

STATE OF NEW YORK

S. 7507

A. 9507

SENATE - ASSEMBLY

January 18, 2018

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

AN ACT to amend the public health law, in relation to establishing a temporary workgroup on capital rate methodology for capital expenditures to hospitals and residential nursing facilities; and to amend the social services law, in relation to standard coverage for physical therapy services under medical assistance for needy persons programs (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 to repeal certain provisions of section 366 of the social services law relating to furnishing medical assistance (Part B); to amend the social services law and the public health law, in relation to health homes and penalties for managed care providers (Part C); to amend the social services law and the public health law, in relation to drug coverage, updating the professional dispensing fee, copayments, pharmacist physician collaboration and comprehensive medication management; 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, reimbursement of emergency transportation services and supplemental transportation payments; and repealing certain provisions of such law relating thereto (Part E); providing for not-for-profit and tax exempt corporations' Medicaid capitation rates (Part F); to amend the public health law, in relation to authorizing certain retail practices to offer health services (Part G); to amend the education law, in relation to the practice of nursing by certified registered nurse anesthetists (Part H); to amend the social services law and the public health law, in relation to managed care organizations (Part I); to

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

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amend the state finance law, in relation to the false claims act (Part J); 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); to amend the social services law and the public health law, in relation to the child health insurance program (Part L); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part M); to amend part C of chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services, in relation to the determination thereof; and to repeal certain provisions thereof relating to eligible programs (Part N); to amend the public health law and the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families (Part O); to amend the public health law, in relation to the empire clinical research investigator program and hospital resident hour audits; and to repeal certain provisions of the public health law relating thereto (Part P); to amend the public health law, in relation to the health care facility transformation program (Part Q); to amend the public health law, the executive law, and the real property law, in relation to lead abatement and enforcement (Part R); to amend the public health law and the social services law, in relation to the establishment of community paramedicine collaboratives (Subpart A); to amend the public health law and the mental hygiene law, in relation to integrated services (Subpart B); and to amend the public health law, in relation to the definitions of telehealth provider, originating site and remote patient monitoring (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, 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 chapter 56 of the



laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to rates of payments (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); to amend the criminal procedure law, in relation to amending the definition of appropriate institution; and providing for the repeal of such provisions upon expiration thereof (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 part C of chapter 58 of the laws of 2007, 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 2007-2008 fiscal year, in relation to the effectiveness thereof; 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); and 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)

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 AA. 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. The public health law is amended by adding a new section
 14 2827 to read as follows:

15 § 2827. Temporary workgroup on capital rate methodology. (a) The
 16 commissioner shall convene a temporary workgroup comprised of represen-
 17 tatives of hospitals and residential nursing facilities, as well as
 18 representatives from the department, to develop recommendations for
 19 streamlining the capital reimbursement methodology to achieve a one
 20 percent reduction in capital expenditures to hospitals and residential
 21 nursing facilities, including associated specialty and adult day health
 22 care units. Pending the development of the workgroup's recommendations
 23 and the implementation of any such recommendations accepted by the
 24 commissioner, the commissioner shall be authorized to reduce the overall
 25 amount of capital reimbursement as necessary to achieve a one percent
 26 reduction in capital expenditures beginning with state fiscal year two
 27 thousand eighteen--two thousand nineteen.

28 (b) The commissioner may promulgate regulations to effectuate the
 29 provisions of this section.

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

33 5-d. (a) Notwithstanding any inconsistent provision of this section,
 34 section twenty-eight hundred seven-w of this article or any other

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

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

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

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

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

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

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

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

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



1 greater than twelve and one-half percent; and for the calendar year
2 beginning on January first, two thousand eighteen, is greater than
3 fifteen percent; and for the calendar year beginning on January first,
4 two thousand nineteen, is greater than seventeen and one-half percent.

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

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

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

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

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

23 § 3. Subdivision 14-a of section 2807 of the public health law, as
24 added by section 11 of part B of chapter 57 of the laws of 2015, is
25 amended to read as follows:

26 14-a. (a) Notwithstanding any provision of law to the contrary, and
27 subject to federal financial participation, the commissioner is author-
28 ized to establish, pursuant to regulations, a statewide general hospital
29 quality pool for the purpose of incentivizing and facilitating quality
30 improvements in general hospitals.

31 (b) Such regulations shall include provisions:

32 (i) to create a performance target to reduce potentially preventable
33 emergency department visits;

34 (ii) to reduce or eliminate the payment of the rates, published by the
35 department on the hospital inpatient publication schedules and hospital
36 ambulatory patient group schedules, which are paid by contractors to
37 hospitals, based on the quality and safety scores of a hospital as
38 determined by the department; and

39 (iii) to facilitate necessary quality improvements in hospitals, as
40 determined by the commissioner.

41 (c) Awards from such pool shall be subject to approval by the director
42 of budget. If federal financial participation is unavailable, then the
43 non-federal share of awards made pursuant to this subdivision may be
44 made as state grants.

45 [(a)] (d) Thirty days prior to adopting or applying a methodology or
46 procedure for making an allocation or modification to an allocation made
47 pursuant to this subdivision, the commissioner shall provide written
48 notice to the chairs of the senate finance committee, the assembly ways
49 and means committee, and the senate and assembly health committees with
50 regard to the intent to adopt or apply the methodology or procedure,
51 including a detailed explanation of the methodology or procedure.

52 [(b)] (e) Thirty days prior to executing an allocation or modification
53 to an allocation made pursuant to this subdivision, the commissioner
54 shall provide written notice to the chairs of the senate finance commit-
55 tee, the assembly ways and means committee, and the senate and assembly
56 health committees with regard to the intent to distribute such funds.



1 Such notice shall include, but not be limited to, information on the
2 methodology used to distribute the funds, the facility specific allo-
3 cations of the funds, any facility specific project descriptions or
4 requirements for receiving such funds, the multi-year impacts of these
5 allocations, and the availability of federal matching funds. The commis-
6 sioner shall provide quarterly reports to the chair of the senate
7 finance committee and the chair of the assembly ways and means committee
8 on the distribution and disbursement of such funds.

9 (f) Notwithstanding any inconsistent provision of law or regulation to
10 the contrary, the hospital quality pool shall allocate ten million
11 dollars annually to expand preventative services as the commissioner may
12 determine in regulation. Such preventative services may include but not
13 be limited to mental health counseling provided by a licensed clinical
14 social worker or a licensed master social worker, physical therapy,
15 diabetes prevention, or treatment by an applied behavior analyst.

16 § 4. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
17 2807 of the public health law, as amended by section 43 of part B of
18 chapter 58 of the laws of 2010, is amended to read as follows:

19 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this
20 subdivision, for periods on and after January first, two thousand nine,
21 the following services provided by general hospital outpatient depart-
22 ments and diagnostic and treatment centers shall be reimbursed with
23 rates of payment based entirely upon the ambulatory patient group meth-
24 odology as described in paragraph (e) of this subdivision, provided,
25 however, that the commissioner may utilize existing payment methodol-
26 ogies or may promulgate regulations establishing alternative payment
27 methodologies for one or more of the services specified in this subpara-
28 graph, effective for periods on and after March first, two thousand
29 nine:

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

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

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

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

48 (E) services provided to pregnant women pursuant to paragraph (s) of
49 subdivision two of section three hundred sixty-five-a of the social
50 services law and, for periods on and after January first, two thousand
51 ten, all other services provided pursuant to such paragraph (s) and
52 services provided pursuant to paragraph (t) of subdivision two of
53 section three hundred sixty-five-a of the social services law;

54 (F) wheelchair evaluation services and eyeglass dispensing services;
55 and



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

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

6 (h) speech therapy, and when provided at the direction of a physician
7 or nurse practitioner, physical therapy including related rehabilitative
8 services and occupational therapy; provided, however, that speech thera-
9 py[, physical therapy] and occupational therapy [each] shall be limited
10 to coverage of twenty visits per year; physical therapy shall be limited
11 to coverage of forty visits per year; such limitation shall not apply to
12 persons with developmental disabilities or, notwithstanding any other
13 provision of law to the contrary, to persons with traumatic brain inju-
14 ry;

15 § 6. This act shall take effect immediately.

