologies, the department
10 shall consider costs borne by the managed care program to ensure actuar-
11 ially sound and adequate rates of payment to ensure quality of care for
12 its enrollees and shall reflect the reasonable costs associated with all
13 applicable federal and state laws and regulations, including, but not
14 limited to, those relating to wages, labor, and actuarial soundness.

15 [(c)] (ii) The department [of health] shall require the independent
16 actuary selected pursuant to paragraph (b) of this subdivision to
17 provide a complete actuarial memorandum, along with all actuarial
18 assumptions made and all other data, materials and methodologies used in
19 the development of rates, to managed care providers thirty days prior to
20 submission of such rates to the centers for medicare and medicaid
21 services for approval. Managed care providers may request additional
22 review of the actuarial soundness of the rate setting process and/or
23 methodology.

24 (iii) In fulfilling the requirements of this paragraph, in relation to
25 a long term care plan operating under section forty-four hundred three-f
26 of the public health law, the department shall establish separate rate
27 cells to reflect the costs of care for specific high-need enrollees.
28 The commissioner shall make any necessary amendments to the state plan
29 for medical assistance under section three hundred sixty-three-a of this
30 title, and submit any applications for waivers of the federal social
31 security act, as may be necessary to ensure federal financial partic-
32 ipation. The high-need rate cells established in accordance with this
33 subparagraph shall include, but shall not be limited to:

34 (A) individuals who are either already residing in a skilled nursing
35 facility or are placed in a skilled nursing facility;

36 (B) individuals enrolled with a managed care provider, who remain in
37 the community and who daily receive live-in twenty-four hour personal
38 care or home health services or twelve hours or more of personal care,
39 home health services or home and community support services;

40 (C) such other individuals who, based on the assessment of their care
41 needs, their diagnosis or other factors, are determined to present espe-
42 cially high needs related to factors that would influence the delivery
43 including but not limited to home location, or their use of services, as
44 may be identified by the department.

45 § 11. Section 4403-f of the public health law is amended by adding a
46 new subdivision 15 to read as follows:

47 15. If the department places a numerical limit on the number of commu-
48 nity based service providers licensed under article thirty-six of this
49 chapter with which a plan may contract, it shall do so only with
50 approval by the public health and health planning council, consistent
51 with standards adopted by the council to assure network adequacy includ-
52 ing but not limited to: adequate and appropriate care for the enrol-
53 lees; language and cultural competence; geographical coverage; and
54 special needs services.

1 § 12. Section 224-b of the public health law, as added by section 50
2 of part A of chapter 58 of the laws of 2010, is amended to read as
3 follows:

4 § 224-b. Public health and health planning council; powers and duties;
5 health care facilities, home care agencies and hospices. 1. The public
6 health and health planning council shall have such powers and duties as
7 are set forth in this chapter, including the consideration of applica-
8 tions for the establishment and construction of health care facilities,
9 home care agencies and hospices licensed under articles twenty-eight,
10 thirty-six or forty of this chapter. In carrying out its powers and
11 duties, the council shall take into account the impact of its actions
12 and recommendations on the quality, accessibility, efficiency and cost-
13 effectiveness of health care throughout the state. The council shall
14 undertake a comprehensive review of regulations and council procedures
15 governing the establishment and construction of such health care facili-
16 ties, home care agencies and hospices and shall submit to the commis-
17 sioner any recommendations for the revisions of such regulations. Such
18 review shall be conducted every five years, and the first set of recom-
19 mendations shall be submitted to the commissioner on or before December
20 first, two thousand sixteen.

21 2. For the period beginning April first, two thousand eighteen and
22 ending March thirty-first, two thousand nineteen, the council shall not
23 approve applications for new licensed home care service agencies under
24 article thirty-six of this chapter unless the purpose of the license is
25 to consolidate existing licensees, or overcome lack of network adequacy
26 of a managed long term care plan under section forty-four hundred
27 three-f of this chapter or a lack of adequate and appropriate care,
28 language and cultural competence, geographical coverage or special needs
29 services.

30 3. The council shall review and revise (a) standards relating to
31 adequate and appropriate care, language and cultural competence,
32 geographical coverage and special needs services, and (b) needs method-
33 ology relating to the approval, closure or consolidation of licensed
34 home care service agencies to assure a statewide system that is finan-
35 cially viable. Such review shall be completed by March thirty-first, two
36 thousand nineteen.

37 § 13. Subdivisions 4 and 6 of section 3605 of the public health law,
38 subdivision 4 as amended by section 62 of part A of chapter 58 of the
39 laws of 2010, subdivision 6 as added by chapter 959 of the laws of 1984,
40 are amended to read as follows:

41 4. The public health and health planning council shall not approve an
42 application for licensure unless it is satisfied as to (a) the public
43 need for the existence of the licensed home health care service agency
44 at the time and place and under the circumstances proposed; (b) the
45 character, competence and standing in the community of the applicant's
46 incorporators, directors, sponsors, stockholders or operators; and (c)
47 such other matters as it shall deem pertinent.

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

50 § 14. Section 4012 of the public health law is amended by adding a new
51 subdivision 5 to read as follows:

52 5. (a) Medicaid payments to hospice residences shall be in an amount
53 equal to ninety-four percent of the weighted average medical assistance
54 fee for service rate reimbursed to residential health care facilities
55 located in the managed long term care region that the hospice residence
56 is located. Such average medical assistance rate shall be inclusive of

1 specialty units, the room and board furnished by the hospice residence,
2 cash receipts assessments and the case mix of the residential health
3 care facilities located in the managed long term care region that such
4 hospice is located. Such average medical assistance rate shall also be
5 inclusive of an efficiency factor of 1.1 multiplied by such weighted
6 average rate; recruitment and retention monies; and any adjustments made
7 for minimum wage, as such adjustments are applied to the residential
8 health care facilities located in the managed long term care region in
9 which the hospice residence is located.

10 (b) Under no circumstances shall the rates established pursuant to
11 this subdivision be less than the rates established for hospice resi-
12 dences in effect on the effective date of this subdivision and managed
13 care organizations shall reimburse hospice residences the rate estab-
14 lished pursuant to this subdivision for a period of at least five years
15 from the date hospice residents are transitioned to managed care. Such
16 reimbursement shall be known as the hospice residence benchmark rate.

17 § 15. This act shall take effect immediately; provided, however, that
18 the amendments made to paragraph (b) of subdivision 7 of section 4403-f
19 of the public health law made by sections three, four and five of this
20 act shall not affect the expiration of such paragraph pursuant to subdivi-
21 sion (i) of section 111 of part H of chapter 59 of the laws of 2011,
22 as amended, and shall be deemed to expire therewith; provided, further,
23 that the amendments to section 4403-f of the public health law made by
24 sections three, four, five and eleven of this act shall not affect the
25 repeal of such section pursuant to chapter 659 of the laws of 1997, as
26 amended, and shall be deemed repealed therewith; provided, further, that
27 section four of this act shall take effect on October 1, 2018; provided,
28 further, that the amendments to paragraph (d-2) of subdivision 3 and
29 paragraphs (c) and (c) of subdivision 18 of section 364-j of the social
30 services law as amended by sections eight-a and ten of this act shall
31 not affect the repeal of such section pursuant to chapter 710 of the
32 laws of 1988, as amended, and shall be deemed to repeal therewith.

33

PART C

34 Section 1. Subdivision 2 of section 365-1 of the social services law,
35 as amended by section 1 of part S of chapter 57 of the laws of 2017, is
36 amended to read as follows:

37 2. In addition to payments made for health home services pursuant to
38 subdivision one of this section, the commissioner is authorized to pay
39 additional amounts: (a) to providers of health home services that meet
40 process or outcome standards specified by the commissioner; and (b) to
41 Medicaid managed care enrollees who are members of health homes in the
42 form of incentive payments to reward such enrollees for participating in
43 wellness activities and activities or behavior that have led to or may
44 lead to a reduction in unnecessary hospitalizations and unnecessary
45 utilization of hospital emergency department services. Provided, howev-
46 er, that such incentive payments shall not, in any way, prohibit,
47 discourage, or otherwise penalize an enrollee who utilizes hospital
48 services, including emergency services. Such additional amounts may be
49 paid with state funds only if federal financial participation for such
50 payments is unavailable.

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

53 2-d. The commissioner shall establish targets for health home partic-
54 ipation by enrollees of special needs managed care plans designated



1 pursuant to subdivision four of section three hundred sixty-five-m of
2 this title and by high-risk enrollees of other Medicaid managed care
3 plans operating pursuant to section three hundred sixty-four-j of this
4 title, and shall require the managed care providers to work collabora-
5 tively with health homes to achieve such targets. The commissioner may
6 assess penalties under this subdivision against managed care providers
7 that fail to meet the participation targets established pursuant to this
8 subdivision, except that managed care providers shall not be penalized
9 for the failure of a health home to work collaboratively toward meeting
10 the participation targets.

11 § 3. Intentionally omitted.

12 § 4. Intentionally omitted.

13 § 5. Intentionally omitted.

14 § 6. Intentionally omitted.

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

18 (a) The following persons and officials are required to report or
19 cause a report to be made in accordance with this title when they have
20 reasonable cause to suspect that a child coming before them in their
21 professional or official capacity is an abused or maltreated child, or
22 when they have reasonable cause to suspect that a child is an abused or
23 maltreated child where the parent, guardian, custodian or other person
24 legally responsible for such child comes before them in their profes-
25 sional or official capacity and states from personal knowledge facts,
26 conditions or circumstances which, if correct, would render the child an
27 abused or maltreated child: any physician; registered physician assist-
28 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
29 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
30 psychologist; registered nurse; social worker; emergency medical techni-
31 cian; licensed creative arts therapist; licensed marriage and family
32 therapist; licensed mental health counselor; licensed psychoanalyst;
33 licensed behavior analyst; certified behavior analyst assistant; hospi-
34 tal personnel engaged in the admission, examination, care or treatment
35 of persons; a Christian Science practitioner; school official, which
36 includes but is not limited to school teacher, school guidance counse-
37 lor, school psychologist, school social worker, school nurse, school
38 administrator or other school personnel required to hold a teaching or
39 administrative license or certificate; full or part-time compensated
40 school employee required to hold a temporary coaching license or profes-
41 sional coaching certificate; social services worker; employee of a publ-
42 ically-funded emergency shelter for families with children; director of a
43 children's overnight camp, summer day camp or traveling summer day camp,
44 as such camps are defined in section thirteen hundred ninety-two of the
45 public health law; day care center worker; school-age child care worker;
46 provider of family or group family day care; employee or volunteer in a
47 residential care facility for children that is licensed, certified or
48 operated by the office of children and family services; or any other
49 child care or foster care worker; mental health professional; substance
50 abuse counselor; alcoholism counselor; all persons credentialed by the
51 office of alcoholism and substance abuse services; employees, who are
52 expected to have regular and substantial contact with children, of a
53 health home or health home care management agency contracting with a
54 health home as designated by the department of health and authorized
55 under section three hundred sixty-five-l of this chapter or such employ-
56 ees who provide home and community based services under a demonstration



1 program pursuant to section eleven hundred fifteen of the federal social
2 security act who are expected to have regular and substantial contact
3 with children; peace officer; police officer; district attorney or
4 assistant district attorney; investigator employed in the office of a
5 district attorney; or other law enforcement official.

6 § 8. Section 364-j of the social services law is amended by adding a
7 new subdivision 34 to read as follows:

8 34. The commissioner may, in his or her discretion, require managed
9 care providers to submit a performing provider system partnership plan
10 by July first, two thousand eighteen, in accordance with any submission
11 guidelines issued by the department prior thereto. For purposes of this
12 subdivision, "performing provider system partnership plan" shall mean a
13 plan submitted by such managed care providers to the department that
14 includes both short and long term approaches for effective collaboration
15 with each performing provider system within its service area. A managed
16 care provider shall not be penalized for failure to submit such plan if
17 it has made a good faith attempt to partner with a performing provider
18 system.

19 § 9. This act shall take effect immediately; provided, however, that
20 the amendments made to section 364-j of the social services law made by
21 section eight of this act shall not affect the repeal of such section
22 and shall be deemed repealed therewith.

23

PART D

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

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

36 § 2. Intentionally omitted.

37 § 3. Intentionally omitted.

38 § 4. Intentionally omitted.

39 § 5. Intentionally omitted.

40 § 6. Intentionally omitted.

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

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

52 § 8. Subdivision 2 of section 280 of the public health law, as amended
53 by section 1 of part D of chapter 57 of the laws of 2017, is amended to
54 read as follows:

1 2. The commissioner shall establish a year to year department of
2 health state-funds Medicaid drug spending growth target as follows:

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

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

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

15 § 9. The social services law is amended by adding a new section 365-i
16 to read as follows:

17 § 365-i. Prescription drugs in medicaid managed care programs. 1.
18 Definitions. (a) The definitions of terms in section two hundred seventy
19 of the public health law shall apply to this section.

20 (b) As used in this section, unless the context clearly requires
21 otherwise:

22 (i) "Managed care provider" means a managed care provider under
23 section three hundred sixty-four-j of this article, a managed long term
24 care plan under section forty-four hundred three-f of the public health
25 law, or any other entity that provides or arranges for the provision of
26 medical assistance services and supplies to participants directly or
27 indirectly (including by referral), including case management, including
28 the managed care provider's authorized agents.

29 (ii) "Participant" means a medical assistance recipient who receives,
30 is required to receive or elects to receive his or her medical assist-
31 ance services from a managed care provider.

32 2. Providing and payment for prescription drugs for medicaid managed
33 care provider participants. Prescription drugs eligible for reimburse-
34 ment under this article prescribed in relation to a service provided by
35 a managed care provider shall be provided and paid for under the
36 preferred drug program and the clinical drug review program under title
37 one of article two-A of the public health law. The managed care provider
38 shall account to and reimburse the department for the net cost to the
39 department for prescription drugs provided to the managed care provid-
40 er's participants. Payment for prescription drugs shall be included in
41 the capitation payments to the managed care provider for services or
42 supplies provided to a managed care provider's participants.

43 § 10. Section 270 of the public health law is amended by adding a new
44 subdivision 15 to read as follows:

45 15. "Third-party health care payer" has its ordinary meanings and
46 includes an entity such as a fiscal administrator, or administrative
47 services provider that participates in the administration of a third-
48 party health care payer system.

49 § 11. The public health law is amended by adding a new section 274-a
50 to read as follows:

51 § 274-a. Use of preferred drug program and clinical drug review
52 program. The commissioner shall contract with any third-party health
53 care payer that so chooses, to use the preferred drug program and the
54 clinical drug review program to provide and pay for prescription drugs
55 for the third-party health care payer's enrollees. To contract under
56 this section, the third-party health care payer shall provide coverage

1 for prescription drugs authorized under this title. The third-party
2 health care payer shall account to and reimburse the department for the
3 net cost to the department for prescription drugs provided to the third-
4 party health care payer's enrollees. The contract shall include terms
5 required by the commissioner.

6 § 12. Intentionally omitted.

7 § 13. Subdivisions 25 and 25-a of section 364-j of the social services
8 law are REPEALED.

9 § 14. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after April 1, 2018; provided,
11 however, that the amendments to paragraph (d) of subdivision 9 of
12 section 367-a of the social services law made by section one of this act
13 shall not affect the expiration of such subdivision and shall expire
14 therewith.