16

PART B

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

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

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

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

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

51 (l) The commissioner of health is authorized to solicit and award
52 applications for up to a total of five hundred new assisted living
53 program beds in those counties where there is one or no assisted living



1 program providers, pursuant to criteria to be determined by the commis-
2 sioner.

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

10 (i) Serve only public pay individuals;

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

16 (iii) Enter into an agreement with an existing managed care entity;
17 and

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

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

28 § 3. Subparagraph (i) of paragraph (b) of subdivision 7 of section
29 4403-f of the public health law, as amended by section 41-b of part H of
30 chapter 59 of the laws of 2011, is amended to read as follows:

31 (i) The commissioner shall, to the extent necessary, submit the appro-
32 priate waivers, including, but not limited to, those authorized pursuant
33 to sections eleven hundred fifteen and nineteen hundred fifteen of the
34 federal social security act, or successor provisions, and any other
35 waivers necessary to achieve the purposes of high quality, integrated,
36 and cost effective care and integrated financial eligibility policies
37 under the medical assistance program or pursuant to title XVIII of the
38 federal social security act. In addition, the commissioner is authorized
39 to submit the appropriate waivers, including but not limited to those
40 authorized pursuant to sections eleven hundred fifteen and nineteen
41 hundred fifteen of the federal social security act or successor
42 provisions, and any other waivers necessary to require on or after April
43 first, two thousand twelve, medical assistance recipients who are twen-
44 ty-one years of age or older and who require community-based long term
45 care services, as specified by the commissioner, for more than one
46 hundred and twenty days, to receive such services through an available
47 plan certified pursuant to this section or other program model that
48 meets guidelines specified by the commissioner that support coordination
49 and integration of services. Such guidelines shall address the require-
50 ments of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i) of
51 subdivision three of this section as well as payment methods that ensure
52 provider accountability for cost effective quality outcomes. Such other
53 program models may include long term home health care programs that
54 comply with such guidelines. Copies of such original waiver applications
55 and amendments thereto shall be provided to the chairs of the senate
56 finance committee, the assembly ways and means committee and the senate

1 and assembly health committees simultaneously with their submission to
2 the federal government.

3 On or after October first, two thousand eighteen, the commissioner
4 may, through such an approved waiver, limit enrollment in a plan certi-
5 fied under this section to individuals who achieve a score of nine or
6 above when assessed using the Uniform Assessment System for New York
7 assessment tool and who require community-based long term care services
8 for a continuous period of more than one hundred twenty days from the
9 date of enrollment and from the dates when continuing enrollment is
10 reauthorized; however, medical assistance recipients enrolled in a
11 managed long term care plan on October first, two thousand eighteen may
12 continue to be eligible for such plans, irrespective of whether the
13 enrollee meets these level of care requirements, provided that once such
14 recipients are disenrolled from their managed long term care plan, any
15 applicable level of care requirements would apply to future eligibility
16 determinations.

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

21 (vii) If another managed long term care plan certified under this
22 section is available, medical assistance recipients required to enroll
23 in such plans pursuant to this section may change plans without cause
24 within thirty days of notification of enrollment or the effective date
25 of enrollment into a plan, whichever is later, by making a request of
26 the local social services district or entity designated by the depart-
27 ment, except that such period shall be forty-five days for recipients
28 who have been assigned to a provider by the commissioner. However, after
29 such thirty or forty-five day period, whichever is applicable, a recipi-
30 ent may be prohibited from changing plans more frequently than once
31 every twelve months, as permitted by federal law, except for good cause
32 as determined by the commissioner.

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

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

40 (12) Native Americans; and

41 (13) a person who is permanently placed in a nursing home for a
42 consecutive period of six months or more.

43 § 6. Paragraph (a) of subdivision 3 of section 366 of the social
44 services law is REPEALED and a new paragraph (a) is added to read as
45 follows:

46 (a) Medical assistance shall be furnished without consideration of the
47 income and resources of an applicant's legally responsible relative if
48 the applicant's eligibility would normally be determined by comparing
49 the amount of available income and/or resources of the applicant,
50 including amounts deemed available to the applicant from legally respon-
51 sible relatives, to an applicable eligibility standard, and;

52 (1) (i) the legally responsible relative is a community spouse, as
53 defined in section three hundred sixty-six-c of this title;

54 (ii) such relative is refusing to make his or her income and/or
55 resources available to meet the cost of necessary medical care,
56 services, and supplies; and



1 (iii) the applicant executes an assignment of support from the commu-
 2 nity spouse in favor of the social services district and the department,
 3 unless the applicant is unable to execute such assignment due to phys-
 4 ical or mental impairment or to deny assistance would create an undue
 5 hardship, as defined by the commissioner; or

6 (2) the legally responsible relative is absent from the applicant's
 7 household, and fails or refuses to make his or her income and/or
 8 resources available to meet the cost of necessary medical care,
 9 services, and supplies.

10 In such cases, however, the furnishing of such assistance shall create
 11 an implied contract with such relative, and the cost thereof may be
 12 recovered from such relative in accordance with title six of article
 13 three of this chapter and other applicable provisions of law.

14 § 7. Subparagraph (i) of paragraph (d) of subdivision 2 of section
 15 366-c of the social services law is amended by adding a new clause (C)
 16 to read as follows:

17 (C) on and after July first, two thousand eighteen, twenty-four thou-
 18 sand one hundred eighty dollars or such greater amount as may be
 19 required under federal law;

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

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

30 § 9. The commissioner of health shall conduct a study of home and
 31 community based services available to recipients of the Medicaid program
 32 in rural areas of the state. Such study shall include a review and anal-
 33 ysis of factors affecting such availability, including but not limited
 34 to transportation costs, costs of direct care personnel including home
 35 health aides, personal care attendants and other direct service person-
 36 nel, opportunities for telehealth services, and technological advances
 37 to improve efficiencies. Consistent with the results of the study, the
 38 commissioner of health is authorized to provide a targeted Medicaid rate
 39 enhancement to fee-for-service personal care rates and rates under Medi-
 40 caid waiver programs such as the nursing home transition and diversion
 41 waiver and the traumatic brain injury program waiver, in an aggregate
 42 amount of three million dollars minus the cost of conducting the study;
 43 provided further, that nothing in this section shall be deemed to affect
 44 payment for the costs of the study and any related Medicaid rate
 45 enhancement if federal participation is not available for such costs.

46 § 10. This act shall take effect immediately; provided, however, that
 47 the amendments made to paragraph (b) of subdivision 7 of section 4403-f
 48 of the public health law made by sections three, four and five of this
 49 act shall not affect the expiration of such paragraph pursuant to subdivi-
 50 sion (i) of section 111 of part H of chapter 59 of the laws of 2011,
 51 as amended, and shall be deemed to expire therewith; provided, further,
 52 that the amendments to paragraph (b) of subdivision 7 of section 4403-f
 53 of the public health law made by sections three, four and five of this
 54 act shall not affect the repeal of such section pursuant to chapter 659
 55 of the laws of 1997, as amended, and shall be deemed repealed therewith;

1 provided, further, that section four of this act shall take effect on
2 October 1, 2018.

3 PART C

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

7 2. In addition to payments made for health home services pursuant to
8 subdivision one of this section, the commissioner is authorized to pay
9 additional amounts: (a) to providers of health home services that meet
10 process or outcome standards specified by the commissioner; and (b) to
11 Medicaid managed care enrollees who are members of health homes in the
12 form of incentive payments to reward such enrollees for participating in
13 wellness activities and for avoiding unnecessary hospitalizations and
14 unnecessary utilization of hospital emergency department services. Such
15 additional amounts may be paid with state funds only if federal finan-
16 cial participation for such payments is unavailable.

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

19 2-d. The commissioner shall establish targets for health home partic-
20 ipation by enrollees of special needs managed care plans designated
21 pursuant to subdivision four of section three hundred sixty-five-m of
22 this title and by high-risk enrollees of other Medicaid managed care
23 plans operating pursuant to section three hundred sixty-four-j of this
24 title, and shall require the managed care providers to work collabora-
25 tively with health homes to achieve such targets. The commissioner may
26 assess penalties under this subdivision against managed care providers
27 that fail to meet the participation targets established pursuant to this
28 subdivision, except that managed care providers shall not be penalized
29 for the failure of a health home to work collaboratively toward meeting
30 the participation targets.

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

34 6. "Provider" shall mean (a) any residential health care facility
35 licensed under article twenty-eight of this chapter; or any certified
36 home health agency, licensed home care services agency or long term home
37 health care program certified under article thirty-six of this chapter;
38 any hospice program certified pursuant to article forty of this chapter;
39 or any adult home, enriched housing program or residence for adults
40 licensed under article seven of the social services law; or (b) a health
41 home, or any subcontractor of such health home, who contracts with or is
42 approved or otherwise authorized by the department to provide health
43 home services to all those enrolled pursuant to a diagnosis of a devel-
44 opmental disability as defined in subdivision twenty-two of section 1.03
45 of the mental hygiene law and enrollees who are under twenty-one years
46 of age under section three hundred sixty-five-l of the social services
47 law, or any entity that provides home and community based services to
48 enrollees who are under twenty-one years of age under a demonstration
49 program pursuant to section eleven hundred fifteen of the federal social
50 security act.

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

1 (b) Residential health care facilities licensed pursuant to article
2 twenty-eight of this chapter and certified home health care agencies and
3 long-term home health care programs certified or approved pursuant to
4 article thirty-six of this chapter or a health home, or any subcontractor
5 of such health home, who contracts with or is approved or otherwise
6 authorized by the department to provide health home services to all
7 those enrolled pursuant to a diagnosis of a developmental disability as
8 defined in subdivision twenty-two of section 1.03 of the mental hygiene
9 law and enrollees who are under twenty-one years of age under section
10 three hundred sixty-five-1 of the social services law, or any entity
11 that provides home and community based services to enrollees who are
12 under twenty-one years of age under a demonstration program pursuant to
13 section eleven hundred fifteen of the federal social security act, may,
14 subject to the availability of federal financial participation, claim as
15 reimbursable costs under the medical assistance program, costs reflect-
16 ing the fee established pursuant to law by the division of criminal
17 justice services for processing a criminal history information check,
18 the fee imposed by the federal bureau of investigation for a national
19 criminal history check, and costs associated with obtaining the finger-
20 prints, provided, however, that for the purposes of determining rates of
21 payment pursuant to article twenty-eight of this chapter for residential
22 health care facilities, such reimbursable fees and costs shall be
23 reflected as timely as practicable in such rates within the applicable
24 rate period.

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

28 10. Notwithstanding subdivision eleven of section eight hundred
29 forty-five-b of the executive law, a certified home health agency,
30 licensed home care services agency or long term home health care program
31 certified, licensed or approved under article thirty-six of this chapter
32 or a home care services agency exempt from certification or licensure
33 under article thirty-six of this chapter, a hospice program under arti-
34 cle forty of this chapter, or an adult home, enriched housing program or
35 residence for adults licensed under article seven of the social services
36 law, or a health home, or any subcontractor of such health home, who
37 contracts with or is approved or otherwise authorized by the department
38 to provide health home services to all enrollees enrolled pursuant to a
39 diagnosis of a developmental disability as defined in subdivision twen-
40 ty-two of section 1.03 of the mental hygiene law and enrollees who are
41 under twenty-one years of age under section three hundred sixty-five-1
42 of the social services law, or any entity that provides home and commu-
43 nity based services to enrollees who are under twenty-one years of age
44 under a demonstration program pursuant to section eleven hundred fifteen
45 of the federal social security act may temporarily approve a prospective
46 employee while the results of the criminal history information check and
47 the determination are pending, upon the condition that the provider
48 conducts appropriate direct observation and evaluation of the temporary
49 employee, while he or she is temporarily employed, and the care recipi-
50 ent. The results of such observations shall be documented in the tempo-
51 rary employee's personnel file and shall be maintained. For purposes of
52 providing such appropriate direct observation and evaluation, the
53 provider shall utilize an individual employed by such provider with a
54 minimum of one year's experience working in an agency certified,
55 licensed or approved under article thirty-six of this chapter or an
56 adult home, enriched housing program or residence for adults licensed



1 under article seven of the social services law, a health home, or any
 2 subcontractor of such health home, who contracts with or is approved or
 3 otherwise authorized by the department to provide health home services
 4 to those enrolled pursuant to a diagnosis of a developmental disability
 5 as defined in subdivision twenty-two of section 1.03 of the mental
 6 hygiene law and enrollees who are under twenty-one years of age under
 7 section three hundred sixty-five-1 of the social services law, or any
 8 entity that provides home and community based services to enrollees who
 9 are under twenty-one years of age under a demonstration program pursuant
 10 to section eleven hundred fifteen of the federal social security act. If
 11 the temporary employee is working under contract with another provider
 12 certified, licensed or approved under article thirty-six of this chap-
 13 ter, such contract provider's appropriate direct observation and evalu-
 14 ation of the temporary employee, shall be considered sufficient for the
 15 purposes of complying with this subdivision.

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

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

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

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

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

48 34. (a) The commissioner may, in his or her discretion, apply penal-
49 ties to managed care providers that do not submit a performing provider
50 system partnership plan by July first, two thousand eighteen, in accord-
51 ance with any submission guidelines issued by the department prior ther-
52 eto. For purposes of this subdivision, "performing provider system part-
53 nership plan" shall mean a plan submitted by such managed care providers
54 to the department that includes both short and long term approaches for
55 effective collaboration with each performing provider system within its
56 service area.