15 PART E

16 Section 1. Subdivision 4 of section 365-h of the social services law,
17 as separately amended by section 50 of part B and section 24 of part D
18 of chapter 57 of the laws of 2015, is amended to read as follows:

19 4. The commissioner of health is authorized to assume responsibility
20 from a local social services official for the provision and reimburse-
21 ment of transportation costs under this section. If the commissioner
22 elects to assume such responsibility, the commissioner shall notify the
23 local social services official in writing as to the election, the date
24 upon which the election shall be effective and such information as to
25 transition of responsibilities as the commissioner deems prudent. The
26 commissioner is authorized to contract with a transportation manager or
27 managers to manage transportation services in any local social services
28 district, other than transportation services provided or arranged for
29 enrollees of managed long term care plans issued certificates of author-
30 ity under section forty-four hundred three-f of the public health law;
31 adult day health care programs located at a licensed residential health
32 care facility as defined by section twenty-eight hundred one of the
33 public health law or an approved extension site thereof; and a program
34 designated as a Program of All-Inclusive Care for the Elderly (PACE) as
35 authorized by Federal Public law 105-33, subtitle I of title IV of the
36 Balanced Budget Act of 1997. Any transportation manager or managers
37 selected by the commissioner to manage transportation services shall
38 have proven experience in coordinating transportation services in a
39 geographic and demographic area similar to the area in New York state
40 within which the contractor would manage the provision of services under
41 this section. Such a contract or contracts may include responsibility
42 for: review, approval and processing of transportation orders; manage-
43 ment of the appropriate level of transportation based on documented
44 patient medical need; and development of new technologies leading to
45 efficient transportation services. If the commissioner elects to assume
46 such responsibility from a local social services district, the commis-
47 sioner shall examine and, if appropriate, adopt quality assurance meas-
48 ures that may include, but are not limited to, global positioning track-
49 ing system reporting requirements and service verification mechanisms.
50 Any and all reimbursement rates developed by transportation managers
51 under this subdivision shall be subject to the review and approval of
52 the commissioner.

53 § 2. Intentionally omitted.

54 § 3. Intentionally omitted.

1 § 4. This act shall take effect October 1, 2018; provided, however,
2 that the amendments to subdivision 4 of section 365-h of the social
3 services law made by section one of this act shall not affect the repeal
4 of such section and shall expire and be deemed repealed therewith.

5 PART F

6 Intentionally Omitted

7 PART G

8 Intentionally Omitted

9 PART H

10 Intentionally Omitted

11 PART I

12 Section 1. Section 364-j of the social services law is amended by
13 adding a new subdivision 34 to read as follows:

14 34. Monies paid by the department to managed care providers are public
15 funds and retain their status as public funds regardless of any payments
16 made by the managed care provider to subcontractors, medical service
17 providers, or other entities.

18 § 2. Section 364-j of the social services law is amended by adding a
19 new subdivision 35 to read as follows:

20 35. Recovery of overpayments from network providers. (a) Where the
21 Medicaid inspector general, during the course of an audit or investi-
22 gation, identifies improper medical assistance payments made by a
23 managed care provider to its subcontractor or subcontractors or provider
24 or providers, the state shall have the right to recover the improper
25 payment from the subcontractor or subcontractors, provider or providers,
26 or the managed care provider.

27 (b) Where the state is unsuccessful in recovering the improper payment
28 from the subcontractor or subcontractors or provider or providers, the
29 Medicaid inspector general may require the managed care organization to
30 recover the improper medical assistance payments identified in paragraph
31 (a) of this subdivision. The managed care organization shall remit to
32 the state the full amount of the identified improper payment no later
33 than six months after receiving notice of the overpayment.

34 (c) The managed care organization may charge its subcontractor or
35 subcontractors or provider or providers a collection fee to account for
36 the reasonable costs incurred by the managed care organization to
37 collect the debt. Any collection fee imposed shall not exceed five
38 percent of the total amount owed.

39 § 3. Section 364-j of the social services law is amended by adding a
40 new subdivision 36 to read as follows:

41 36. Reporting acts of fraud. (a) All managed care providers shall,
42 without undue delay, refer to the office of the Medicaid inspector
43 general any case reasonably believed to be potential fraud, waste, or
44 abuse.

45 (b) Any managed care provider making a complaint or furnishing a
46 report, referral, information or records pursuant to this section shall
47 be immune from civil liability for making such complaint, referral, or

1 report when such complaint, referral, or report was reasonable and made
2 in good faith.

3 (c) A managed care provider that willfully fails to make a referral to
4 the Medicaid inspector general in accordance with paragraph (a) of this
5 subdivision when there is actual knowledge that an act of fraud is being
6 or has been committed may be subject to a civil penalty in an amount not
7 exceeding one hundred thousand dollars.

8 § 4. The public health law is amended by adding a new section 37 to
9 read as follows:

10 § 37. Violations of medical assistance program laws, regulations or
11 directives; penalties. 1. (a) Any provider or entity participating in
12 the medical assistance program that willfully violates any statute,
13 rule, or regulation of the medical assistance program, may be subject to
14 a civil penalty in an amount not exceeding the sum of five thousand
15 dollars.

16 (b) Every violation of any statute, rule, or regulation of the medical
17 assistance program shall be a separate and distinct failure or violation
18 and, in the case of a continuing violation, every day's continuance
19 thereof shall be a separate and distinct offense.

20 2. (a) Any entity authorized to operate under article forty-four of
21 this chapter or article forty-three of the insurance law, including any
22 subcontractor or provider thereof, and participating in the medical
23 assistance program that willfully fails to comply with or violates any
24 statute, rule, or regulation of the medical assistance program, or any
25 term of its contract with the department, may be subject to a civil
26 penalty in an amount not exceeding the sum of five thousand dollars.

27 (b) Every failure to comply with or violation of any statute, rule,
28 regulation, or directive of the medical assistance program, or term of
29 the entity's contract with the department shall be a separate and
30 distinct failure or violation and, in the case of a continuing
31 violation, every day's continuance thereof shall be a separate and
32 distinct offense.

33 3. Any entity participating in the medical assistance program and
34 authorized to operate under article forty-four of this chapter or arti-
35 cle forty-three of the insurance law that submits a cost report to the
36 medical assistance program that contains data which is intentionally
37 inaccurate, may be subject to a civil penalty in an amount not exceeding
38 one hundred thousand dollars.

39 4. Any entity authorized to operate under article forty-four of this
40 chapter or article forty-three of the insurance law, and participating
41 in the medical assistance program that intentionally submits inaccurate
42 encounter data to the state may be subject to a civil penalty in an
43 amount not exceeding one hundred thousand dollars.

44 5. The Medicaid inspector general shall have the discretion to reduce
45 or eliminate a civil penalty under this section and also shall, in
46 consultation with the commissioner, consider the following prior to
47 assessing a civil penalty against a provider or entity under this
48 section and note in its written determination any such circumstances
49 considered:

50 (a) the effect, if any, on the quality of medical care provided to or
51 arranged for recipients of medical assistance as a result of the acts of
52 the provider or entity;

53 (b) the amount of monetary loss to the program;

54 (c) any prior violations committed by the provider or entity relating
55 to the medical assistance program or Medicare which resulted in either
56 criminal or administrative sanction, penalty, or fine;



1 (d) the degree to which factors giving rise to the proscribed actions
2 were in the control or out of the control of the provider or entity;
3 and/or

4 (e) any other facts relating to the nature and seriousness of the
5 violations including any exculpatory or mitigating information.

6 6. The Medicaid inspector general shall, in consultation with the
7 commissioner, promulgate regulations enumerating those violations which
8 may result in a civil penalty pursuant to subdivisions one and two of
9 this section and the range and the amounts of any civil penalties which
10 may be assessed under this section, the hearing process by which a
11 penalty may be assessed, and the appeal rights afforded to individuals
12 or entities subject to a fine. The regulations promulgated under this
13 subdivision shall be no less protective of due process than section
14 twelve-a of the this article.

15 § 5. Paragraph (d) of subdivision 32 of section 364-j of the social
16 services law, as added by section 15 of part B of chapter 59 of the laws
17 of 2016, is amended to read as follows:

18 (d) (i) Penalties under this subdivision may be applied to any and all
19 circumstances described in paragraph (b) of this subdivision until the
20 managed care [organization] provider complies with the requirements for
21 submission of encounter data. (ii) No penalties for late, incomplete or
22 inaccurate encounter data shall be assessed against managed care [organ-
23 izations] providers in addition to those provided for in this subdivi-
24 sion, provided, however, that nothing in this paragraph shall prohibit
25 the imposition of penalties, in cases of fraud or abuse, otherwise
26 authorized by law.

27 § 6. This act shall take effect on the ninetieth day after it shall
28 have become a law; provided, however, that the amendments to section
29 364-j of the social services law made by sections one, two, three and
30 five of this act shall not affect the repeal of such section and shall
31 be deemed repealed therewith.

32

PART J

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

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

48 § 2. This act shall take effect immediately.

49

PART K

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

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

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

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

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

26 § 1-a. Subdivision 4-a of section 365-f of the social services law is
27 amended by adding a new paragraph (i) to read as follows:

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

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

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

48 (iv) All reports shall be certified by the owner, administrator, chief
49 executive officer, or public official responsible for the operation of
50 the provider. The cost report form shall include a certification form,
51 which shall specify who must certify the report.

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

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

27 § 3. This act shall take effect immediately.

28 PART L

29 Intentionally Omitted

30 PART M

31 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter
32 266 of the laws of 1986, amending the civil practice law and rules and
33 other laws relating to malpractice and professional medical conduct, as
34 amended by section 15 of part H of chapter 57 of the laws of 2017, is
35 amended to read as follows:

36 (a) The superintendent of financial services and the commissioner of
37 health or their designee shall, from funds available in the hospital
38 excess liability pool created pursuant to subdivision 5 of this section,
39 purchase a policy or policies for excess insurance coverage, as author-
40 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
41 law; or from an insurer, other than an insurer described in section 5502
42 of the insurance law, duly authorized to write such coverage and actual-
43 ly writing medical malpractice insurance in this state; or shall
44 purchase equivalent excess coverage in a form previously approved by the
45 superintendent of financial services for purposes of providing equiv-
46 alent excess coverage in accordance with section 19 of chapter 294 of
47 the laws of 1985, for medical or dental malpractice occurrences between
48 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
49 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
50 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
51 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
52 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,

1 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
2 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
3 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
4 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
5 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
6 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
7 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
8 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
9 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
10 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
11 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
12 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
13 between July 1, 2016 and June 30, 2017, [and] between July 1, 2017 and
14 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse
15 the hospital where the hospital purchases equivalent excess coverage as
16 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this
17 section for medical or dental malpractice occurrences between July 1,
18 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
19 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
20 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
21 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
22 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July
23 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
24 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
25 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
26 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
27 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
28 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
29 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
30 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
31 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
32 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
33 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015
34 and June 30, 2016, between July 1, 2016 and June 30, 2017, [and] between
35 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
36 2019 for physicians or dentists certified as eligible for each such
37 period or periods pursuant to subdivision 2 of this section by a general
38 hospital licensed pursuant to article 28 of the public health law;
39 provided that no single insurer shall write more than fifty percent of
40 the total excess premium for a given policy year; and provided, however,
41 that such eligible physicians or dentists must have in force an individ-
42 ual policy, from an insurer licensed in this state of primary malprac-
43 tice insurance coverage in amounts of no less than one million three
44 hundred thousand dollars for each claimant and three million nine
45 hundred thousand dollars for all claimants under that policy during the
46 period of such excess coverage for such occurrences or be endorsed as
47 additional insureds under a hospital professional liability policy which
48 is offered through a voluntary attending physician ("channeling")
49 program previously permitted by the superintendent of financial services
50 during the period of such excess coverage for such occurrences. During
51 such period, such policy for excess coverage or such equivalent excess
52 coverage shall, when combined with the physician's or dentist's primary
53 malpractice insurance coverage or coverage provided through a voluntary
54 attending physician ("channeling") program, total an aggregate level of
55 two million three hundred thousand dollars for each claimant and six
56 million nine hundred thousand dollars for all claimants from all such



1 policies with respect to occurrences in each of such years provided,
2 however, if the cost of primary malpractice insurance coverage in excess
3 of one million dollars, but below the excess medical malpractice insur-
4 ance coverage provided pursuant to this act, exceeds the rate of nine
5 percent per annum, then the required level of primary malpractice insur-
6 ance coverage in excess of one million dollars for each claimant shall
7 be in an amount of not less than the dollar amount of such coverage
8 available at nine percent per annum; the required level of such coverage
9 for all claimants under that policy shall be in an amount not less than
10 three times the dollar amount of coverage for each claimant; and excess
11 coverage, when combined with such primary malpractice insurance cover-
12 age, shall increase the aggregate level for each claimant by one million
13 dollars and three million dollars for all claimants; and provided
14 further, that, with respect to policies of primary medical malpractice
15 coverage that include occurrences between April 1, 2002 and June 30,
16 2002, such requirement that coverage be in amounts no less than one
17 million three hundred thousand dollars for each claimant and three
18 million nine hundred thousand dollars for all claimants for such occur-
19 rences shall be effective April 1, 2002.

20 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
21 amending the civil practice law and rules and other laws relating to
22 malpractice and professional medical conduct, as amended by section 16
23 of part H of chapter 57 of the laws of 2017, is amended to read as
24 follows:

25 (3)(a) The superintendent of financial services shall determine and
26 certify to each general hospital and to the commissioner of health the
27 cost of excess malpractice insurance for medical or dental malpractice
28 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
29 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
30 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
31 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
32 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
33 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
34 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
35 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
36 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
37 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
38 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
39 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
40 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
41 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
42 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
43 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
44 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
45 2016 and June 30, 2017, [and] between July 1, 2017 and June 30, 2018,
46 and between July 1, 2018 and June 30, 2019 allocable to each general
47 hospital for physicians or dentists certified as eligible for purchase
48 of a policy for excess insurance coverage by such general hospital in
49 accordance with subdivision 2 of this section, and may amend such deter-
50 mination and certification as necessary.

51 (b) The superintendent of financial services shall determine and
52 certify to each general hospital and to the commissioner of health the
53 cost of excess malpractice insurance or equivalent excess coverage for
54 medical or dental malpractice occurrences between July 1, 1987 and June
55 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
56 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July

1 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
2 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
3 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
4 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
5 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
6 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
7 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
8 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
9 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
10 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
11 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
12 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
13 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
14 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
15 30, 2016, [and] between July 1, 2016 and June 30, 2017, [and] between
16 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
17 2019 allocable to each general hospital for physicians or dentists
18 certified as eligible for purchase of a policy for excess insurance
19 coverage or equivalent excess coverage by such general hospital in
20 accordance with subdivision 2 of this section, and may amend such deter-
21 mination and certification as necessary. The superintendent of financial
22 services shall determine and certify to each general hospital and to the
23 commissioner of health the ratable share of such cost allocable to the
24 period July 1, 1987 to December 31, 1987, to the period January 1, 1988
25 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to
26 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989
27 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to
28 the period July 1, 1990 to December 31, 1990, to the period January 1,
29 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,
30 to the period January 1, 1992 to June 30, 1992, to the period July 1,
31 1992 to December 31, 1992, to the period January 1, 1993 to June 30,
32 1993, to the period July 1, 1993 to December 31, 1993, to the period
33 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
34 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
35 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
36 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
37 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
38 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
39 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
40 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
41 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
42 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
43 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
44 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
45 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
46 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
47 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
48 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
49 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
50 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
51 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
52 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
53 30, 2017, and to the period July 1, 2017 [and] to June 30, 2018, and to
54 the period July 1, 2018 to June 30, 2019.

55 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
56 18 of chapter 266 of the laws of 1986, amending the civil practice law

1 and rules and other laws relating to malpractice and professional
2 medical conduct, as amended by section 17 of part H of chapter 57 of the
3 laws of 2017, are amended to read as follows:

4 (a) To the extent funds available to the hospital excess liability
5 pool pursuant to subdivision 5 of this section as amended, and pursuant
6 to section 6 of part J of chapter 63 of the laws of 2001, as may from
7 time to time be amended, which amended this subdivision, are insuffi-
8 cient to meet the costs of excess insurance coverage or equivalent
9 excess coverage for coverage periods during the period July 1, 1992 to
10 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
11 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
12 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
13 during the period July 1, 1997 to June 30, 1998, during the period July
14 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
15 2000, during the period July 1, 2000 to June 30, 2001, during the period
16 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
17 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
18 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
19 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
20 during the period July 1, 2006 to June 30, 2007, during the period July
21 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
22 2009, during the period July 1, 2009 to June 30, 2010, during the period
23 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
24 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
25 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
26 June 30, 2015, during the period July 1, 2015 [and] to June 30, 2016,
27 during the period July 1, 2016 [and] to June 30, 2017, [and] during the
28 period July 1, 2017 [and] to June 30, 2018, and during the period July
29 1, 2018 to June 30, 2019 allocated or reallocated in accordance with
30 paragraph (a) of subdivision 4-a of this section to rates of payment
31 applicable to state governmental agencies, each physician or dentist for
32 whom a policy for excess insurance coverage or equivalent excess cover-
33 age is purchased for such period shall be responsible for payment to the
34 provider of excess insurance coverage or equivalent excess coverage of
35 an allocable share of such insufficiency, based on the ratio of the
36 total cost of such coverage for such physician to the sum of the total
37 cost of such coverage for all physicians applied to such insufficiency.