1 (b) Such penalties shall be as follows: for managed care providers
 2 that do not submit a performing provider system partnership plan in
 3 accordance with this subdivision, Medicaid premiums shall be reduced by
 4 eighty-five one-hundredths of one percent for the rate period from April
 5 first, two thousand eighteen through March thirty-first, two thousand
 6 nineteen.
 7 § 9. This act shall take effect immediately; provided, however, that
 8 the amendments made to subdivision 6 of section 2899 of the public
 9 health law made by section three of this act shall take effect on the
 10 same date and in the same manner as section 8 of chapter 471 of the laws
 11 of 2016, as amended, takes effect and shall not affect the expiration of
 12 such subdivision and shall be deemed expired therewith; provided
 13 further, however, that the amendments made to section 364-j of the
 14 social services law made by section eight of this act shall not affect
 15 the repeal of such section and shall be deemed repealed therewith.

16 PART D

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

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

29 § 2. Paragraph (a) of subdivision 4 of section 365-a of the social
30 services law, as amended by chapter 493 of the laws of 2010, is amended
31 to read as follows:

32 (a) drugs which may be dispensed without a prescription as required by
33 section sixty-eight hundred ten of the education law; provided, however,
34 that the state commissioner of health may by regulation specify certain
35 of such drugs which may be reimbursed as an item of medical assistance
36 in accordance with the price schedule established by such commissioner.
37 Notwithstanding any other provision of law, [additions] modifications to
38 the list of drugs reimbursable under this paragraph may be filed as
39 regulations by the commissioner of health without prior notice and
40 comment;

41 § 3. Paragraph (c) of subdivision 6 of section 367-a of the social
42 services law is amended by adding a new subparagraph (v) to read as
43 follows:

44 (v) Notwithstanding any other provision of this paragraph, co-payments
45 charged for drugs dispensed without a prescription as required by
46 section sixty-eight hundred ten of the education law but which are reim-
47 bursed as an item of medical assistance pursuant to paragraph (a) of
48 subdivision four of section three hundred sixty-five-a of this title
49 shall be one dollar.

50 § 4. Paragraph (b) of subdivision 3 of section 273 of the public
51 health law, as added by section 10 of part C of chapter 58 of the laws
52 of 2005, is amended to read as follows:

53 (b) In the event that the patient does not meet the criteria in para-
54 graph (a) of this subdivision, the prescriber may provide additional

1 information to the program to justify the use of a prescription drug
 2 that is not on the preferred drug list. The program shall provide a
 3 reasonable opportunity for a prescriber to reasonably present his or her
 4 justification of prior authorization. [If, after consultation with the
 5 program, the prescriber, in his or her reasonable professional judgment,
 6 determines that the use of a prescription drug that is not on the
 7 preferred drug list is warranted, the prescriber's determination shall
 8 be final.] The program will consider the additional information and the
 9 justification presented to determine whether the use of a prescription
 10 drug that is not on the preferred drug list is warranted.

11 § 5. Subdivisions 25 and 25-a of section 364-j of the social services
 12 law are REPEALED.

13 § 6. The public health law is amended by adding a new section 280-c to
 14 read as follows:

15 § 280-c. Comprehensive medication management. 1. Definitions. For
 16 purposes of this section:

17 (a) Qualified pharmacist. The term "qualified pharmacist" shall mean a
 18 pharmacist who maintains a current unrestricted license pursuant to
 19 article one hundred thirty-seven of the education law, who has a minimum
 20 of two years of experience in patient care as a practicing pharmacist
 21 within the last five years, and who has demonstrated competency in the
 22 medication management of patients with a chronic disease or diseases,
 23 including but not limited to, the completion of one or more programs
 24 which are accredited by the accreditation council for pharmacy educa-
 25 tion, recognized by the education department and acceptable to the
 26 patient's treating physician.

27 (b) Comprehensive medication management. The term "comprehensive medi-
 28 cation management" shall mean a program conducted by a qualified pharma-
 29 cist that ensures a patient's medications, whether prescription or
 30 nonprescription, are individually assessed to determine that each medi-
 31 cation is appropriate for the patient, effective for the medical condi-
 32 tion, safe given comorbidities and other medications being taken, and
 33 able to be taken by the patient as intended. Comprehensive medication
 34 management conducted by a qualified pharmacist shall include sharing of
 35 applicable patient clinical information with the treating physician as
 36 specified in the comprehensive medication management protocol.

37 (c) Comprehensive medication management protocol. The term "comprehen-
 38 sive medication management protocol" means a written document pursuant
 39 to and consistent with any applicable state and federal requirements,
 40 that is entered into voluntarily by either a physician licensed pursuant
 41 to article one hundred thirty-one of the education law or a nurse prac-
 42 titioner certified pursuant to section sixty-nine hundred ten of the
 43 education law, and a qualified pharmacist which addresses a chronic
 44 disease or diseases as determined by the treating physician or nurse
 45 practitioner and that describes the nature and scope of the comprehen-
 46 sive medication management services to be performed by the qualified
 47 pharmacist, in accordance with the provisions of this section. Compre-
 48 hensive medication management protocols between licensed physicians or
 49 nurse practitioners and qualified pharmacists shall be made available to
 50 the department for review and to ensure compliance with this article,
 51 upon request.

52 2. Authorization to establish comprehensive medication management
 53 protocols. A physician licensed pursuant to article one hundred thirty-
 54 one of the education law or a nurse practitioner certified pursuant to
 55 section sixty-nine hundred ten of the education law shall be authorized
 56 to voluntarily establish a comprehensive medication management protocol

1 with a qualified pharmacist to provide comprehensive medication manage-
 2 ment services for a patient who has not met clinical goals of therapy,
 3 is at risk for hospitalization, or for whom the physician or nurse prac-
 4 titioner deems it is necessary to receive comprehensive medication
 5 management services. Participation by the patient in comprehensive medi-
 6 cation management services shall be voluntary.

7 3. Scope of comprehensive medication management protocols. (a) Under a
 8 comprehensive medication management protocol, a qualified pharmacist
 9 shall be permitted to:

10 (i) adjust or manage a drug regimen for the patient, pursuant to the
 11 patient specific order or protocol established by the patient's treating
 12 physician or nurse practitioner, which may include adjusting drug
 13 strength, frequency of administration or route of administration.
 14 Adjusting the drug regimen shall not include substituting or selecting a
 15 different drug which differs from that initially prescribed by the
 16 patient's treating physician or nurse practitioner unless such substi-
 17 tution is expressly authorized in the written order or protocol. The
 18 qualified pharmacist shall be required to immediately document in the
 19 patient's medical record changes made to the drug therapy. The patient's
 20 treating physician or nurse practitioner may prohibit, by written
 21 instruction, any adjustment or change in the patient's drug regimen by
 22 the qualified pharmacist;

23 (ii) evaluate and only if specifically authorized by the protocol, and
 24 only to the extent necessary to discharge the responsibility set forth
 25 in this section, order or perform routine patient monitoring functions
 26 or disease state laboratory tests related to the drug therapy comprehen-
 27 sive medication management for the specific chronic disease or diseases
 28 specified within the written agreement or comprehensive medication
 29 management protocol;

30 (iii) only if specifically authorized by the written order or protocol
 31 and only to the extent necessary to discharge the responsibilities set
 32 forth in this section, order or perform routine patient monitoring func-
 33 tions as may be necessary in the drug therapy management, including the
 34 collecting and reviewing of patient histories, and ordering or checking
 35 patient vital signs, including pulse, temperature, blood pressure,
 36 weight and respiration; and

37 (iv) access the complete patient medical record maintained by the
 38 treating physician or nurse practitioner with whom the qualified pharma-
 39 cist has the comprehensive medication management protocol and shall
 40 document any adjustments made pursuant to the protocol in the patient's
 41 medical record and shall notify the patient's treating physician or
 42 nurse practitioner of any adjustments in a timely manner electronically
 43 or by other means.