38 (b) Each provider of excess insurance coverage or equivalent excess
39 coverage covering the period July 1, 1992 to June 30, 1993, or covering
40 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
41 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
42 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
43 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
44 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
45 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
46 the period July 1, 2001 to October 29, 2001, or covering the period
47 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
48 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
49 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
50 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
51 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
52 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
53 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
54 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
55 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
56 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to

1 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
2 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
3 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
4 June 30, 2019 shall notify a covered physician or dentist by mail,
5 mailed to the address shown on the last application for excess insurance
6 coverage or equivalent excess coverage, of the amount due to such
7 provider from such physician or dentist for such coverage period deter-
8 mined in accordance with paragraph (a) of this subdivision. Such amount
9 shall be due from such physician or dentist to such provider of excess
10 insurance coverage or equivalent excess coverage in a time and manner
11 determined by the superintendent of financial services.

12 (c) If a physician or dentist liable for payment of a portion of the
13 costs of excess insurance coverage or equivalent excess coverage cover-
14 ing the period July 1, 1992 to June 30, 1993, or covering the period
15 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
16 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
17 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
18 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
19 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
20 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
21 od July 1, 2001 to October 29, 2001, or covering the period April 1,
22 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
23 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
24 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
25 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
26 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
27 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
28 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
29 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
30 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
31 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
32 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
33 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
34 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
35 2019 determined in accordance with paragraph (a) of this subdivision
36 fails, refuses or neglects to make payment to the provider of excess
37 insurance coverage or equivalent excess coverage in such time and manner
38 as determined by the superintendent of financial services pursuant to
39 paragraph (b) of this subdivision, excess insurance coverage or equiv-
40 alent excess coverage purchased for such physician or dentist in accord-
41 ance with this section for such coverage period shall be cancelled and
42 shall be null and void as of the first day on or after the commencement
43 of a policy period where the liability for payment pursuant to this
44 subdivision has not been met.

45 (d) Each provider of excess insurance coverage or equivalent excess
46 coverage shall notify the superintendent of financial services and the
47 commissioner of health or their designee of each physician and dentist
48 eligible for purchase of a policy for excess insurance coverage or
49 equivalent excess coverage covering the period July 1, 1992 to June 30,
50 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
51 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
52 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
53 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
54 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
55 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
56 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-

1 ing the period April 1, 2002 to June 30, 2002, or covering the period
2 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
3 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
4 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
5 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
6 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
7 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
8 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
9 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
10 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
11 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
12 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
13 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
14 od July 1, 2018 to June 30, 2019 that has made payment to such provider
15 of excess insurance coverage or equivalent excess coverage in accordance
16 with paragraph (b) of this subdivision and of each physician and dentist
17 who has failed, refused or neglected to make such payment.

18 (e) A provider of excess insurance coverage or equivalent excess
19 coverage shall refund to the hospital excess liability pool any amount
20 allocable to the period July 1, 1992 to June 30, 1993, and to the period
21 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
22 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
23 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
24 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
25 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
26 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
27 and to the period April 1, 2002 to June 30, 2002, and to the period July
28 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
29 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
30 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
31 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
32 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
33 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
34 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
35 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
36 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
37 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
38 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
39 2018 to June 30, 2019 received from the hospital excess liability pool
40 for purchase of excess insurance coverage or equivalent excess coverage
41 covering the period July 1, 1992 to June 30, 1993, and covering the
42 period July 1, 1993 to June 30, 1994, and covering the period July 1,
43 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
44 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
45 ing the period July 1, 1997 to June 30, 1998, and covering the period
46 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
47 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
48 and covering the period July 1, 2001 to October 29, 2001, and covering
49 the period April 1, 2002 to June 30, 2002, and covering the period July
50 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
51 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
52 covering the period July 1, 2005 to June 30, 2006, and covering the
53 period July 1, 2006 to June 30, 2007, and covering the period July 1,
54 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
55 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
56 ing the period July 1, 2010 to June 30, 2011, and covering the period

1 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
2 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
3 and covering the period July 1, 2014 to June 30, 2015, and covering the
4 period July 1, 2015 to June 30, 2016, and covering the period July 1,
5 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
6 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-
7 cian or dentist where such excess insurance coverage or equivalent
8 excess coverage is cancelled in accordance with paragraph (c) of this
9 subdivision.

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

14 § 40. The superintendent of financial services shall establish rates
15 for policies providing coverage for physicians and surgeons medical
16 malpractice for the periods commencing July 1, 1985 and ending June 30,
17 [2018] 2019; provided, however, that notwithstanding any other provision
18 of law, the superintendent shall not establish or approve any increase
19 in rates for the period commencing July 1, 2009 and ending June 30,
20 2010. The superintendent shall direct insurers to establish segregated
21 accounts for premiums, payments, reserves and investment income attrib-
22 utable to such premium periods and shall require periodic reports by the
23 insurers regarding claims and expenses attributable to such periods to
24 monitor whether such accounts will be sufficient to meet incurred claims
25 and expenses. On or after July 1, 1989, the superintendent shall impose
26 a surcharge on premiums to satisfy a projected deficiency that is
27 attributable to the premium levels established pursuant to this section
28 for such periods; provided, however, that such annual surcharge shall
29 not exceed eight percent of the established rate until July 1, [2018]
30 2019, at which time and thereafter such surcharge shall not exceed twen-
31 ty-five percent of the approved adequate rate, and that such annual
32 surcharges shall continue for such period of time as shall be sufficient
33 to satisfy such deficiency. The superintendent shall not impose such
34 surcharge during the period commencing July 1, 2009 and ending June 30,
35 2010. On and after July 1, 1989, the surcharge prescribed by this
36 section shall be retained by insurers to the extent that they insured
37 physicians and surgeons during the July 1, 1985 through June 30, [2018]
38 2019 policy periods; in the event and to the extent physicians and
39 surgeons were insured by another insurer during such periods, all or a
40 pro rata share of the surcharge, as the case may be, shall be remitted
41 to such other insurer in accordance with rules and regulations to be
42 promulgated by the superintendent. Surcharges collected from physicians
43 and surgeons who were not insured during such policy periods shall be
44 apportioned among all insurers in proportion to the premium written by
45 each insurer during such policy periods; if a physician or surgeon was
46 insured by an insurer subject to rates established by the superintendent
47 during such policy periods, and at any time thereafter a hospital,
48 health maintenance organization, employer or institution is responsible
49 for responding in damages for liability arising out of such physician's
50 or surgeon's practice of medicine, such responsible entity shall also
51 remit to such prior insurer the equivalent amount that would then be
52 collected as a surcharge if the physician or surgeon had continued to
53 remain insured by such prior insurer. In the event any insurer that
54 provided coverage during such policy periods is in liquidation, the
55 property/casualty insurance security fund shall receive the portion of
56 surcharges to which the insurer in liquidation would have been entitled.



1 The surcharges authorized herein shall be deemed to be income earned for
2 the purposes of section 2303 of the insurance law. The superintendent,
3 in establishing adequate rates and in determining any projected defi-
4 ciency pursuant to the requirements of this section and the insurance
5 law, shall give substantial weight, determined in his discretion and
6 judgment, to the prospective anticipated effect of any regulations
7 promulgated and laws enacted and the public benefit of stabilizing
8 malpractice rates and minimizing rate level fluctuation during the peri-
9 od of time necessary for the development of more reliable statistical
10 experience as to the efficacy of such laws and regulations affecting
11 medical, dental or podiatric malpractice enacted or promulgated in 1985,
12 1986, by this act and at any other time. Notwithstanding any provision
13 of the insurance law, rates already established and to be established by
14 the superintendent pursuant to this section are deemed adequate if such
15 rates would be adequate when taken together with the maximum authorized
16 annual surcharges to be imposed for a reasonable period of time whether
17 or not any such annual surcharge has been actually imposed as of the
18 establishment of such rates.

19 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
20 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
21 1986, amending the civil practice law and rules and other laws relating
22 to malpractice and professional medical conduct, relating to the effec-
23 tiveness of certain provisions of such chapter, as amended by section 19
24 of part H of chapter 57 of the laws of 2017, are amended to read as
25 follows:

26 § 5. The superintendent of financial services and the commissioner of
27 health shall determine, no later than June 15, 2002, June 15, 2003, June
28 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
29 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
30 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [and]
31 June 15, 2018, and June 15, 2019 the amount of funds available in the
32 hospital excess liability pool, created pursuant to section 18 of chap-
33 ter 266 of the laws of 1986, and whether such funds are sufficient for
34 purposes of purchasing excess insurance coverage for eligible partic-
35 ipating physicians and dentists during the period July 1, 2001 to June
36 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
37 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
38 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
39 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
40 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
41 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
42 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
43 2016, or July 1, 2016 to June 30, 2017, or [to] July 1, 2017 to June 30,
44 2018, or July 1, 2018 to June 30, 2019 as applicable.

45 (a) This section shall be effective only upon a determination, pursu-
46 ant to section five of this act, by the superintendent of financial
47 services and the commissioner of health, and a certification of such
48 determination to the state director of the budget, the chair of the
49 senate committee on finance and the chair of the assembly committee on
50 ways and means, that the amount of funds in the hospital excess liabil-
51 ity pool, created pursuant to section 18 of chapter 266 of the laws of
52 1986, is insufficient for purposes of purchasing excess insurance cover-
53 age for eligible participating physicians and dentists during the period
54 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
55 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
56 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007

1 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
2 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
3 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
4 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
5 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
6 2018, or July 1, 2018 to June 30, 2019 as applicable.

7 (e) The commissioner of health shall transfer for deposit to the
8 hospital excess liability pool created pursuant to section 18 of chapter
9 266 of the laws of 1986 such amounts as directed by the superintendent
10 of financial services for the purchase of excess liability insurance
11 coverage for eligible participating physicians and dentists for the
12 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
13 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
14 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
15 2007, as applicable, and the cost of administering the hospital excess
16 liability pool for such applicable policy year, pursuant to the program
17 established in chapter 266 of the laws of 1986, as amended, no later
18 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
19 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
20 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
21 2015, June 15, 2016, June 15, 2017, [and] June 15, 2018, and June 15,
22 2019 as applicable.

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

26 § 20. Notwithstanding any law, rule or regulation to the contrary,
27 only physicians or dentists who were eligible, and for whom the super-
28 intendent of financial services and the commissioner of health, or their
29 designee, purchased, with funds available in the hospital excess liabil-
30 ity pool, a full or partial policy for excess coverage or equivalent
31 excess coverage for the coverage period ending the thirtieth of June,
32 two thousand [seventeen] eighteen, shall be eligible to apply for such
33 coverage for the coverage period beginning the first of July, two thou-
34 sand [seventeen] eighteen; provided, however, if the total number of
35 physicians or dentists for whom such excess coverage or equivalent
36 excess coverage was purchased for the policy year ending the thirtieth
37 of June, two thousand [seventeen] eighteen exceeds the total number of
38 physicians or dentists certified as eligible for the coverage period
39 beginning the first of July, two thousand [seventeen] eighteen, then the
40 general hospitals may certify additional eligible physicians or dentists
41 in a number equal to such general hospital's proportional share of the
42 total number of physicians or dentists for whom excess coverage or
43 equivalent excess coverage was purchased with funds available in the
44 hospital excess liability pool as of the thirtieth of June, two thousand
45 [seventeen] eighteen, as applied to the difference between the number of
46 eligible physicians or dentists for whom a policy for excess coverage or
47 equivalent excess coverage was purchased for the coverage period ending
48 the thirtieth of June, two thousand [seventeen] eighteen and the number
49 of such eligible physicians or dentists who have applied for excess
50 coverage or equivalent excess coverage for the coverage period beginning
51 the first of July, two thousand [seventeen] eighteen.

52 § 7. This act shall take effect immediately.

53 PART N

54 Intentionally Omitted

1

PART O

2 Section 1. Intentionally omitted.

3 § 2. Intentionally omitted.

4 § 3. Intentionally omitted.

5 § 4. Intentionally omitted.

6 § 5. Intentionally omitted.

7 § 6. Intentionally omitted.

8 § 7. Intentionally omitted.

9 § 8. Intentionally omitted.

10 § 9. Intentionally omitted.

11 § 10. Intentionally omitted.

12 § 11. Intentionally omitted.

13 § 12. Intentionally omitted.

14 § 13. Intentionally omitted.

15 § 14. Intentionally omitted.

16 § 15. Intentionally omitted.

17 § 16. Intentionally omitted.

18 § 17. Providers of early intervention services shall receive a two
19 percent increase in rates of reimbursement for early intervention
20 services provided that for payments made for early intervention services
21 to persons eligible for medical assistance pursuant to title eleven of
22 article five of the social services law, the two percent increase shall
23 be subject to the availability of federal financial participation.

24 § 17-a. The public health law is amended by adding a new section
25 2807-o to read as follows:

26 § 2807-o. Early intervention services pool. 1. Definitions. The
27 following words or phrases as used in this section shall have the
28 following meanings:

29 (a) "Early intervention services" shall mean services delivered to an
30 eligible child, pursuant to an individualized family service plan under
31 the early intervention program.

32 (b) "Early intervention program" shall mean the early intervention
33 program for toddlers with disabilities and their families as created by
34 title two-A of article twenty-five of this chapter.

35 (c) "Municipality" shall mean any county outside of the city of New
36 York or the city of New York.

37 2. Payments for early intervention services. (a) The commissioner
38 shall, from funds allocated for such purpose under paragraph (g) of
39 subdivision six of section twenty-eight hundred seven-s of this article,
40 make payments to municipalities and the state for the delivery of early
41 intervention services.

42 (b) Payments under this subdivision shall be made to municipalities
43 and the state by the commissioner. Each municipality and the state of
44 New York shall receive a share of such payments equal to its propor-
45 tionate share of the total approved statewide dollars not reimbursable
46 by the medical assistance program paid to providers of early inter-
47 vention services by the state and municipalities on account of early
48 intervention services in the last complete state fiscal year for which
49 such data is available.

50 § 17-b. Subdivision 6 of section 2807-s of the public health law is
51 amended by adding two new paragraphs (g) and (h) to read as follows:

52 (g) A further gross statewide amount for the state fiscal year two
53 thousand nineteen and each state fiscal year thereafter shall be twen-
54 ty-five million dollars.



1 (h) The amount specified in paragraph (g) of this subdivision shall be
2 allocated under section twenty-eight hundred seven-o of this article
3 among the municipalities and the state of New York based on each munici-
4 pality's share and the state's share of early intervention program
5 expenditures not reimbursable by the medical assistance program for the
6 latest twelve month period for which such data is available.

7 § 17-c. Subdivision 7 of section 2807-s of the public health law is
8 amended by adding a new paragraph (d) to read as follows:

9 (d) funds shall be added to the funds collected by the commissioner
10 for distribution in accordance with section twenty-eight hundred seven-o
11 of this article, in the following amount: fifteen million dollars for
12 the period beginning April first, two thousand nineteen, and continuing
13 each state fiscal year thereafter.

14 § 17-d. Subdivision 1 of section 2557 of the public health law, as
15 amended by section 4 of part C of chapter 1 of the laws of 2002, is
16 amended to read as follows:

17 1. The approved costs for an eligible child who receives an evaluation
18 and early intervention services pursuant to this title shall be a charge
19 upon the municipality wherein the eligible child resides or, where the
20 services are covered by the medical assistance program, upon the social
21 services district of fiscal responsibility with respect to those eligi-
22 ble children who are also eligible for medical assistance. All approved
23 costs shall be paid in the first instance and at least quarterly by the
24 appropriate governing body or officer of the municipality upon vouchers
25 presented and audited in the same manner as the case of other claims
26 against the municipality. Notwithstanding the insurance law or regu-
27 lations thereunder relating to the permissible exclusion of payments for
28 services under governmental programs, no such exclusion shall apply with
29 respect to payments made pursuant to this title. Notwithstanding the
30 insurance law or any other law or agreement to the contrary, benefits
31 under this title shall be considered secondary to [any plan of insurance
32 or state government benefit] the medical assistance program under which
33 an eligible child may have coverage. [Nothing in this section shall
34 increase or enhance coverages provided for within an insurance contract
35 subject to the provisions of this title.]

36 § 17-e. Subdivision 2 of section 2557 of the public health law, as
37 amended by section 9-a of part A of chapter 56 of the laws of 2012, is
38 amended to read as follows:

39 2. The department shall reimburse the approved costs paid by a munici-
40 pality for the purposes of this title, other than those reimbursable by
41 the medical assistance program [or by third party payors], in an amount
42 of fifty percent of the amount expended in accordance with the rules and
43 regulations of the commissioner; provided, however, that in the
44 discretion of the department and with the approval of the director of
45 the division of the budget, the department may reimburse municipalities
46 in an amount greater than fifty percent of the amount expended. Such
47 state reimbursement to the municipality shall not be paid prior to April
48 first of the year in which the approved costs are paid by the munici-
49 pality, provided, however that, subject to the approval of the director
50 of the budget, the department may pay such state aid reimbursement to
51 the municipality prior to such date.

52 § 17-f. The section heading of section 2559 of the public health law,
53 as added by chapter 428 of the laws of 1992, is amended to read as
54 follows:

55 [Third party insurance and medical] Medical assistance program
56 payments.

1 § 17-g. Subdivision 3 of section 2559 of the public health law, as
2 added by chapter 428 of the laws of 1992, paragraphs (a), (c) and (d) as
3 amended by section 11 of part A of chapter 56 of the laws of 2012 and
4 paragraph (b) as further amended by section 104 of part A of chapter 62
5 of the laws of 2011, is amended to read as follows:

6 3. (a) [Providers of evaluations and early intervention services,
7 hereinafter collectively referred to in this subdivision as "provider"
8 or "providers", shall in the first instance and where applicable, seek
9 payment from all third party payors including governmental agencies
10 prior to claiming payment from a given municipality for evaluations
11 conducted under the program and for services rendered to eligible chil-
12 dren, provided that, the obligation to seek payment shall not apply to a
13 payment from a third party payor who is not prohibited from applying
14 such payment, and will apply such payment, to an annual or lifetime
15 limit specified in the insured's policy.

16 (i) Parents shall provide the municipality and service coordinator
17 information on any insurance policy, plan or contract under which an
18 eligible child has coverage.

19 (ii) Parents shall provide the municipality and the service coordina-
20 tor with a written referral from a primary care provider as documenta-
21 tion, for eligible children, of the medical necessity of early inter-
22 vention services.

23 [(iii) providers] (b) Providers shall utilize the department's fiscal
24 agent and data system for claiming payment for evaluations and services
25 rendered under the early intervention program.

26 [(b) The commissioner, in consultation with the director of budget and
27 the superintendent of financial services, shall promulgate regulations
28 providing public reimbursement for deductibles and copayments which are
29 imposed under an insurance policy or health benefit plan to the extent
30 that such deductibles and copayments are applicable to early inter-
31 vention services.

32 (c) Payments made for early intervention services under an insurance
33 policy or health benefit plan, including payments made by the medical
34 assistance program or other governmental third party payor, which are
35 provided as part of an IFSP pursuant to section twenty-five hundred
36 forty-five of this title shall not be applied by the insurer or plan
37 administrator against any maximum lifetime or annual limits specified in
38 the policy or health benefits plan, pursuant to section eleven of the
39 chapter of the laws of nineteen hundred ninety-two which added this
40 title.

41 (d) (c) A municipality, or its designee, and a provider shall be
42 subrogated, to the extent of the expenditures by such municipality or
43 for early intervention services furnished to persons eligible for bene-
44 fits under this title, to any rights such person may have or be entitled
45 to from [third party reimbursement] the medical assistance program. The
46 provider shall submit notice to the insurer or plan administrator of his
47 or her exercise of such right of subrogation upon the provider's assign-
48 ment as the early intervention service provider for the child. The right
49 of subrogation does not attach to benefits paid or provided [under any
50 health insurance policy or health benefits plan] prior to receipt of
51 written notice of the exercise of subrogation rights [by the insurer or
52 plan administrator providing such benefits]. Notwithstanding any incon-
53 sistent provision of this title, except as provided for herein, no third
54 party payor other than the medical assistance program shall be required
55 to reimburse for early intervention services provided under this title.

1 § 17-h. Subdivision 3 of section 2543 of the public health law is
2 REPEALED.

3 § 17-i. Section 3235-a of the insurance law is REPEALED.

4 § 17-j. Subparagraph (F) of paragraph 25 of subsection (i) of section
5 3216 of the insurance law is REPEALED.

6 § 17-k. Subparagraph (F) of paragraph 17 of subsection (1) of section
7 3221 of the insurance law is REPEALED.

8 § 17-l. Paragraph 6 of subsection (ee) of section 4303 of the insur-
9 ance law is REPEALED.

10 § 18. This act shall take effect immediately; provided, however, that
11 the amendments to section 2807-s of the public health law made by
12 sections seventeen-b and seventeen-c of this act shall not affect the
13 expiration of such section and shall be deemed to expire therewith.
14 Effective immediately, the addition, amendment and/or repeal of any rule
15 or regulation necessary for the implementation of this act on its effec-
16 tive date are authorized to be made and completed by the commissioner of
17 health, on or before such effective date.

18

PART P

19 Section 1. The opening paragraph of paragraph (b) of subdivision 5-a
20 of section 2807-m of the public health law, as amended by section 6 of
21 part H of chapter 57 of the laws of 2017, is amended to read as follows:

22 Nine million one hundred twenty thousand dollars annually for the
23 period January first, two thousand nine through December thirty-first,
24 two thousand ten, and two million two hundred eighty thousand dollars
25 for the period January first, two thousand eleven, through March thir-
26 ty-first, two thousand eleven, nine million one hundred twenty thousand
27 dollars each state fiscal year for the period April first, two thousand
28 eleven through March thirty-first, two thousand fourteen, up to eight
29 million six hundred twelve thousand dollars each state fiscal year for
30 the period April first, two thousand fourteen through March thirty-
31 first, two thousand seventeen, and up to eight million six hundred
32 twelve thousand dollars each state fiscal year for the period April
33 first, two thousand seventeen through March thirty-first, two thousand
34 [twenty] eighteen, shall be set aside and reserved by the commissioner
35 from the regional pools established pursuant to subdivision two of this
36 section to be allocated regionally with two-thirds of the available
37 funding going to New York city and one-third of the available funding
38 going to the rest of the state and shall be available for distribution
39 as follows:

40 § 2. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
41 2807-s of the public health law, as amended by section 4 of part H of
42 chapter 57 of the laws of 2017, is amended to read as follows:

43 (xiii) twenty-three million eight hundred thirty-six thousand dollars
44 each state fiscal year for the period April first, two thousand twelve
45 through March thirty-first, two thousand eighteen, and fifteen million
46 two hundred twenty-four thousand dollars for each state fiscal year for
47 the period April first, two thousand eighteen through March thirty-
48 first, two thousand twenty;

49 § 3. Intentionally omitted.

50 § 4. This act shall take effect immediately; provided, however, that
51 the amendments to subparagraph (xiii) of paragraph (a) of subdivision 7
52 of section 2807-s of the public health law made by section two of this
53 act shall not affect the expiration of such section and shall be deemed
54 to expire therewith.

1

PART Q

2 Section 1. The public health law is amended by adding a new section
3 2825-f to read as follows:

4 § 2825-f. Health care facility transformation program: statewide III.

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

29 2. The commissioner and the president of the dormitory authority shall
30 enter into an agreement, subject to approval by the director of the
31 budget, and subject to section sixteen hundred eighty-r of the public
32 authorities law, for the purposes of awarding, distributing, and admin-
33 istering the funds made available pursuant to this section. Such funds
34 may be distributed by the commissioner for grants to general hospitals,
35 residential health care facilities, diagnostic and treatment centers and
36 clinics licensed pursuant to this chapter or the mental hygiene law, and
37 community-based health care providers as defined in subdivision three of
38 this section for grants in support of the purposes set forth in this
39 section. A copy of such agreement, and any amendments thereto, shall be
40 provided to the chair of the senate finance committee, the chair of the
41 assembly ways and means committee, and the director of the division of
42 the budget no later than thirty days prior to the release of a request
43 for applications for funding under this program. Projects awarded, in
44 whole or part, under sections twenty-eight hundred twenty-five-a and
45 twenty-eight hundred twenty-five-b of this article shall not be eligible
46 for grants or awards made available under this section.

47 3. Notwithstanding section one hundred sixty-three of the state
48 finance law or any inconsistent provision of law to the contrary, up to
49 five hundred and twenty-five million dollars of the funds appropriated
50 for this program shall be awarded without a competitive bid or request
51 for proposal process for grants to health care providers (hereafter
52 "applicants"). Provided, however, that a minimum of: (a) seventy-five
53 million dollars of total awarded funds shall be made to community-based
54 health care providers, which for purposes of this section shall be
55 defined as a diagnostic and treatment center licensed or granted an



1 operating certificate under this article; a mental health clinic
2 licensed or granted an operating certificate under article thirty-one of
3 the mental hygiene law; a substance use disorder treatment clinic
4 licensed or granted an operating certificate under article thirty-two of
5 the mental hygiene law; a primary care provider; a home care provider
6 certified or licensed pursuant to article thirty-six of this chapter; a
7 facility granted an operating certificate under article sixteen of the
8 mental hygiene law; and (b) forty-five million dollars of the total
9 awarded funds shall be made to residential health care facilities.

10 4. Notwithstanding any inconsistent subdivision of this section or any
11 other provision of law to the contrary, the commissioner, with the
12 approval of the director of the budget, may expend up to twenty million
13 dollars of the funds appropriated for this program for awards made
14 pursuant to paragraphs (l) and (m) of subdivision three of section four
15 hundred sixty-one-1 of the social services law.

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

18 (a) the extent to which the proposed project will contribute to the
19 integration of health care services or the long term sustainability of
20 the applicant or preservation of essential health services in the commu-
21 nity or communities served by the applicant;

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

25 (c) the geographic distribution of funds;

26 (d) the relationship between the proposed project and identified
27 community need;

28 (e) the extent to which the applicant has access to alternative
29 financing;

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

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

34 (h) the extent to which the applicant has engaged the community
35 affected by the proposed project and the manner in which community
36 engagement has shaped such project; and

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

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

46 7. The department shall provide a report on a quarterly basis to the
47 chairs of the senate finance, assembly ways and means, and senate and
48 assembly health committees, until such time as the department determines
49 that the projects that receive funding pursuant to this section are
50 substantially complete. Such reports shall be submitted no later than
51 sixty days after the close of the quarter, and shall include, for each
52 award, the name of the applicant, a description of the project or
53 purpose, the amount of the award, disbursement date, and status of
54 achievement of process and performance metrics and milestones pursuant
55 to subdivision six of this section.

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

3 PART R

4 Intentionally Omitted

5 PART S

6 Section 1. This Part enacts into law major components of legislation
7 which are necessary to effectuate recommendations made as part of the
8 Regulatory Modernization Initiative undertaken by the Department of
9 Health. Each component is wholly contained within a Subpart identified
10 as Subparts A through C. The effective date for each particular
11 provision contained within such Subpart is set forth in the last section
12 of such Subpart. Any provision in any section contained within a
13 Subpart, including the effective date of the Subpart, which makes a
14 reference to a section "of this act," when used in connection with that
15 particular component, shall be deemed to mean and refer to the corre-
16 sponding section of the Subpart in which it is found. Section three of
17 this Part sets forth the general effective date of this Part.

18 SUBPART A

19 Section 1. Intentionally omitted.

20 SUBPART B

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

24 1. "Hospital" means a facility or institution engaged principally in
25 providing services by or under the supervision of a physician or, in the
26 case of a dental clinic or dental dispensary, of a dentist, or, in the
27 case of a midwifery birth center, of a midwife, for the prevention,
28 diagnosis or treatment of human disease, pain, injury, deformity or
29 physical condition, including, but not limited to, a general hospital,
30 public health center, diagnostic center, treatment center, dental clinic,
31 dental dispensary, rehabilitation center other than a facility used
32 solely for vocational rehabilitation, nursing home, tuberculosis hospital,
33 chronic disease hospital, maternity hospital, midwifery birth
34 center, lying-in-asylum, out-patient department, out-patient lodge,
35 dispensary and a laboratory or central service facility serving one or
36 more such institutions, but the term hospital shall not include an
37 institution, sanitarium or other facility engaged principally in provid-
38 ing services for the prevention, diagnosis or treatment of mental disa-
39 bility and which is subject to the powers of visitation, examination,
40 inspection and investigation of the department of mental hygiene except
41 for those distinct parts of such a facility which provide hospital
42 service. The provisions of this article shall not apply to a facility or
43 institution engaged principally in providing services by or under the
44 supervision of the bona fide members and adherents of a recognized reli-
45 gious organization whose teachings include reliance on spiritual means
46 through prayer alone for healing in the practice of the religion of such
47 organization and where services are provided in accordance with those
48 teachings. No provision of this article or any other provision of law

1 shall be construed to: (a) limit the volume of mental health or
2 substance use disorder services that can be provided by a provider of
3 primary care services licensed under this article and authorized to
4 provide integrated services in accordance with regulations issued by the
5 commissioner in consultation with the commissioner of the office of
6 mental health and the commissioner of the office of alcoholism and
7 substance abuse services, including regulations issued pursuant to
8 subdivision seven of section three hundred sixty-five-1 of the social
9 services law or part L of chapter fifty-six of the laws of two thousand
10 twelve; (b) require a provider licensed pursuant to article thirty-one
11 of the mental hygiene law or certified pursuant to article thirty-two of
12 the mental hygiene law to obtain an operating certificate from the
13 department if such provider has been authorized to provide integrated
14 services in accordance with regulations issued by the commissioner in
15 consultation with the commissioner of the office of mental health and
16 the commissioner of the office of alcoholism and substance abuse
17 services, including regulations issued pursuant to subdivision seven of
18 section three hundred sixty-five-1 of the social services law or part L
19 of chapter fifty-six of the laws of two thousand twelve.

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

22 (f) No provision of this article or any other provision of law shall
23 be construed to require a provider licensed pursuant to article twenty-
24 eight of the public health law or certified pursuant to article thirty-
25 two of this chapter to obtain an operating certificate from the office
26 of mental health if such provider has been authorized to provide inte-
27 grated services in accordance with regulations issued by the commission-
28 er of the office of mental health in consultation with the commissioner
29 of the department of health and the commissioner of the office of alco-
30 holism and substance abuse services, including regulations issued pursu-
31 ant to subdivision seven of section three hundred sixty-five-1 of the
32 social services law or part L of chapter fifty-six of the laws of two
33 thousand twelve.

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

37 (b) (i) Methadone, or such other controlled substance designated by
38 the commissioner of health as appropriate for such use, may be adminis-
39 tered to an addict, as defined in section thirty-three hundred two of
40 the public health law, by individual physicians, groups of physicians
41 and public or private medical facilities certified pursuant to article
42 twenty-eight or thirty-three of the public health law as part of a chem-
43 ical dependence program which has been issued an operating certificate
44 by the commissioner pursuant to subdivision (b) of section 32.09 of this
45 article, provided, however, that such administration must be done in
46 accordance with all applicable federal and state laws and regulations.
47 Individual physicians or groups of physicians who have obtained authori-
48 zation from the federal government to administer buprenorphine to
49 addicts may do so without obtaining an operating certificate from the
50 commissioner. (ii) No provision of this article or any other provision
51 of law shall be construed to require a provider licensed pursuant to
52 article twenty-eight of the public health law or article thirty-one of
53 this chapter to obtain an operating certificate from the office of alco-
54 holism and substance abuse services if such provider has been authorized
55 to provide integrated services in accordance with regulations issued by
56 the commissioner of alcoholism and substance abuse services in consulta-

1 tion with the commissioner of the department of health and the commis-
2 sioner of the office of mental health, including regulations issued
3 pursuant to subdivision seven of section three hundred sixty-five-1 of
4 the social services law or part L of chapter fifty-six of the laws of
5 two thousand twelve.