44 (b) Under no circumstances shall the qualified pharmacist be permitted
 45 to delegate comprehensive medication management services to any other
 46 licensed pharmacist or other pharmacy personnel.

47 4. Medication adjustments. Any medication adjustments made by the
 48 qualified pharmacist pursuant to the comprehensive medication management
 49 protocol, including adjustments in drug strength, frequency or route of
 50 administration, or initiation of a drug which differs from that initial-
 51 ly prescribed and as documented in the patient medical record, shall be
 52 deemed an oral prescription authorized by an agent of the patient's
 53 treating physician or nurse practitioner and shall be dispensed consist-
 54 ent with section sixty-eight hundred ten of the education law. For the
 55 purposes of this section, a pharmacist who is not an employee of the

1 physician or nurse practitioner may be authorized to serve as an agent
2 of the physician or nurse practitioner.

3 5. Referrals. A physician licensed pursuant to article one hundred
4 thirty-one of the education law or a nurse practitioner certified pursu-
5 ant to section sixty-nine hundred ten of the education law, who has
6 responsibility for the treatment and care of a patient for a chronic
7 disease or diseases as determined by the physician or nurse practitioner
8 may refer the patient to a qualified pharmacist for comprehensive medi-
9 cation management services, pursuant to the comprehensive medication
10 management protocol that the physician or nurse practitioner has estab-
11 lished with the qualified pharmacist. The protocol agreement shall
12 authorize the pharmacist to serve as an agent of the physician or nurse
13 practitioner as defined by the protocol. Such referral shall be docu-
14 mented in the patient's medical record.

15 6. Patient participation. Participation in comprehensive medication
16 management services shall be voluntary, and no patient, physician, nurse
17 practitioner or pharmacist shall be required to participate. The refer-
18 ral of a patient for comprehensive medication management services and
19 the patient's right to choose not to participate shall be disclosed to
20 the patient. Comprehensive medication management services shall not be
21 utilized unless the patient or the patient's authorized representative
22 consents, in writing, to such services. Such consent shall be noted in
23 the patient's medical record. If the patient or the patient's authorized
24 representative who consented chooses to no longer participate in such
25 services, at any time, the services shall be discontinued and it shall
26 be noted in the patient's medical record.

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

29 (h) opioids prescribed to a patient initiating or being maintained on
30 opioid treatment for pain which has lasted more than three months or
31 past the time of normal tissue healing, unless the medical record
32 contains a written treatment plan that includes: goals for pain manage-
33 ment and functional improvement based on diagnosis; information on
34 whether non-opioid therapies have been tried and optimized or are
35 contraindicated; a statement that the prescriber has explained to the
36 patient the risks of and alternatives to opioid treatment; an evaluation
37 of the patient for risk factors of harm and misuse of opioids; an
38 assessment of the patient's adherence to treatment with respect to other
39 conditions treated by the same provider; the signature of the patient
40 and/or an attestation by the prescriber that the patient verbally agreed
41 to the treatment plan; and any other information required by the depart-
42 ment. Such treatment plan shall be updated twice within the year imme-
43 diately following its initiation and annually thereafter. The require-
44 ments of this paragraph shall not apply in the case of patients who are
45 being treated for cancer that is not in remission, who are in hospice or
46 other end-of-life care, or whose pain is being treated as part of palli-
47 ative care practices.

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

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

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

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

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

9 § 9. 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 sections two and three of this act shall take effect July
 12 1, 2018; and provided further, however, that the amendments to paragraph
 13 (d) of subdivision 9 and paragraph (c) of subdivision 6 of section
 14 367-a of the social services law made by sections one and three, respec-
 15 tively, of this act shall not affect the expiration or repeal of such
 16 provisions and shall expire or be deemed repealed therewith.

17

PART E

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

21 4. The commissioner of health is authorized to assume responsibility
 22 from a local social services official for the provision and reimburse-
 23 ment of transportation costs under this section. If the commissioner
 24 elects to assume such responsibility, the commissioner shall notify the
 25 local social services official in writing as to the election, the date
 26 upon which the election shall be effective and such information as to
 27 transition of responsibilities as the commissioner deems prudent. The
 28 commissioner is authorized to contract with a transportation manager or
 29 managers to manage transportation services in any local social services
 30 district, other than transportation services provided or arranged for
 31 enrollees of [managed long term care plans issued certificates of
 32 authority under section forty-four hundred three-f of the public health
 33 law] a program designated as a Program of All-Inclusive Care for the
 34 Elderly (PACE) as authorized by Federal Public law 1053-33, subtitle 1
 35 of title IV of the Balanced Budget Act of 1997. Any transportation
 36 manager or managers selected by the commissioner to manage transporta-
 37 tion services shall have proven experience in coordinating transporta-
 38 tion services in a geographic and demographic area similar to the area
 39 in New York state within which the contractor would manage the provision
 40 of services under this section. Such a contract or contracts may include
 41 responsibility for: review, approval and processing of transportation
 42 orders; management of the appropriate level of transportation based on
 43 documented patient medical need; and development of new technologies
 44 leading to efficient transportation services. If the commissioner elects
 45 to assume such responsibility from a local social services district, the
 46 commissioner shall examine and, if appropriate, adopt quality assurance
 47 measures that may include, but are not limited to, global positioning
 48 tracking system reporting requirements and service verification mech-
 49 anisms. Any and all reimbursement rates developed by transportation
 50 managers under this subdivision shall be subject to the review and
 51 approval of the commissioner.

52 § 2. The opening paragraph of subdivision 1 and subdivision 3 of
 53 section 367-s of the social services law, as amended by section 53 of

1 part B of chapter 57 of the laws of 2015, are amended to read as
2 follows:

3 Notwithstanding any provision of law to the contrary, a supplemental
4 medical assistance payment shall be made on an annual basis to providers
5 of emergency medical transportation services in an aggregate amount not
6 to exceed four million dollars for two thousand six, six million dollars
7 for two thousand seven, six million dollars for two thousand eight, six
8 million dollars for the period May first, two thousand fourteen through
9 March thirty-first, two thousand fifteen, and six million dollars [annu-
10 ally beginning with] on an annual basis for the period April first, two
11 thousand fifteen through March thirty-first, two thousand [sixteen]
12 eighteen pursuant to the following methodology:

13 3. If all necessary approvals under federal law and regulation are not
14 obtained to receive federal financial participation in the payments
15 authorized by this section, payments under this section shall be made in
16 an aggregate amount not to exceed two million dollars for two thousand
17 six, three million dollars for two thousand seven, three million dollars
18 for two thousand eight, three million dollars for the period May first,
19 two thousand fourteen through March thirty-first, two thousand fifteen,
20 and three million dollars [annually beginning with] on an annual basis
21 for the period April first, two thousand fifteen through March thirty-
22 first, two thousand [sixteen] eighteen. In such case, the multiplier
23 set forth in paragraph (b) of subdivision one of this section shall be
24 deemed to be two million dollars or three million dollars as applicable
25 to the annual period.

26 § 3. Subdivision 5 of section 365-h of the social services law is
27 REPEALED.