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

12

SUBPART C

13 Section 1. Article 29-G of the public health law is REPEALED.

14 § 2. The section heading and subdivision 2 of section 367-u of the
15 social services law, the section heading as added by section 63-c of
16 part C of chapter 58 of the laws of 2007, subdivision 2 as amended by
17 chapter 6 of the laws of 2015, are amended to read as follows:

18 Payment for [home] telehealth services.

19 2. (a) Subject to federal financial participation and the approval of
20 the director of the budget, [the commissioner shall not exclude from the
21 payment of medical assistance funds the delivery of health care services
22 through telehealth, as defined in subdivision four of section two thou-
23 sand nine hundred ninety-nine-cc of the public health law] medical
24 assistance shall not exclude from coverage a service that is otherwise
25 covered under medical assistance because the service is delivered via
26 telehealth. Such services shall meet the requirements of federal law,
27 rules and regulations for the provision of medical assistance pursuant
28 to this title.

29 (b) For purposes of this subdivision, "telehealth" means the use of
30 electronic information and communication technologies by a health care
31 provider to deliver health care services to an individual while such
32 individual is located at a site that is different from the site where
33 the health care provider is located.

34 § 3. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law.

36 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
37 sion, section or subpart of this act shall be adjudged by any court of
38 competent jurisdiction to be invalid, such judgment shall not affect,
39 impair, or invalidate the remainder thereof, but shall be confined in
40 its operation to the clause, sentence, paragraph, subdivision, section
41 or subpart thereof directly involved in the controversy in which such
42 judgment shall have been rendered. It is hereby declared to be the
43 intent of the legislature that this act would have been enacted even if
44 such invalid provisions had not been included herein.

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

48

PART T

49 Section 1. Subdivision (a) of section 31 of part B of chapter 59 of
50 the laws of 2016, amending the social services law and other laws relat-
51 ing to authorizing the commissioner of health to apply federally estab-
52 lished consumer price index penalties for generic drugs, and authorizing

1 the commissioner of health to impose penalties on managed care plans for
2 reporting late or incorrect encounter data, is amended to read as
3 follows:

4 (a) section eleven of this act shall expire and be deemed repealed
5 March 31, [2018] 2023;

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

10 6-a. section fifty-seven of this act shall expire and be deemed
11 repealed on [December 31, 2018] March 31, 2023; provided that the amend-
12 ments made by such section to subdivision 4 of section 366-c of the
13 social services law shall apply with respect to determining initial and
14 continuing eligibility for medical assistance, including the continued
15 eligibility of recipients originally determined eligible prior to the
16 effective date of this act, and provided further that such amendments
17 shall not apply to any person or group of persons if it is subsequently
18 determined by the Centers for Medicare and Medicaid services or by a
19 court of competent jurisdiction that medical assistance with federal
20 financial participation is available for the costs of services provided
21 to such person or persons under the provisions of subdivision 4 of
22 section 366-c of the social services law in effect immediately prior to
23 the effective date of this act.

24 § 3. Section 2 of part II of chapter 54 of the laws of 2016, amending
25 part C of chapter 58 of the laws of 2005 authorizing reimbursements for
26 expenditures made by or on behalf of social services districts for
27 medical assistance for needy persons and administration thereof relating
28 to authorizing the commissioner of health to establish a statewide Medi-
29 caid integrity and efficiency initiative, is amended to read as follows:

30 § 2. This act shall take effect immediately and shall expire and be
31 deemed repealed [two years after it shall have become a law] March 31,
32 2023.

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

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

42 § 5. Intentionally omitted.

43 § 5-a. Paragraph (e) of subdivision 7 of section 367-a of the social
44 services law, as added by section 1 of part B of chapter 57 of the laws
45 of 2015, the opening paragraph as amended by section 12 and subparagraph
46 (iv) as amended by section 13 of part B of chapter 59 of the laws of
47 2016, is amended to read as follows:

48 (e) During the period from April first, two thousand fifteen through
49 March thirty-first, two thousand [seventeen] twenty, the commissioner
50 may, in lieu of a managed care provider, negotiate directly and enter
51 into an agreement with a pharmaceutical manufacturer for the provision
52 of supplemental rebates relating to pharmaceutical utilization by enrol-
53 lees of managed care providers pursuant to section three hundred sixty-
54 four-j of this title and may also negotiate directly and enter into such
55 an agreement relating to pharmaceutical utilization by medical assist-
56 ance recipients not so enrolled. Such rebates shall be limited to drug

1 utilization in the following classes: antiretrovirals approved by the
2 FDA for the treatment of HIV/AIDS and hepatitis C agents for which the
3 pharmaceutical manufacturer has in effect a rebate agreement with the
4 federal secretary of health and human services pursuant to 42 U.S.C. §
5 1396r-8, and for which the state has established standard clinical
6 criteria. No agreement entered into pursuant to this paragraph shall
7 have an initial term or be extended beyond March thirty-first, two thou-
8 sand twenty.

9 (i) The manufacturer shall not pay supplemental rebates to a managed
10 care provider, or any of a managed care provider's agents, including but
11 not limited to any pharmacy benefit manager on the two classes of drugs
12 subject to this paragraph when the state is collecting supplemental
13 rebates and standard clinical criteria are imposed on the managed care
14 provider.

15 (ii) The commissioner shall establish adequate rates of reimbursement
16 which shall take into account both the impact of the commissioner nego-
17 tiating such rebates and any limitations imposed on the managed care
18 provider's ability to establish clinical criteria relating to the utili-
19 zation of such drugs. In developing the managed care provider's
20 reimbursement rate, the commissioner shall identify the amount of
21 reimbursement for such drugs as a separate and distinct component from
22 the reimbursement otherwise made for prescription drugs as prescribed by
23 this section.

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

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

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

41 (vi) All prior authorization and utilization review determinations
42 related to the coverage of any drug subject to this paragraph shall be
43 subject to article forty-nine of the public health law, section three
44 hundred sixty-four-j of this title, and article forty-nine of the insur-
45 ance law, as applicable. Nothing in this paragraph shall diminish any
46 rights relating to access, prior authorization, or appeal relating to
47 any drug class or drug afforded to a recipient under any other provision
48 of law.

49 § 6. This act shall take effect immediately; provided, however, that
50 the amendments to paragraph (e) of subdivision 7 of section 367-a of the
51 social services law made by section five-a of this act shall not affect
52 the repeal of such paragraph and shall be deemed repealed 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. Subdivision 10 of section 7605 of the education law, as
36 added by section 4 of part AA of chapter 57 of the laws of 2013, is
37 amended and a new subdivision 12 is added to read as follows:

38 10. (a) A person without a license from: performing assessments [such
39 as], including but not limited to, basic information collection, gather-
40 ing of demographic data, and informal observations, screening and refer-
41 ral used for [general] eligibility for a program or service and deter-
42 mining the functional status of an individual for the purpose of
43 determining need for services [unrelated to a behavioral health diagno-
44 sis or treatment plan. Such licensure shall not be required to create,
45 develop or implement a service plan unrelated to a behavioral health
46 diagnosis or treatment plan]; advising individuals regarding benefits
47 they may be eligible for; providing general advice and guidance and
48 assisting individuals or groups with difficult day to day problems such

1 as finding employment, locating sources of assistance, and organizing
2 community groups to work on a specific problem; providing peer services;
3 or to provide substance use disorder treatment services or re-entry
4 services to incarcerated individuals in state and local correctional
5 facilities.

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

29 (c) (i) A person without a license from participating as a member of a
30 multi-disciplinary team to [implement] assist in the development of or
31 implementation of a behavioral health services or treatment plan;
32 provided [however,] that such team shall include one or more profes-
33 sionals licensed under this article or articles one hundred thirty-one,
34 one hundred thirty-nine, one hundred fifty-four or one hundred sixty-
35 three of this chapter who must approve and oversee implementation of
36 such treatment plan and who must directly observe each patient either in
37 person or by electronic means, prior to the rendering of a diagnosis;
38 and provided, further, that the activities performed by members of the
39 team shall be consistent with the scope of practice for each team member
40 licensed or authorized under title VIII of this chapter, and those who
41 are not so authorized may not engage in the following restricted prac-
42 tices: the diagnosis of mental, emotional, behavioral, addictive and
43 developmental disorders and disabilities; patient assessment and evalu-
44 ating; the provision of psychotherapeutic treatment; the provision of
45 treatment other than psychotherapeutic treatment; [and/or] or the devel-
46 opment and implementation of assessment-based treatment plans as defined
47 in section seventy-seven hundred one of this [chapter] title.

48 (ii) For the purposes of this subdivision "assist" shall include the
49 provision of services in accordance with subparagraph (i) of this para-
50 graph that do not require clinical assessment, evaluation, interpreta-
51 tion or other professional judgment of a licensed professional. Such
52 services may include, but not be limited to:

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

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

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

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

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

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

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

20 (8) Monitoring treatment in accordance with the treatment plan and
21 providing verbal or written reports to the multi-disciplinary team;

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

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

29 (11) Reporting on behavior, actions, and responses to treatment as
30 part of a multi-disciplinary team;

31 (12) Using de-escalation techniques as authorized; and

32 (13) Advocating with educational, judicial or other systems to ensure
33 protection of the individual's rights and access to appropriate
34 services.

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

39 12. Any person who is employed prior to July first, two thousand twen-
40 ty in a program or service operated, regulated, funded, or approved by
41 the department of mental hygiene or the office of children and family
42 services, or a local government unit as that term is defined in section
43 41.03 of the mental hygiene law or a social services district as defined
44 in section sixty-one of the social services law from performing services
45 within the practice of psychology, as defined in this article, provided
46 that such person maintains such employment with such entity within the
47 context of such employment. Any person who commences employment in such
48 program or service after July first, two thousand twenty shall be appro-
49 priately licensed under this article.

50 § 2. Subdivision 1 of section 7701 of the education law, as amended by
51 chapter 230 of the laws of 2004, is amended to read as follows:

52 1. Practice of licensed master social work.

53 (a) The practice of licensed master social work shall mean the profes-
54 sional application of social work theory, principles, and the methods to
55 prevent, assess, evaluate, formulate and implement a plan of action
56 based on client needs and strengths, and intervene to address mental,

1 social, emotional, behavioral, developmental, and addictive disorders,
2 conditions and disabilities, and of the psychosocial aspects of illness
3 and injury experienced by individuals, couples, families, groups, commu-
4 nities, organizations, and society.

5 (b) Licensed master social workers engage in the administration of
6 tests and measures of psychosocial functioning, social work advocacy,
7 case management, counseling, consultation, research, administration and
8 management, and teaching.

9 (c) Licensed master social workers provide [all forms of] administra-
10 tive supervision [other than] but not supervision of the practice of
11 licensed clinical social work as defined in subdivision two of this
12 section.

13 (d) Licensed master social workers practice licensed clinical social
14 work in facility settings or other supervised settings approved by the
15 department under supervision in accordance with the commissioner's regu-
16 lations.

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

20 (f) [Assist] General advice and guidance, and assisting individuals or
21 groups with difficult day to day problems such as finding employment,
22 locating sources of assistance, and organizing community groups to work
23 on a specific problem.

24 (m) Provide peer services.

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

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

32 7. (a) Prevent a person without a license from: performing assessments
33 [such as], including but not limited to, basic information collection,
34 gathering of demographic data, and informal observations, screening and
35 referral used for [general] eligibility for a program or service and
36 determining the functional status of an individual for the purpose of
37 determining need for services [unrelated to a behavioral health diagno-
38 sis or treatment plan. Such licensure shall not be required to create,
39 develop or implement a service plan unrelated to a behavioral health
40 diagnosis or treatment plan]; advising individuals regarding benefits
41 they may be eligible for; providing general advice and guidance and
42 assisting individuals or groups with difficult day to day problems such
43 as finding employment, locating sources of assistance, and organizing
44 community groups to work on a specific problem; providing peer services;
45 or to provide substance use disorder treatment services or re-entry
46 services to incarcerated individuals in state and local correctional
47 facilities.

48 (b) Prevent a person without a license from creating, developing or
49 implementing a service plan or recovery plan that is not a behavioral
50 health diagnosis or treatment plan. Such service or recovery plans shall
51 include, but are not limited to, coordinating, evaluating or determining
52 the need for, or the provision of the following services: job training
53 and employability[,]; housing[,]; homeless services and shelters for
54 homeless individuals and families; refugee services; residential, day or
55 community habilitation services; general public assistance[,]; in home
56 services and supports or home-delivered meals[, investigations conducted



1 or assessments made by]; recovery supports; adult or child protective
2 services including investigations; detention as defined in section five
3 hundred two of the executive law; prevention and residential services
4 for victims of domestic violence; services for runaway and homeless
5 youth; foster care, adoption, preventive services or services in accord-
6 ance with an approved plan pursuant to section four hundred four of the
7 social services law, including, adoption and foster home studies and
8 assessments, family service plans, transition plans [and], permanency
9 planning activities, and case planning or case management as such terms
10 are defined by regulations by the office of children and family
11 services; residential rehabilitation; home and community based services;
12 and de-escalation techniques, peer services or skill development. [A
13 license under this article shall not be required for persons to partic-
14 ipate]

15 (c) (i) Prevent a person without a license from participating as a
16 member of a multi-disciplinary team to [implement] assist in the devel-
17 opment of or implementation of a behavioral health services or treatment
18 plan; provided [however,] that such team shall include one or more
19 professionals licensed under this article or articles one hundred thir-
20 ty-one, one hundred thirty-nine, one hundred fifty-three or one hundred
21 sixty-three of this chapter who must approve and oversee implementation
22 of such treatment plan and who must directly observe each patient either
23 in person or by electronic means, prior to the rendering of a diagnosis;
24 and provided, further, that the activities performed by members of the
25 team shall be consistent with the scope of practice for each team member
26 licensed or authorized under title VIII of this chapter, and those who
27 are not so authorized may not engage in the following restricted prac-
28 tices: the diagnosis of mental, emotional, behavioral, addictive and
29 developmental disorders and disabilities; patient assessment and evalu-
30 ating; the provision of psychotherapeutic treatment; the provision of
31 treatment other than psychotherapeutic treatment; [and/or] or the devel-
32 opment and implementation of assessment-based treatment plans as defined
33 in section seventy-seven hundred one of this article.

34 (ii) For the purposes of this subdivision "assist" shall include the
35 provision of services in accordance with subparagraph (i) of this para-
36 graph that do not require clinical assessment, evaluation, interpreta-
37 tion or other professional judgment of a licensed professional. Such
38 services may include, but not be limited to:

39 (1) Helping an individual with the completion of forms or question-
40 naires;

41 (2) Reviewing existing case records and collecting general background
42 information about an individual which may be used by the licensed
43 professional or multi-disciplinary team;

44 (3) Gathering and reporting information about previous behavioral
45 health interventions, hospitalizations, diagnosis or prior treatment for
46 review by the licensed professional and multi-disciplinary team;

47 (4) Discussing with the individual his or her situation, needs,
48 concerns, and thoughts in order to help identify services that support
49 the individual's goals, independence, and quality of life;

50 (5) Providing advice, information, and assistance to individuals and
51 family members to identify needs and available resources in the communi-
52 ty to help meet the needs of the individual or family member;

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



1 (7) Distributing paper copies of self-administered tests for the indi-
2 vidual to complete when such tests do not require the observation and
3 judgment of a licensed professional;

4 (8) Monitoring treatment in accordance with the treatment plan and
5 providing verbal or written reports to the multi-disciplinary team;

6 (9) Identifying gaps in services and coordinating access to or arrang-
7 ing services for individuals such as home care, community based
8 services, housing, employment, transportation, child care, vocational
9 training, or health care;

10 (10) Offering education programs that provide information about
11 disease identification and recommended treatments that may be provided,
12 and how to access such treatment;

13 (11) Reporting on behavior, actions, and responses to treatment as
14 part of a multi-disciplinary team;

15 (12) Using de-escalation techniques as authorized; and

16 (13) Advocating with educational, judicial or other systems to ensure
17 protection of the individual's rights and access to appropriate
18 services.

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

23 8. Any person who is employed prior to July first, two thousand twenty
24 in a program or service operated, regulated, funded, or approved by the
25 department of mental hygiene, the office of children and family
26 services, the department of corrections and community supervision, the
27 office of temporary and disability assistance, the state office for the
28 aging and the department of health or a local government unit as that
29 term is defined in section 41.03 of the mental hygiene law or a social
30 services district as defined in section sixty-one of the social services
31 law from performing services within the practice of licensed master
32 social work and licensed clinical social work, as defined in this arti-
33 cle, provided that such person maintains such employment with such enti-
34 ty within the context of such employment. Any person who commences
35 employment in such program or service after July first, two thousand
36 twenty shall be appropriately licensed under this article.

37 § 5. Subdivision 8 of section 8410 of the education law, as added by
38 section 6 of part AA of chapter 57 of the laws of 2013, is amended and a
39 new subdivision 9 is added to read as follows:

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

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

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

43 (ii) For the purposes of this subdivision "assist" shall include the
44 provision of services in accordance with subparagraph (i) of this para-
45 graph that do not require clinical assessment, evaluation, interpreta-
46 tion or other professional judgment of a licensed professional. Such
47 services may include, but not be limited to:

48 (1) Helping an individual with the completion of forms or question-
49 naires;

50 (2) Reviewing existing case records and collecting general background
51 information about an individual which may be used by the licensed
52 professional or multi-disciplinary team;

53 (3) Gathering and reporting information about previous behavioral
54 health interventions, hospitalizations, diagnosis or prior treatment for
55 review by the licensed professional and multi-disciplinary team;

1 (4) Discussing with the individual his or her situation, needs,
2 concerns, and thoughts in order to help identify services that support
3 the individual's goals, independence, and quality of life;

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

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

11 (7) Distributing paper copies of self-administered tests for the indi-
12 vidual to complete when such tests do not require the observation and
13 judgment of a licensed professional;

14 (8) Monitoring treatment in accordance with the treatment plan and
15 providing verbal or written reports to the multi-disciplinary team;

16 (9) Identifying gaps in services and coordinating access to or arrang-
17 ing services for individuals such as home care, community based
18 services, housing, employment, transportation, child care, vocational
19 training, or health care;

20 (10) Offering education programs that provide information about
21 disease identification and recommended treatments that may be provided;
22 and how to access such treatment;

23 (11) Reporting on behavior, actions, and responses to treatment as
24 part of a multi-disciplinary team;

25 (12) Using de-escalation techniques as authorized; and

26 (13) Advocating with educational, judicial or other systems to ensure
27 protection of the individual's rights and access to appropriate
28 services.

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

33 8. Any person who is employed prior to July first, two thousand twenty
34 in a program or service operated, regulated, funded, or approved by the
35 department of mental hygiene, the office of children and family
36 services, the department of corrections and community supervision, the
37 office of temporary and disability assistance, the state office for the
38 aging and the department of health or a local government unit as that
39 term is defined in section 41.03 of the mental hygiene law or a social
40 services district as defined in section sixty-one of the social services
41 law from performing services within the practice of licensed master
42 social work and licensed clinical social work, as defined in this arti-
43 cle, provided that such person maintains such employment with such enti-
44 ty within the context of such employment. Any person who commences
45 employment in such program or service after July first, two thousand
46 twenty shall be appropriately licensed under this article.

47 § 5. Subdivision 8 of section 8410 of the education law, as added by
48 section 6 of part AA of chapter 57 of the laws of 2013, is amended and a
49 new subdivision 9 is added to read as follows:

50 8. (a) Prevent a person without a license from: performing assessments
51 such as basic information collection, gathering of demographic data, and
52 informal observations, screening and referral used for general eligibil-
53 ity for a program or service and determining the functional status of an
54 individual for the purpose of determining need for services [unrelated
55 to a behavioral health diagnosis or treatment plan. Such licensure
56 shall not be required to create, develop or implement a service plan

1 unrelated to a behavioral health diagnosis or treatment plan]; advising
2 individuals regarding the appropriateness of benefits they are eligible
3 for; providing general advice and guidance and assisting individuals or
4 groups with difficult day to day problems such as finding employment,
5 locating sources of assistance, and organizing community groups to work
6 on a specific problem; providing peer services; or to select for suit-
7 ability and provide substance abuse treatment services or group re-entry
8 services to incarcerated individuals in state correctional facilities.

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

32 (c)(i) Prevent a person without a license from participating as a
33 member of a multi-disciplinary team to [implement] assist in the devel-
34 opment of or implementation of a behavioral health services or treatment
35 plan; provided [however,] that such team shall include one or more
36 professionals licensed under this article or articles one hundred thir-
37 ty-one, one hundred thirty-nine, one hundred fifty-three or one hundred
38 fifty-four of this chapter who must approve and oversee implementation
39 of such treatment plan and who must directly observe each patient either
40 in person or by electronic means, prior to the rendering of a diagnosis;
41 and provided, further, that the activities performed by members of the
42 team shall be consistent with the scope of practice for each team member
43 licensed or authorized under title VIII of this chapter, and those who
44 are not so authorized may not engage in the following restricted prac-
45 tices: the diagnosis of mental, emotional, behavioral, addictive and
46 developmental disorders and disabilities; patient assessment and evalu-
47 ating; the provision of psychotherapeutic treatment; the provision of
48 treatment other than psychotherapeutic treatment; [and/or] or the devel-
49 opment and implementation of assessment-based treatment plans as defined
50 in section seventy-seven hundred one of this chapter.

51 (ii) For the purposes of this subdivision "assist" shall include the
52 provision of services that do not require assessment, evaluation, inter-
53 pretation or other professional judgment. Such services may include:

54 (1) Helping a patient with the completion of forms or questionnaires;

1 (2) Reviewing existing case records and collecting general background
2 information about a patient which may be used by the licensed profes-
3 sional or multi-disciplinary team to provide appropriate services;

4 (3) Gathering information about previous mental health interventions,
5 hospitalizations, emergency interventions and other forms of treatment
6 for review by the licensed professional;

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

10 (5) Providing advice, information, and assistance to patients and
11 family members to identify needs and available resources in the communi-
12 ty to help meet the needs of the patient or family member;

13 (6) Engaging in immediate and long term problem solving, engaging in
14 the development of social skills, or giving practical help in areas such
15 as, but not limited to, housing, employment, child care, parenting,
16 community based services, and finances;

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

20 (8) Monitoring treatment in accordance with the treatment plan and
21 providing verbal or written reports to the multi-disciplinary team;

22 (9) Identifying gaps in necessary services and coordinating access to
23 or arranging services for patients such as home care, community based
24 services, housing, employment, transportation, child care, vocational
25 training, or health care;

26 (10) Offering education programs that provide information about
27 disease identification and recommended treatments that may be provided
28 by licensed professionals;

29 (11) Reporting observations about behavior, action, and responses to
30 treatment as part of a multi-disciplinary team;

31 (12) Using de-escalation techniques to respond appropriately to
32 dangerous or threatening behaviors and intervening as authorized to
33 ensure the immediate safety of the patient and others; and

34 (13) Advocating with educational, judicial or other systems to ensure
35 protection of the individual's rights and access to appropriate
36 services.

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

41 9. Any person who is employed prior to July first, two thousand twenty
42 in a program or service operated, regulated, funded, or approved by the
43 department of mental hygiene, the office of children and family
44 services, the department of corrections and community supervision, the
45 office of temporary and disability assistance, the state office for the
46 aging and the department of health or a local government unit as that
47 term is defined in section 41.03 of the mental hygiene law or a social
48 services district as defined in section sixty-one of the social services
49 law from performing services within the practice of mental health coun-
50 seling, marriage and family therapy, creative arts therapy, and psycho-
51 analysis, as defined in this article, provided that such person main-
52 tains such employment with such entity within the context of such
53 employment. Any person who commences employment in such program or
54 service after July first, two thousand twenty shall be appropriately
55 licensed under this article.



1 § 6. The state education department shall periodically develop formal
2 guidance to identify the tasks and functions restricted to licensed
3 personnel under articles 153, 154 and 163 of the education law.

4 § 7. Subdivision a of section 9 of chapter 420 of the laws of 2002
5 amending the education law relating to the profession of social work, as
6 amended by section 1 of part J of chapter 59 of the laws of 2016, is
7 amended to read as follows:

8 a. Nothing in this act shall prohibit or limit the activities or
9 services on the part of any person in the employ of a program or service
10 operated, regulated, funded, or approved by the department of mental
11 hygiene, the office of children and family services, the office of
12 temporary and disability assistance, the department of corrections and
13 community supervision, the state office for the aging, the department of
14 health, or a local governmental unit as that term is defined in article
15 41 of the mental hygiene law or a social services district as defined in
16 section 61 of the social services law, provided, however, this section
17 shall not authorize the use of any title authorized pursuant to article
18 154 of the education law, except that this section shall be deemed
19 repealed on July 1, [2018] 2020.

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

24 a. In relation to activities and services provided under article 153
25 of the education law, nothing in this act shall prohibit or limit such
26 activities or services on the part of any person in the employ of a
27 program or service operated, regulated, funded, or approved by the
28 department of mental hygiene or the office of children and family
29 services, or a local governmental unit as that term is defined in arti-
30 cle 41 of the mental hygiene law or a social services district as
31 defined in section 61 of the social services law. In relation to activ-
32 ities and services provided under article 163 of the education law,
33 nothing in this act shall prohibit or limit such activities or services
34 on the part of any person in the employ of a program or service oper-
35 ated, regulated, funded, or approved by the department of mental
36 hygiene, the office of children and family services, the department of
37 corrections and community supervision, the office of temporary and disa-
38 bility assistance, the state office for the aging and the department of
39 health or a local governmental unit as that term is defined in article
40 41 of the mental hygiene law or a social services district as defined in
41 section 61 of the social services law, pursuant to authority granted by
42 law. This section shall not authorize the use of any title authorized
43 pursuant to article 153 or 163 of the education law by any such employed
44 person, except as otherwise provided by such articles respectively.
45 This section shall be deemed repealed July 1, [2018] 2020.

46 § 9. Section 16 of chapter 130 of the laws of 2010, amending the
47 education law and other laws relating to the registration of entities
48 providing certain professional services and the licensure of certain
49 professions, as amended by section 3 of part J of chapter 59 of the laws
50 of 2016, is amended to read as follows:

51 § 16. This act shall take effect immediately; provided that sections
52 thirteen, fourteen and fifteen of this act shall take effect immediately
53 and shall be deemed to have been in full force and effect on and after
54 June 1, 2010 and such sections shall be deemed repealed July 1, [2018]
55 2020; provided further that the amendments to section 9 of chapter 420
56 of the laws of 2002 amending the education law relating to the profes-

1 sion of social work made by section thirteen of this act shall repeal on
2 the same date as such section repeals; provided further that the amend-
3 ments to section 17-a of chapter 676 of the laws of 2002 amending the
4 education law relating to the practice of psychology made by section
5 fourteen of this act shall repeal on the same date as such section
6 repeals.

7 § 10. This act shall take effect immediately.

8

PART Z

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

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

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

21 (x) "nursing facility services" means nursing care and health related
22 services provided in a nursing facility; a level of care provided in a
23 hospital which is equivalent to the care which is provided in a nursing
24 facility; and care, services or supplies provided pursuant to a waiver
25 granted pursuant to subsection (c) of section 1915 of the federal social
26 security act or successor federal waiver.

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

29 7-c. The commissioner of health in consultation with the commissioner
30 of developmental disabilities is authorized to submit the appropriate
31 waivers, including, but not limited to, those authorized pursuant to
32 section eleven hundred fifteen of the federal social security act, in
33 order to achieve the purposes of high-quality and integrated care and
34 services for a population of persons with developmental disabilities, as
35 such term is defined in section 1.03 of the mental hygiene law. Such
36 waiver applications shall be executed in accordance with subdivisions
37 seven, seven-a and seven-b of this section.

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

41 (a) For purposes of this section an "institutionalized spouse" is a
42 person (i) who is in a medical institution or nursing facility and
43 expected to remain in such facility or institution for at least thirty
44 consecutive days; or (ii) who is receiving care, services and supplies
45 pursuant to a waiver pursuant to subsection (c) of section nineteen
46 hundred fifteen of the federal social security act, or successor to such
47 waiver, or is receiving care, services and supplies in a managed long-
48 term care plan pursuant to section eleven hundred fifteen of the social
49 security act; and (iii) who is married to a person who is not in a
50 medical institution or nursing facility or is not receiving waiver
51 services described in subparagraph (ii) of this paragraph; provided,
52 however, that medical assistance shall be furnished pursuant to this
53 paragraph only if, for so long as, and to the extent that federal finan-
54 cial participation is available therefor. The commissioner of health

1 shall make any amendments to the state plan for medical assistance, or
2 apply for any waiver or approval under the federal social security act
3 that are necessary to carry out the provisions of this paragraph.

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

7 provided, however, that, to the extent required by federal law, the
8 terms of this subdivision shall not apply to persons who are receiving
9 care, services and supplies pursuant to the following waivers under
10 section 1915(c) of the federal social security act: the nursing facility
11 transition and diversion waiver authorized pursuant to subdivision six-a
12 of section three hundred sixty-six of this title; the traumatic brain
13 injury waiver authorized pursuant to section twenty-seven hundred forty
14 of the public health law, the long term home health care program waiver
15 authorized pursuant to section three hundred sixty-seven-c of this
16 title, and the home and community based services waiver for persons with
17 developmental disabilities, or successor to such waiver, administered by
18 the office [of mental retardation and] for people with developmental
19 disabilities pursuant to an agreement with the federal centers for medi-
20 care and Medicaid services.

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

24 (4) The provision of home and community based services approved under
25 a waiver program authorized pursuant to section eleven hundred fifteen
26 of the federal social security act or subdivision (c) of section nine-
27 teen hundred fifteen of the federal social security act and subdivisions
28 seven and seven-a of section three hundred sixty-six of the social
29 services law, provided that an operating certificate issued pursuant to
30 this paragraph shall only authorize services in a home or community
31 setting.

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

35 (2) The review of providers of services, as defined in paragraph four
36 of subdivision (a) of section 16.03 of this article, shall ensure that
37 the provider of services complies with all the requirements of the
38 applicable federal home and community based services waiver program, or
39 other successor Medicaid waiver program, and applicable federal regu-
40 lation, subdivisions seven and seven-a of section three hundred sixty-
41 six of the social services law and rules and regulations adopted by the
42 commissioner.

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

46 (b) "A patient in need of surrogate decision-making" means a patient
47 as defined in subdivision twenty-three of section 1.03 of this chapter
48 who is: a resident of a mental hygiene facility including a resident of
49 housing programs funded by an office of the department or whose federal
50 funding application was approved by an office of the department or for
51 whom such facility maintains legal admission status therefor; or,
52 receiving home and community-based services for persons with mental
53 disabilities provided pursuant to section 1915 or 1115 of the federal
54 social security act; or receiving individualized support services; or,
55 case management or service coordination funded, approved, or provided by
56 the office for people with developmental disabilities; and, for whom

1 major medical treatment is proposed, and who is determined by the surro-
2 gate decision-making committee to lack the ability to consent to or
3 refuse such treatment, but shall not include minors with parents or
4 persons with legal guardians, committees or conservators who are legally
5 authorized, available and willing to make such health care decisions.
6 Once a person is eligible for surrogate decision-making, such person may
7 continue to receive surrogate decision-making as authorized by this
8 section regardless of a change in residential status.