28 § 4. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after April 1, 2018; provided,
30 however, that section one of this act shall take effect October 1, 2018;
31 provided, further that the amendments to subdivision 4 of section 365-h
32 of the social services law made by section one of this act shall not
33 affect the repeal of such section and shall expire and be deemed
34 repealed therewith.

35 PART F

36 Section 1. Notwithstanding any inconsistent provision of law, rule or
37 regulation to the contrary, if a Medicaid managed care plan or managed
38 long term care plan that has been issued a certificate of authority
39 pursuant to article 44 of the public health law and that satisfies the
40 definition of corporation in subparagraph 5 of paragraph (a) of section
41 102 of the not-for-profit corporation law or is exempt from taxation
42 under section 501 of the Internal Revenue Code of 1986 has an aggregate
43 accumulated contingent reserve, across all of its Medicaid lines of
44 business, in an amount that exceeds the minimum contingent reserve
45 amount required by regulations of the department of health, the commis-
46 sioner of health shall be authorized to make prospective adjustments to
47 the Medicaid capitation rates of such plan and shall apply any relevant
48 criteria as determined necessary in his or her discretion, in order to
49 achieve a reduction in Medicaid reimbursement to the plan equal to the
50 amount of the excess, or such lesser amount as determined by the commis-
51 sioner of health.

52 § 2. This act shall take effect April 1, 2018.

53 PART G

1 Section 1. The public health law is amended by adding a new article
2 29-J to read as follows:

3 ARTICLE 29-J

4 HEALTH SERVICES OFFERED BY RETAIL PRACTICES

5 Section 2999-hh. Definitions.

6 2999-ii. Retail practice sponsors.

7 2999-ij. Retail practices.

8 2999-ik. Accreditation.

9 2999-il. Other laws.

10 § 2999-hh. Definitions. For purposes of this article:

11 1. "Reportable event" shall mean:

12 (a) the transfer of an individual who visits a retail practice to a
13 hospital or emergency department during such visit; or

14 (b) the death of an individual who visits a retail practice during
15 such visit.

16 2. "Collaborative relationship" shall mean an arrangement between a
17 retail practice and one or more of the following entities located within
18 the same geographic region as the retail practice, designed to facili-
19 tate development and implementation of strategies that support the
20 provision of coordinated care within the population served by the
21 parties to such relationship:

22 (a) a hospital licensed pursuant to article twenty-eight of this chap-
23 ter;

24 (b) a physician practice;

25 (c) an accountable care organization certified pursuant to article
26 twenty-nine-E of this chapter; or

27 (d) a performing provider system under the delivery system reform
28 incentive payment program.

29 3. "Retail health services" shall mean the services offered and
30 provided by a retail practice.

31 (a) Retail health services shall include:

32 (i) the provision of treatment and services to patients for minor
33 acute episodic illnesses or conditions;

34 (ii) episodic preventive and wellness treatments and services such as
35 immunizations, except as otherwise specified in paragraph (c) of this
36 subdivision;

37 (iii) treatment and services for minor traumas that are not reasonably
38 likely to be life threatening or potentially disabling if ambulatory
39 care within the capacity of the retail practice is provided;

40 (iv) administration of an opioid antagonist in the event of an emer-
41 gency; and

42 (v) limited screening and referral for behavioral health conditions.

43 (b) Retail health services may include laboratory tests at the option
44 of the retail practice, provided that:

45 (i) such tests are administered solely as an adjunct to treatment of
46 patients visiting the retail practice, with all specimens collected and
47 testing performed on-site;

48 (ii) such tests are "waived tests", meaning a clinical laboratory test
49 that has been designated as a waived test or is otherwise subject to
50 certificate of waiver requirements pursuant to the federal clinical
51 laboratory improvement act of nineteen hundred eighty-eight, as amended;
52 and

53 (iii) the retail practice obtains approval from the department pursu-
54 ant to section five hundred seventy-nine of this chapter.

55 (c) Retail health services shall not include:

1 (i) the performance of procedures involving the provision of sedation
2 or anesthesia;
3 (ii) the provision of services to patients twenty-four months of age
4 or younger;
5 (iii) the provision of immunizations to patients between twenty-four
6 months and eighteen years of age, other than immunizations against
7 influenza;
8 (iv) services provided by pharmacists pursuant to article one hundred
9 thirty-seven of the education law;
10 (v) health services provided on-site by an employer to its employees
11 in a retail business operation;
12 (v) health services provided on a time-limited basis such as flu clin-
13 ics or health fairs; or
14 (vi) educational courses offered to individuals on health topics,
15 including instruction in self-management of medical conditions.
16 4. "Retail practice" shall mean an entity which:
17 (a) is located within the space of a retail business operation open to
18 the general public, such that customer access to the retail practice
19 location is available within the main premises of the retail operation;
20 (b) provides retail health services, as defined in subdivision three
21 of this section;
22 (c) is established and overseen by a retail practice sponsor, as
23 defined in subdivision five of this section;
24 (d) is staffed at all times by, at a minimum, one or more of the
25 following: a physician licensed pursuant to article one hundred thir-
26 ty-one of the education law, a physician assistant licensed pursuant to
27 article one hundred thirty-one-A of the education law, and/or a nurse
28 practitioner licensed pursuant to article one hundred thirty-nine of the
29 education law; provided that no more than four physician assistants
30 employed by a retail practice sponsor shall be supervised by a single
31 physician; and
32 (e) is accredited as set forth in section twenty-nine hundred ninety-
33 nine-kk of this article.
34 5. "Retail practice sponsor" shall mean an entity formed under the
35 laws of the state of New York, which may include stockholders or members
36 which are not natural persons, and which operates one or more retail
37 practices. Retail practice sponsors may include business corporations,
38 and general hospitals, nursing homes, and diagnostic and treatment
39 centers licensed pursuant to article twenty-eight of this chapter.
40 § 2999-ii. Retail practice sponsors. 1. Notwithstanding any law to the
41 contrary, a retail practice sponsor may operate one or more retail prac-
42 tices to provide retail health services in accordance with this article.
43 2. A retail practice sponsor shall:
44 (a) employ or otherwise retain the services of a medical director who
45 is licensed and currently registered to practice medicine in the state
46 of New York to oversee the development of and adherence to medical poli-
47 cies and procedures used in the retail practices operated by the retail
48 practice sponsor;
49 (b) establish and maintain policies and procedures requiring retail
50 practices to comply with the provisions of section twenty-nine hundred
51 ninety-nine-jj of this article;
52 (c) notify the department when it is prepared to commence operation of
53 a retail practice by:
54 (i) identifying the corporate name of the retail practice sponsor,
55 providing documentation of its organization under the laws of the state

1 of New York, and identifying the individual who will serve as the point
2 of contact between the retail practice sponsor and the department;

3 (ii) identifying the location of the retail practice, the services to
4 be offered by the retail practice, the name of the individual employed
5 with the overall responsibility for the on-site management of the retail
6 practice, and the staffing plan for the retail practice;

7 (iii) identifying the entities with which the retail practice will
8 collaborate pursuant to subdivision two of section twenty-nine hundred
9 ninety-nine-hh of this article; and

10 (iv) identifying the date on which it anticipates that the retail
11 practice will be open for business;

12 (d) promptly update the department as to any changes in the informa-
13 tion required under subdivision three of this section; and

14 (e) provide information to the department at a frequency and in a
15 manner determined by the department, which at a minimum shall include an
16 annual report that provides data, for each retail practice operated by
17 the retail practice, on:

18 (i) the number of visits that occurred during the timeframe identified
19 by the department;

20 (ii) the services provided to patients;

21 (iii) the source of payment for services provided;

22 (iv) the number of referrals to primary care practitioners made; and

23 (v) the number of reportable events that occurred.

24 3. (a) In discharging the duties of their respective positions, the
25 board of directors, committees of the board, and individual directors
26 and officers of a retail practice sponsor that operates three or more
27 retail practices shall consider the effects of any action upon:

28 (i) the ability of the business corporation to accomplish its purpose;

29 (ii) the shareholders of the business corporation;

30 (iii) the interests of patients of the retail practices;

31 (iv) community and societal considerations, including those of the
32 communities in which retail practices are located.

33 (b) The consideration of interests and factors in the manner required
34 in paragraph (a) of this subdivision:

35 (i) shall not constitute a violation of the provisions of section
36 seven hundred fifteen or seven hundred seventeen of the business corpo-
37 ration law; and

38 (ii) is in addition to the ability of directors to consider interests
39 and factors as provided in section seven hundred seventeen of the busi-
40 ness corporation law.

41 (c) A retail practice sponsor that operates three or more retail prac-
42 tices shall publish on a publicly available website a description of how
43 its operation of existing and planned retail practices:

44 (i) will improve access to services in the communities where they are
45 located;

46 (ii) supports a commitment to offer assistance to individuals who do
47 not have health care coverage;

48 (iii) supports an overall commitment by the retail practice sponsor to
49 operate some of its retail practices in medically underserved areas of
50 the state as defined by the commissioner; and

51 (iv) will otherwise benefit the communities where they are located.

52 § 2999-jj. Retail practices. 1. Retail health services shall not be
53 provided in a retail business operation open to the public except in
54 accordance with this article.

55 2. Notwithstanding any law to the contrary, a retail practice shall:

56 (a) provide retail health services and only retail health services;



1 (b) provide treatment without discrimination as to source of payment;
2 (c) maintain a policy offering a sliding scale for payment for
3 patients who do not have health care coverage and publish such policy on
4 a publicly available website;
5 (d) provide to patients who indicate that they do not have health care
6 coverage information on the state health benefit exchange, including the
7 website address for the exchange and contact information for local navi-
8 gators offering in-person enrollment assistance;
9 (e) accept walk-in patients without previously scheduled appointments;
10 (f) offer business hours for a minimum of twelve hours per day and six
11 days per week or, if the retail business in which the retail practice is
12 located is open for less than twelve hours per day and six days per
13 week, then the retail practice shall offer the same business hours as
14 the retail business;
15 (g) publish a list of the retail health services it offers on a
16 publicly available website together with the prices of such services;
17 (h) post signs in a conspicuous location in large type stating that
18 prescriptions and over-the-counter supplies may be purchased by a
19 patient from any business and do not need to be purchased on-site;
20 (i) enter into and maintain at least one collaborative relationship as
21 defined in subdivision two of section twenty-nine hundred ninety-nine-hh
22 of this article;
23 (j) inquire of each patient whether he or she has a primary care
24 provider;
25 (k) maintain and regularly update a list of local primary care provid-
26 ers and provide such list to each patient who indicates that he or she
27 does not have a primary care provider;
28 (l) refer patients to their primary care providers or other health
29 care providers as appropriate;
30 (m) transmit, by electronic means whenever possible, records of
31 services to patients' primary care providers and maintain records of
32 services for a minimum of six years;
33 (n) execute participation agreements with health information organiza-
34 tions, also known as qualified entities, pursuant to which the retail
35 practice shall agree to participate in the statewide health information
36 network for New York (SHIN-NY);
37 (o) attain and maintain accreditation pursuant to section twenty-nine
38 hundred ninety-nine-kk of this section; and
39 (p) report reportable events to the accrediting entity within three
40 business days of the occurrence of such reportable event.
41 3. Entities meeting the definition of a retail practice as set forth
42 in this article and providing services on or before the effective date
43 of this article shall have one hundred twenty days after such effective
44 date to notify the department of compliance therewith.
45 § 2999-kk. Accreditation. 1. A retail practice shall be required to
46 attain and maintain accreditation by a nationally recognized accrediting
47 entity as determined by the department.
48 2. The accrediting entity shall be required to notify the department
49 promptly if a retail practice loses its accreditation.
50 3. The accrediting entity shall be required to report data on all
51 retail practices accredited by such entity to the commissioner.
52 § 2999-ll. Other laws. 1. Nothing in this article shall be deemed to
53 alter the scope of practice of any practitioner licensed or certified
54 under title eight of the education law.
55 2. Nothing in this article shall be deemed to mitigate the responsi-
56 bility of any individual practitioner licensed or certified under title

1 eight of the education law from accountability for his or her actions
2 under applicable provisions of law.

3 3. A retail practice shall be deemed to be a "health care provider"
4 for the purposes of title two-D of article two of this chapter.

5 4. A prescriber practicing in a retail practice shall not be deemed to
6 be in the employ of a pharmacy or practicing in a hospital for purposes
7 of subdivision two of section sixty-eight hundred seven of the education
8 law.

9 § 2. This act shall take effect immediately.

10

PART H

11 Section 1. Section 6902 of the education law is amended by adding a
12 new subdivision 4 to read as follows:

13 4. (a) The practice of registered professional nursing by a certified
14 registered nurse anesthetist, certified under section sixty-nine hundred
15 twelve of this article may include the practice of nurse anesthesia.

16 (i) Subject to the provisions of paragraph (e) of this subdivision,
17 nurse anesthesia includes: the administration of anesthesia and anes-
18 thesia related care to patients; pre-anesthesia evaluation and prepara-
19 tion; anesthetic induction, maintenance and emergence; post anesthesia
20 care; perianesthesia nursing and clinical support functions; and pain
21 management.

22 (ii) Nurse anesthesia must be provided in collaboration with a
23 licensed physician qualified to determine the need for anesthesia
24 services, provided such services are performed in accordance with a
25 written practice agreement and written practice protocols as set forth
26 in paragraph (b) of this subdivision or pursuant to collaborative
27 relationships as set forth in paragraph (c) of this subdivision, which-
28 ever is applicable.

29 (iii) Prescriptions for drugs, devices, and anesthetic agents, anes-
30 thesia related agents, and pain management agents may be issued by a
31 certified registered nurse anesthetist, in accordance with the written
32 practice agreement and written practice protocols described in paragraph
33 (b) of this subdivision if applicable. The certified registered nurse
34 anesthetist shall obtain a certificate from the department upon success-
35 fully completing a program including an appropriate pharmacology compo-
36 nent, or its equivalent, as established by the commissioner's regu-
37 lations, prior to prescribing under this subparagraph. The certificate
38 issued under section sixty-nine hundred twelve of this article shall
39 state whether the certified registered nurse anesthetist has successful-
40 ly completed such a program or equivalent and is authorized to prescribe
41 under this subdivision.

42 (b) A certified registered nurse anesthetist certified under section
43 sixty-nine hundred twelve of this article and practicing for thirty-six
44 hundred hours or less shall do so in accordance with a written practice
45 agreement and written practice protocols agreed upon by a licensed
46 physician qualified by education and experience to determine the need
47 for anesthesia.