9 § 9. Subdivision 1-a of section 84 of part A of chapter 56 of the laws
10 of 2013, amending the social services law and other laws relating to
11 enacting the major components of legislation necessary to implement the
12 health and mental hygiene budget for the 2013-2014 state fiscal year, is
13 amended to read as follows:

14 1-a. sections seventy-three through eighty-a shall expire and be
15 deemed repealed September 30, [2019] 2024

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

19 (a-1) If the commissioner and the commissioner of the office for
20 people with developmental disabilities determine that such organization
21 lacks the experience required in paragraph (a) of this subdivision, the
22 organization shall have an affiliation arrangement with an entity or
23 entities that are controlled by non-profit organizations with experience
24 serving persons with developmental disabilities, as demonstrated by
25 criteria to be determined by the commissioner and the commissioner of
26 the office for people with developmental disabilities, with such crite-
27 ria including, but not limited to, residential, day, and employment
28 services such that the affiliated entity will coordinate and plan
29 services operated, certified, funded, authorized or approved by the
30 office for people with developmental disabilities or will oversee and
31 approve such coordination and planning;

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

36 § 97. This act shall take effect immediately, provided, however, that
37 the amendments to subdivision 4 of section 854 of the general municipal
38 law made by section seventy of this act shall not affect the expiration
39 of such subdivision and shall be deemed to expire therewith and provided
40 further that sections sixty-seven and sixty-eight of this act shall
41 apply to taxable years beginning on or after January 1, 1998 and
42 provided further that sections eighty-one through eighty-seven of this
43 act shall expire and be deemed repealed on December 31, [2019] 2024 and
44 provided further, however, that the amendments to section ninety of this
45 act shall take effect January 1, 1998 and shall apply to all policies,
46 contracts, certificates, riders or other evidences of coverage of long
47 term care insurance issued, renewed, altered or modified pursuant to
48 section 3229 of the insurance law on or after such date.

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

52 (a-1) If the commissioner and the commissioner of the office for
53 people with developmental disabilities determine that such plan lacks
54 the experience required in paragraph (a) of this subdivision, the plan
55 shall have an affiliation arrangement with an entity or entities that
56 are non-profit organizations or organizations whose shareholders solely

1 consist of non-profit organizations with experience serving persons with
2 developmental disabilities, as demonstrated by criteria to be determined
3 by the commissioner and the commissioner of the office for people with
4 developmental disabilities, with such criteria including, but not limit-
5 ed to, residential, day and employment services, such that the affil-
6 iated entity will coordinate and plan services operated, certified,
7 funded, authorized or approved by the office for people with develop-
8 mental disabilities or will oversee and approve such coordination and
9 planning;

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

13 (d) "Health and long term care services" means comprehensive health
14 services and other services as determined by the commissioner and the
15 commissioner of the office for people with developmental disabilities,
16 whether provided by state-operated programs or not-for-profit entities,
17 including, but not limited to, habilitation services, home and communi-
18 ty-based and institution-based long term care services, and ancillary
19 services, that shall include medical supplies and nutritional supple-
20 ments, that are necessary to meet the needs of persons whom the plan is
21 authorized to enroll[, and may include primary care and acute care if
22 the DISCO is authorized to provide or arrange for such services]. Each
23 person enrolled in a DISCO shall receive health and long term care
24 services designed to achieve person-centered outcomes, to enable that
25 person to live in the most integrated setting appropriate to that
26 person's needs, and to enable that person to interact with nondisabled
27 persons to the fullest extent possible in social, workplace and other
28 community settings, provided that all such services are consistent with
29 such person's wishes to the extent that such wishes are known and in
30 accordance with such person's needs.

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

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

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

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

46 § 16. Subdivision (c) of section 62 of chapter 165 of the laws of
47 1991, amending the public health law and other laws relating to estab-
48 lishing payments for medical assistance, as amended by section 17 of
49 part D of chapter 57 of the laws of 2015, is amended to read as follows:

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

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

4 (c) No person with a developmental disability who is receiving or
5 applying for medical assistance and who is receiving, or eligible to
6 receive, services operated, funded, certified, authorized or approved by
7 the office, shall be required to enroll in a DISCO, HMO or MLTC in order
8 to receive such services until program features and reimbursement rates
9 are approved by the commissioner and the commissioner of health, and
10 until such commissioners determine that a sufficient number of plans
11 that are authorized to coordinate care for individuals pursuant to this
12 section or that are authorized to operate and to exclusively enroll
13 persons with developmental disabilities pursuant to subdivision twenty-
14 seven of section three hundred sixty-four-j of the social services law
15 are operating in such person's county of residence to meet the needs of
16 persons with developmental disabilities, and that such entities meet the
17 standards of this section. No person shall be required to enroll in a
18 DISCO, HMO or MLTC in order to receive services operated, funded, certi-
19 fied, authorized or approved by the office until there are at least two
20 entities operating under this section in such person's county of resi-
21 dence, unless federal approval is secured to require enrollment when
22 there are less than two such entities operating in such county. Notwith-
23 standing the foregoing or any other law to the contrary, any health care
24 provider: (i) enrolled in the Medicaid program and (ii) rendering hospi-
25 tal services, as such term is defined in section twenty-eight hundred
26 one of the public health law, to an individual with a developmental
27 disability who is enrolled in a DISCO, HMO or MLTC, or a prepaid health
28 services plan operating pursuant to section forty-four hundred three-a
29 of the public health law, including, but not limited to, an individual
30 who is enrolled in a plan authorized by section three hundred sixty-
31 four-j or the social services law, shall accept as full reimbursement
32 the negotiated rate or, in the event that there is no negotiated rate,
33 the rate of payment that the applicable government agency would other-
34 wise pay for such rendered hospital services.

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

40 § 11. This act shall take effect immediately; except that the
41 provisions of sections one, two, three, four, eight and ten of this act
42 shall take effect on the ninetieth day after it shall have become a law;
43 and except that the provisions of sections five, six and seven of this
44 act shall take effect January 1, 1989; and except that effective imme-
45 diately, the addition, amendment and/or repeal of any rule or regulation
46 necessary for the implementation of this act on its effective date are
47 authorized and directed to be made and completed on or before such
48 effective date; provided, however, that the provisions of section 364-j
49 of the social services law, as added by section one of this act shall
50 expire and be deemed repealed on and after March 31, [2019] 2024, the
51 provisions of section 364-k of the social services law, as added by
52 section two of this act, except subdivision 10 of such section, shall
53 expire and be deemed repealed on and after January 1, 1994, and the
54 provisions of subdivision 10 of section 364-k of the social services
55 law, as added by section two of this act, shall expire and be deemed
56 repealed on January 1, 1995.

1 § 19. This act shall take effect immediately; provided, however, that
2 the amendments to subparagraph (vii) of paragraph e of subdivision 3 of
3 section 364-j of the social services law made by section one of this act
4 shall not affect the repeal of such section and shall be deemed repealed
5 therewith; provided further, however, that the amendments to subdivision
6 4 of section 366-c of the social services law made by section five of
7 this act shall not affect the expiration of such subdivision and shall
8 be deemed to expire therewith; provided further, however, that the
9 amendments to paragraph (a-1) of subdivision 12 of section 4403-f of the
10 public health law made by section twelve of this act shall not affect
11 the repeal of such section and shall be deemed to be repealed therewith.

12

PART AA

13 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
14 57 of the laws of 2006, relating to establishing a cost of living
15 adjustment for designated human services programs, as amended by section
16 1 of part Q of chapter 57 of the laws of 2017, are amended to read as
17 follows:

18 3-b. Notwithstanding any inconsistent provision of law, beginning
19 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
20 ending March 31, [2018] 2019, the commissioners shall not include a COLA
21 for the purpose of establishing rates of payments, contracts or any
22 other form of reimbursement, provided that the commissioners of the
23 office for people with developmental disabilities, the office of mental
24 health, and the office of alcoholism and substance abuse services shall
25 not include a COLA beginning April 1, 2017 and ending March 31, 2019.

26 3-c. Notwithstanding any inconsistent provision of law, beginning
27 April 1, [2018] 2019 and ending March 31, [2021] 2022, the commissioners
28 shall develop the COLA under this section using the actual U.S. consumer
29 price index for all urban consumers (CPI-U) published by the United
30 States department of labor, bureau of labor statistics for the twelve
31 month period ending in July of the budget year prior to such state
32 fiscal year, for the purpose of establishing rates of payments,
33 contracts or any other form of reimbursement.

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

39

PART BB

40 Section 1. Intentionally omitted.

41 § 2. Intentionally omitted.

42 § 3. Intentionally omitted.

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

46 (56) 3,4-dichloro-N-((1-dimethylamino) cyclohexylmethyl)benzamide.
47 Some trade or other names: AH-7921.

48 (57) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (Acetyl Fenta-
49 nyl).

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

1 (36) 5-methoxy-N,N-dimethyltryptamine.

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

3 (38) 5-methoxy-N,N-diisopropyltryptamine. Some trade or other names:
4 5-MeO-DIPT.

5 § 6. Intentionally omitted.

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

8 (g) Synthetic cannabinoids. Unless specifically excepted or unless
9 listed in another schedule, any material, compound, mixture, or prepara-
10 tion, which contains any quantity of the following synthetic cannabinoid
11 substances, or which contains any of its salts, isomers, and salts of
12 isomers whenever the existence of such salts, isomers, and salts of
13 isomers is possible within the specific chemical designation (for
14 purposes of this paragraph only, the term "isomer" includes the optical,
15 position and geometric isomers):

16 (1) (1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl) metha-
17 none. Some trade or other names: UR-144.

18 (2) {1-(5-fluoro-pentyl)-1H-indol-3-yl} (2,2,3,3-tetramethylcyclopropyl)
19 methanone. Some trade names or other names: 5-fluoro-UR-144, XLR11.

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

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

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

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

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

30 (8) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazo-
31 le-3-carboxamide. Some trade or other names: AB-CHMINACA.

32 (9) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxa-
33 mide. Some trade or other names: AB-PINACA.

34 (10) {1-(5-fluoropentyl)-1H-indazol-3-yl} (naphthalen-1-yl) methanone.
35 Some trade or other names: THJ-2201.

36 (h) (1) Cannabimimetic agents. Unless specifically exempted or unless
37 listed in another schedule, any material, compound, mixture, or prepara-
38 tion that is not approved by the federal food and drug administration
39 (FDA) which contains any quantity of cannabimimetic agents, or which
40 contains their salts, isomers, and salts of isomers whenever the exist-
41 ence of such salts, isomers, and salts of isomers is possible within the
42 specific chemical designation.

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

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

50 (ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substi-
51 tution at the nitrogen atom of the indole ring, whether or not further
52 substituted on the indole ring to any extent, whether or not substituted
53 on the naphthoyl or naphthyl ring to any extent.

54 (iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of
55 the pyrrole ring, whether or not further substituted in the pyrrole ring

1 to any extent, whether or not substituted on the naphthoyl ring to any
2 extent.

3 (iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position
4 of the indene ring, whether or not further substituted in the indene
5 ring to any extent, whether or not substituted on the naphthyl ring to
6 any extent.

7 (v) 3-phenylacetylindole or 3-benzoylindole by substitution at the
8 nitrogen atom of the indole ring, whether or not further substituted in
9 the indole ring to any extent, whether or not substituted on the phenyl
10 ring to any extent.

11 (3) Such term includes:

12 (i) 5-(1,1-dimethylheptyl)-2-{(1R,3S)-3-hydroxycyclohexyl}-phenol
13 (CP-47,497);

14 (ii) 5-(1,1-dimethyloctyl)-2-{(1R,3S)-3-hydroxycyclohexyl}-phenol
15 (cannabicyclohexanol or CP-47,497 C8-homolog);

16 (iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);

17 (iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);

18 (v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);

19 (vi) 1-{2-(4-morpholinyl)ethyl}-3-(1-naphthoyl)indole (JWH-200);

20 (vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

21 (viii) 1-pentyl-3-{1-(4-methoxynaphthoyl)}indole (JWH-081);

22 (ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

23 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

24 (xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

25 (xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

26 (xiii) 1-pentyl-3-{(4-methoxy)-benzoyl}indole (SR-19 and RCS-4);

27 (xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and
28 RCS-8); and

29 (xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

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

32 PART CC

33 Section 1. Intentionally omitted.

34 § 2. Intentionally omitted.

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

38 (b) When a licensee has pleaded or been found guilty or convicted of
39 committing an act constituting a felony under New York state law or
40 federal law, or the law of another jurisdiction which, if committed
41 within this state, would have constituted a felony under New York state
42 law, or when a licensee has been charged with committing an act consti-
43 tuting a felony under New York state or federal law or the law of anothe-
44 er jurisdiction, where the licensee's alleged conduct, which, if commit-
45 ted within this state, would have constituted a felony under New York
46 state law, and in the commissioner's opinion the licensee's alleged
47 conduct constitutes an imminent danger to the health of the people, or
48 when the duly authorized professional disciplinary agency of another
49 jurisdiction has made a finding substantially equivalent to a finding
50 that the practice of medicine by the licensee in that jurisdiction
51 constitutes an imminent danger to the health of its people, or when a
52 licensee has been disciplined by a duly authorized professional disci-
53 plinary agency of another jurisdiction for acts which if committed in
54 this state would have constituted the basis for summary action by the

1 commissioner pursuant to paragraph (a) of this subdivision, the commis-
2 sioner, after a recommendation by a committee of professional conduct of
3 the state board for professional medical conduct, may order the licen-
4 see, by written notice, to discontinue or refrain from practicing medi-
5 cine in whole or in part or to take certain actions authorized pursuant
6 to this title immediately. The order of the commissioner shall consti-
7 tute summary action against the licensee and become public upon issu-
8 ance. The summary suspension shall remain in effect until the final
9 conclusion of a hearing which shall commence within ninety days of the
10 date of service of the commissioner's order, end within ninety days
11 thereafter and otherwise be held in accordance with paragraph (a) of
12 this subdivision, provided, however, that when the commissioner's order
13 is based upon a finding substantially equivalent to a finding that the
14 practice of medicine by the licensee in another jurisdiction constitutes
15 an imminent danger to the health of its people, the hearing shall
16 commence within thirty days after the disciplinary proceedings in that
17 jurisdiction are finally concluded. If, at any time, the felony charge
18 is dismissed, withdrawn or reduced to a non-felony charge, the commis-
19 sioner's summary order shall terminate.

20 § 4. This act shall take effect immediately.

21

PART DD

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

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

30 (a) report such administration by electronic transmission or [fasci-
31 mile] facsimile to the patient's attending primary health care practi-
32 tioner or practitioners, if any, and, to the extent practicable, make
33 himself or herself available to discuss the outcome of such immuniza-
34 tion, including any adverse reactions, with the attending primary health
35 care practitioner, [or] and to the statewide immunization registry or
36 the citywide immunization registry, as established pursuant to section
37 twenty-one hundred sixty-eight of the public health law; and

38 (b) provide information to the patient or, where applicable, the
39 person legally responsible for the patient, on the importance of having
40 a primary health care practitioner, developed by the commissioner of
41 health; and

42 (c) report such administration, absent of any individually identifi-
43 able health information, to the department of health in a manner
44 required by the commissioner of health[.]; and

45 (d) prior to administering the immunization, inform the patient or,
46 where applicable, the person legally responsible for the patient, of the
47 total cost of the immunization or immunizations, subtracting any health
48 insurance subsidization, if applicable. In the case the immunization is
49 not covered, the pharmacist must inform the patient or, where applica-
50 ble, the person legally responsible for the patient, of the possibility
51 that the immunization may be covered when administered by a primary care
52 physician or practitioner; and

53 (e) administer the immunization or immunizations according to the most
54 current recommendations by the advisory committee for immunization prac-

1 tices (ACIP), provided however, that a pharmacist may administer any
2 immunization authorized under this section when specified by a patient
3 specific order.

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

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

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

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

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

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

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

40 § 2-a. Paragraph a of subdivision 3 of section 2168 of the public
41 health law, as amended by chapter 420 of the laws of 2014, is amended to
42 read as follows:

43 (a) (i) Any health care provider who administers any vaccine to a
44 person less than nineteen years of age or, on or after September first,
45 two thousand nine, conducts a blood lead analysis of a sample obtained
46 from a person under eighteen years of age in accordance with paragraph
47 (h) of subdivision two of this section; and immunizations received by a
48 person less than nineteen years of age in the past if not already
49 reported, shall report all such immunizations and the results of any
50 blood lead analysis to the department in a format prescribed by the
51 commissioner within fourteen days of administration of such immuniza-
52 tions or of obtaining the results of any such blood lead analysis.
53 Health care providers administering immunizations to persons less than
54 nineteen years of age in the city of New York shall report, in a format
55 prescribed by the city of New York commissioner of health and mental
56 hygiene, all such immunizations to the citywide immunization registry.

1 Health care providers who conduct a blood lead analysis on a person
2 under eighteen years of age and who report the results of such analysis
3 to the city of New York commissioner of health and mental hygiene pursu-
4 ant to New York city reporting requirements shall be exempt from this
5 requirement for reporting blood lead analysis results to the state
6 commissioner of health; provided, however, blood lead analysis data
7 collected from physician office laboratories by the commissioner of
8 health and mental hygiene of the city of New York pursuant to the health
9 code of the city of New York shall be provided to the department in a
10 format prescribed by the commissioner.

11 (ii) A pharmacist who administers a vaccine pursuant to subdivision
12 two of section sixty-eight hundred one of the education law, to a person
13 less than nineteen years of age, shall report all such immunizations to
14 the department in a format prescribed by the commissioner within four-
15 teen days of administration of such immunizations. Pharmacists adminis-
16 tering immunizations pursuant to subdivision two of section sixty-eight
17 hundred one of the education law to persons less than nineteen years of
18 age in the city of New York shall report, in a format prescribed by the
19 city of New York commissioner of health and mental hygiene, all such
20 immunizations to the citywide immunization registry.

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

25 § 8. This act shall take effect on the ninetieth day after it shall
26 have become a law and shall expire and be deemed repealed [July 1]
27 December 31, 2019.

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

32 § 5. This act shall take effect on the ninetieth day after it shall
33 have become a law and shall expire and be deemed repealed [July 1]
34 December 31, 2019 provided, that:

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

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

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

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

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

51 § 5. This act shall take effect on the one hundred twentieth day after
52 it shall have become a law [and], provided, however, that the provisions
53 of sections two, three, and four of this act shall expire 7 years after
54 such effective date when upon such date the provisions of this act shall
55 be deemed repealed; provided, however, that the amendments to subdivi-
56 sion 1 of section 6801 of the education law made by section one of this

1 act shall be subject to the expiration and reversion of such subdivision
2 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such
3 date the provisions of section one-a of this act shall take effect;
4 provided, further, that effective immediately, the addition, amendment
5 and/or repeal of any rule or regulation necessary for the implementation
6 of this act on its effective date are authorized and directed to be made
7 and completed on or before such effective date.

8 § 6. This act shall take effect immediately; provided, however the
9 amendments to section 6801 of the education law made by section one of
10 this act shall not affect the expiration of such section and shall be
11 deemed to expire therewith; provided, further, that the amendments to
12 subdivision 22 of section 6802 of the education law made by section two
13 of this act shall not affect the expiration of such section and shall be
14 deemed to expire therewith.

15

PART EE

16 Section 1. Subdivision (d) of section 13.17 of the mental hygiene law,
17 as added by section 1 of part Q of chapter 59 of the laws of 2016, is
18 amended to read as follows:

19 (d) In the event of a closure or transfer of a state-operated individ-
20 ualized residential alternative (IRA), the commissioner shall:

21 1. provide appropriate and timely notification to the temporary presi-
22 dent of the senate, and the speaker of the assembly, and to appropriate
23 representatives of impacted labor organizations. Such notification to
24 the representatives of impacted labor organizations shall be made as
25 soon as practicable, but no less than [~~forty-five~~] one hundred eighty
26 days prior to commencing such closure or transfer except in the case of
27 exigent circumstances impacting the health, safety, or welfare of the
28 residents of the IRA as determined by the office. Provided, however,
29 that nothing herein shall limit the ability of the office to effectuate
30 such closure or transfer; and

31 2. make reasonable efforts to confer with the affected workforce and
32 any other party he or she deems appropriate to inform such affected
33 workforce, the residents of the IRA, and their family members, where
34 appropriate, of the proposed closure or transfer plan.

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

39 § 2. This act shall take effect immediately and shall expire and be
40 deemed repealed March 31, [2018] 2022.

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

45

PART FF

46 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
47 insurance law and the public health law relating to the New York state
48 health insurance continuation assistance demonstration project, as
49 amended by section 1 of part NN of chapter 58 of the laws of 2017, is
50 amended to read as follows:

51 § 4. This act shall take effect on the sixtieth day after it shall
52 have become a law; provided, however, that this act shall remain in

1 effect until July 1, [2018] 2019 when upon such date the provisions of
2 this act shall expire and be deemed repealed; provided, further, that a
3 displaced worker shall be eligible for continuation assistance retroac-
4 tive to July 1, 2004.

5 § 2. This act shall take effect immediately.

6

PART GG

7 Section 1. Paragraph 28 of subsection (i) of section 3216 of the
8 insurance law, as amended by chapter 11 of the laws of 2012, is amended
9 to read as follows:

10 (28) (A) Definitions. For the purpose of this paragraph:

11 (1) "Same reimbursement amount" shall mean that any coverage described
12 under subparagraph (B) of this paragraph shall provide the same bench-
13 mark index, including the same average wholesale price, maximum allow-
14 able cost and national prescription drug codes to reimburse all pharma-
15 cies participating in the insurance network regardless of whether a
16 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

17 (2) "Mail order pharmacy" means a pharmacy whose primary business is
18 to receive prescriptions by mail, telefax or through electronic
19 submissions and to dispense medication to patients through the use of
20 the United States mail or other common or contract carrier services and
21 provides any consultation with patients electronically rather than face-
22 to-face.

23 (B) Any policy that provides coverage for prescription drugs shall
24 permit each insured to fill any covered prescription that may be
25 obtained at a network participating mail order or other non-retail phar-
26 macy, at the insured's option, at a network participating non-mail order
27 retail pharmacy provided that the network participating non-mail order
28 retail pharmacy agrees [in advance, through a contractual network agree-
29 ment,] to the same reimbursement amount[, as well as the same applicable
30 terms and conditions,] that the insurer has established for the network
31 participating mail order or other non-retail pharmacy. In such a case,
32 the policy shall not impose a co-payment fee or other condition on any
33 insured who elects to purchase prescription drugs from a network partic-
34 ipating non-mail order retail pharmacy which is not also imposed on
35 insureds electing to purchase drugs from a network participating mail
36 order or other non-retail pharmacy.

37 § 2. Paragraph 18 of subsection (1) of section 3221 of the insurance
38 law, as amended by chapter 11 of the laws of 2012, is amended to read as
39 follows:

40 (18) (A) Definitions. For the purpose of this paragraph:

41 (1) "Same reimbursement amount" shall mean that any coverage described
42 under subparagraph (B) of this paragraph shall provide the same bench-
43 mark index, including the same average wholesale price, maximum allow-
44 able cost and national prescription drug codes to reimburse all pharma-
45 cies participating in the insurance network regardless of whether a
46 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

47 (2) "Mail order pharmacy" means a pharmacy whose primary business is
48 to receive prescriptions by mail, telefax or through electronic
49 submissions and to dispense medication to patients through the use of
50 the United States mail or other common or contract carrier services and
51 provides any consultation with patients electronically rather than face-
52 to-face.

53 (B) Any insurer delivering a group or blanket policy or issuing a
54 group or blanket policy for delivery in this state that provides cover-

1 age for prescription drugs shall permit each insured to fill any covered
2 prescription that may be obtained at a network participating mail order
3 or other non-retail pharmacy, at the insured's option, at a network
4 participating non-mail order retail pharmacy provided that the network
5 participating non-mail order retail pharmacy agrees [in advance, through
6 a contractual network agreement,] to the same reimbursement amount[, as
7 well as the same applicable terms and conditions,] that the insurer has
8 established for the network participating mail order or other non-retail
9 pharmacy. In such a case, the policy shall not impose a co-payment fee
10 or other condition on any insured who elects to purchase drugs from a
11 network participating non-mail order retail pharmacy which is not also
12 imposed on insureds electing to purchase drugs from a network partic-
13 ipating mail order or other non-retail pharmacy; provided, however, that
14 the provisions of this section shall not supersede the terms of a
15 collective bargaining agreement or apply to a policy that is the result
16 of a collective bargaining agreement between an employer and a recog-
17 nized or certified employee organization.

18 § 3. Subsection (kk) of section 4303 of the insurance law, as amended
19 by chapter 11 of the laws of 2012 and as relettered by section 55 of
20 part D of chapter 56 of the laws of 2013, is amended to read as follows:

21 (kk) (1) Definitions. For the purpose of this subsection:

22 (A) "Same reimbursement amount" shall mean that any coverage described
23 under paragraph two of this subsection shall provide the same benchmark
24 index, including the same average wholesale price, maximum allowable
25 cost and national prescription drug codes to reimburse all pharmacies
26 participating in the health benefit plan regardless of whether a pharma-
27 cy is a mail order pharmacy or a non-mail order pharmacy.

28 (B) "Mail order pharmacy" means a pharmacy whose primary business is
29 to receive prescriptions by mail, telefax or through electronic
30 submissions and to dispense medication to patients through the use of
31 the United States mail or other common or contract carrier services and
32 provides any consultation with patients electronically rather than face-
33 to-face.

34 (2) Any contract issued by a medical expense indemnity corporation, a
35 hospital service corporation or a health services corporation that
36 provides coverage for prescription drugs shall permit each covered
37 person to fill any covered prescription that may be obtained at a
38 network participating mail order or other non-retail pharmacy, at the
39 covered person's option, at a network participating non-mail order
40 retail pharmacy provided that the network participating non-mail order
41 retail pharmacy agrees [in advance, through a contractual network agree-
42 ment,] to the same reimbursement amount[, as well as the same applicable
43 terms and conditions,] that the corporation has established for the
44 network participating mail order or other non-retail pharmacy. In such
45 a case, the contract shall not impose a copayment fee or other condition
46 on any covered person who elects to purchase drugs from a network
47 participating non-mail order retail pharmacy which is not also imposed
48 on covered persons electing to purchase drugs from a network participat-
49 ing mail order or other non-retail pharmacy; provided, however, that the
50 provisions of this section shall not supersede the terms of a collective
51 bargaining agreement or apply to a contract that is the result of a
52 collective bargaining agreement between an employer and a recognized or
53 certified employee organization.

54 § 4. This act shall take effect immediately.



1 Section 1. The mental hygiene law is amended by adding a new section
2 33.27 to read as follows:

3 § 33.27 Independent behavioral health ombudsman.

4 (a) There is hereby established the office of the independent behav-
5 ioral health ombudsman under the purview of the office of alcoholism and
6 substance abuse services and the office of mental health for the purpose
7 of assisting individuals with a substance use disorder and/or mental
8 illness in accessing appropriate behavioral health services.

9 (b) The behavioral health ombudsman shall assist: (i) individuals and
10 their families with filing and resolving complaints regarding a denial
11 of benefits, care, coverage or an alleged violation of state or federal
12 parity laws; (ii) both insured and uninsured individuals and their fami-
13 lies with understanding their rights to coverage and necessary treat-
14 ment; and (iii) treatment providers with in-depth training and educa-
15 tional materials on how to navigate insurance coverage as well as how to
16 address barriers to care.

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

19

PART II

20 Section 1. The public health law is amended by adding a new section
21 4410-a to read as follows:

22 § 4410-a. Disposition of charitable asset. 1. This section applies to
23 any transaction with respect to a health care corporation subject to
24 article thirty-two or forty-three of the insurance law or this article
25 involving:

26 (a) any sale, lease, transfer, exchange, option, conveyance, gift,
27 joint venture, merger, consolidation or disposition of all or a material
28 portion of the assets of the health care corporation;

29 (b) any transfer of control, responsibility or governance over all or
30 substantially all of the assets of the health care corporation; or

31 (c) continuation of the corporate existence of the applicant by recon-
32 stituting the corporate form of the applicant from a not-for-profit
33 corporation to a business corporation by the filing of a restated
34 certificate of incorporation regardless of whether such changes occur in
35 one transaction or in a series of transactions.

36 2. All money and other assets received by or on behalf of the state or
37 any state governmental entity related to any transaction under this
38 section shall be immediately deposited in the health care stabilization
39 account under section ninety-two-gg of the state finance law, to be
40 spent, used or disposed of only under law or appropriation referring to
41 this section. This subdivision shall not preclude investment of any
42 money in the account under the state finance law, provided that the
43 proceeds of such investment shall be deposited in the account.

44 3. If any provision or application of this section conflicts with
45 sections four thousand three hundred one or seven thousand three hundred
46 seventeen of the insurance law, this section shall apply. This section
47 shall be deemed to comply with sections five hundred ten, five hundred
48 eleven and five hundred eleven-a of the not-for-profit corporation law.

49 4. Funds or assets in the health care stabilization account shall be
50 used or disposed of for health, health care and health coverage
51 purposes, subject to appropriation and in accordance with a memorandum
52 of understanding signed by the governor, the temporary president of the
53 senate and the speaker of the assembly, or their designated represen-
54 tatives.



1 5. If any provision of this section, or any application of any
2 provision of this section, is held to be invalid, or to violate or be
3 inconsistent with any federal law or regulation, that shall not affect
4 the validity or effectiveness of any other provision of this section, or
5 of any other application of any provision of this section, which can be
6 given effect without that provision or application; and to that end, the
7 provisions and applications of this section are severable.

8 § 2. The state finance law is amended by adding a new section 92-gg to
9 read as follows:

10 § 92-gg. Health care stabilization account. 1. There is hereby estab-
11 lished in the joint custody of the comptroller and the commissioner of
12 taxation and finance a fund to be known as the "health care stabiliza-
13 tion account."

14 2. The health care stabilization account shall consist of all moneys
15 and assets deposited to such fund pursuant to section forty-four hundred
16 ten-a of the public health law and any other monies credited, deposited
17 or transferred thereto.

18 3. All moneys and assets in such fund shall be subject to the require-
19 ment of section forty-four hundred ten-a of the public health law and
20 shall only be used or disposed of for health, health care and health
21 coverage purposes, subject to appropriation and in accordance with a
22 memorandum of understanding signed by the governor, the temporary presi-
23 dent of the senate and the speaker of the assembly, or their designated
24 representatives. Notwithstanding any inconsistent provision of law,
25 funds shall not be transferred from such fund without the execution of
26 such memorandum of understanding.

27 § 3. This act shall take effect immediately.

28 PART JJ

29 Section 1. Section 3-d of part B of chapter 58 of the laws of 2010,
30 amending chapter 474 of the laws of 1996, amending the education law and
31 other laws relating to rates for residential health care facilities, in
32 relation to reimbursement, is REPEALED.

33 § 2. 1. Notwithstanding any provision of law, rule or regulation to
34 the contrary, and subject to the availability of federal financial
35 participation, for periods on and after April 1, 2010, payments made to
36 managed care providers sponsored by or otherwise having entered into
37 health care services contract with a public benefit corporation located
38 in a city of more than one million persons which provide coverage to
39 Medicaid patients in accordance with section 364-j of the social
40 services law may, at the election of the social services district, be
41 increased up to the maximum amount permitted under title XIX of the
42 social security act for the benefit of such public benefit corporation;
43 provided, however that, notwithstanding the social services district
44 Medicaid cap provisions of part C of chapter 58 of the laws of 2005,
45 such social services district shall be responsible for payment of one
46 hundred percent of the non-federal share of such increase, and provided
47 further, however, that such payment increases shall not be applied to
48 payments related to the Medicaid advantage program or the HIV special
49 needs plan. Social services district funding of the non-federal share of
50 any such payments shall be deemed to be voluntary for purposes of the
51 increased federal medical assistance percentage provisions of the Ameri-
52 can Recovery and Reinvestment Act of 2009; provided however that, in the
53 event the federal Centers for Medicare and Medicaid Services determines
54 that such non-federal share payments are not voluntary payments for

1 purposes of such Act, the provisions of this section shall be null and
2 void.

3 2. Notwithstanding any contrary provision of law, the social services
4 district in which such public benefit corporation is primarily located
5 shall be responsible for the increase to payments as determined in
6 accordance with this section for services covered by such managed care
7 provider in accordance with section 365-a of the social services law,
8 regardless of whether another social services district or the department
9 of health may otherwise be responsible for furnishing medical assistance
10 to the eligible persons receiving such services.

11 § 3. This act shall take effect immediately.

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

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