48 (i) The written practice agreement shall include explicit provisions
49 for the resolution of any disagreement between the collaborating physi-
50 cian and the certified registered nurse anesthetist regarding a matter
51 of anesthesia or pain management treatment that is within the scope of
52 practice of both. To the extent the practice agreement does not so
53 provide, then the collaborating physician's treatment shall prevail.

1 (ii) Each practice agreement shall provide for patient records review
2 by the collaborating physician in a timely fashion but in no event less
3 often than every three months. The names of the certified registered
4 nurse anesthetist and the collaborating physician shall be clearly post-
5 ed in the practice setting of the certified registered nurse anes-
6 tist.

7 (iii) The practice protocol shall reflect current accepted medical and
8 nursing practice. The protocols shall be filed with the department
9 within ninety days of the commencement of the practice and may be
10 updated periodically. The commissioner shall make regulations establish-
11 ing the procedure for the review of protocols and the disposition of any
12 issues arising from such review.

13 (c) A certified registered nurse anesthetist certified under section
14 sixty-nine hundred twelve of this article and practicing for more than
15 thirty-six hundred hours shall have collaborative relationships with one
16 or more licensed physicians qualified to determine the need for anes-
17 thesia services or a hospital, licensed under article twenty-eight of
18 the public health law, that provides services through licensed physi-
19 cians qualified to determine the need for anesthesia services and having
20 privileges at such institution.

21 (i) For purposes of this paragraph, "collaborative relationships"
22 shall mean that the certified registered nurse anesthetist shall commu-
23 nicate, whether in person, by telephone or through written (including
24 electronic) means, with a licensed physician qualified to determine the
25 need for anesthesia services or, in the case of a hospital, communicate
26 with a licensed physician qualified to determine the need for anesthesia
27 services and having privileges at such hospital, for the purposes of
28 exchanging information, as needed, in order to provide comprehensive
29 patient care and to make referrals as necessary.

30 (ii) As evidence that the certified registered nurse anesthetist main-
31 tains collaborative relationships, the certified registered nurse
32 anesthetist shall complete and maintain a form, created by the depart-
33 ment, to which the certified registered nurse anesthetist shall attest,
34 that describes such collaborative relationships. Such form shall also
35 reflect the certified registered nurse anesthetist's acknowledgement
36 that if reasonable efforts to resolve any dispute that may arise with
37 the collaborating physician or, in the case of a collaboration with a
38 hospital, with a licensed physician qualified to determine the need for
39 anesthesia services and having privileges at such hospital, about a
40 patient's care are not successful, the recommendation of the physician
41 shall prevail. Such form shall be updated as needed and may be subject
42 to review by the department. The certified registered nurse anesthetist
43 shall maintain documentation that supports such collaborative relation-
44 ships.

45 (d) Nothing in this subdivision shall be deemed to limit or diminish
46 the practice of the profession of nursing as a registered professional
47 nurse under this article or any other law, rule, regulation or certif-
48 ication, nor to deny any registered professional nurse the right to do
49 any act or engage in any practice authorized by this article or any
50 other law, rule, regulation or certification.

51 (e) (i) Anesthesia services may be provided by certified registered
52 nurse anesthetists only in the following settings:

53 (A) general hospitals, hospital outpatient surgical departments, and
54 diagnostic and treatment centers licensed by the department of health
55 pursuant to article twenty-eight of the public health law and authorized



1 to provide sedation, anesthesia services, and/or pain management
2 services in connection with such licensure;

3 (B) practices where office-based surgery, as defined by section two
4 hundred-thirty-d of the public health law, is performed and/or pain
5 management services are provided; and

6 (C) dentists' and periodontists' offices where sedation and/or anes-
7 thesia services are provided.

8 (ii) Anesthesia services offered in such settings, including services
9 provided by certified registered nurse anesthetists, shall be directed
10 by a physician, dentist, or periodontist, as applicable, who is respon-
11 sible for the clinical aspects of all anesthesia services offered by the
12 provider and is qualified to determine the need for and administer anes-
13 thesia. Such physician shall have the discretion to establish parameters
14 for supervision of certified registered nurse anesthetists where he or
15 she makes a reasonable determination that the circumstances of a partic-
16 ular case or type of cases, although within the scope of practice of a
17 certified registered nurse anesthetist as set forth in paragraph (a) of
18 this subdivision, are of such complexity that they should be conducted
19 under supervision. In such cases, such supervision shall be provided by
20 an anesthesiologist who is immediately available as needed or by the
21 operating physician who is qualified to determine the need for anes-
22 thesia services and supervise the administration of anesthesia.

23 § 2. The education law is amended by adding a new section 6912 to read
24 as follows:

25 § 6912. Certificates for nurse anesthesia practice. 1. For issuance
26 of a certificate to practice as a certified registered nurse anesthetist
27 under subdivision four of section sixty-nine hundred two of this arti-
28 cle, the applicant shall fulfill the following requirements:

29 (a) Application: file an application with the department;

30 (b) License: be licensed as a registered professional nurse in the
31 state;

32 (c) Education: (i) have satisfactorily completed educational prepara-
33 tion for provision of these services in a program registered by the
34 department or in a program accredited by a national body recognized by
35 the department or determined by the department to be the equivalent; and
36 (ii) submit evidence of current certification or recertification by a
37 national certifying body, recognized by the department;

38 (d) Fees: pay a fee to the department of fifty dollars for an initial
39 certificate authorizing nurse anesthesia practice and a triennial regis-
40 tration fee of thirty dollars; and

41 (e) Information and documentation: in conjunction with and as a condi-
42 tion of each triennial registration, provide to the department, and the
43 department shall collect, such information and documentation required by
44 the department, in consultation with the department of health, as is
45 necessary to enable the department of health to evaluate access to need-
46 ed services in this state, including, but not limited to, the location
47 and type of setting wherein the certified registered nurse anesthetist
48 practices and other information the department, in consultation with the
49 department of health, deems relevant. The department of health, in
50 consultation with the department, shall make such data available in
51 aggregate, de-identified form on a publicly accessible website. Addi-
52 tionally, in conjunction with each triennial registration, the depart-
53 ment, in consultation with the department of health, shall provide
54 information on registering in the donate life registry for organ and
55 tissue donation, including the website address for such registry.



1 After a certified registered nurse anesthetist's initial registration,
2 registration under this section shall be coterminous with the certified
3 registered nurse anesthetist's registration as a professional nurse.

4 2. Only a person certified under this section shall use the title
5 "certified registered nurse anesthetist," except as set forth in subdi-
6 vision three of this section.

7 3. Nothing in this section shall be deemed from preventing any other
8 professional licensed or certified under this chapter or the public
9 health law from carrying out any responsibilities established by rele-
10 vant sections of such chapters.

11 4. An individual who meets the requirements for certification as a
12 certified registered nurse anesthetist and who has been performing the
13 duties of a certified registered nurse anesthetist for two of the five
14 years prior to the effective date of this article may be certified with-
15 out meeting additional requirements, provided that such individual
16 submits an application, including an attestation from the applicant's
17 supervising physician as to the applicant's experience and competence,
18 to the department within two years of the effective date of this
19 section. Such individual may use the title "certified registered nurse
20 anesthetist" in connection with that practice while such application is
21 pending.

22 5. (a) A registered professional nurse licensed under section sixty-
23 nine hundred five of this article who has satisfactorily completed a
24 program of educational preparation as provided in subdivision one of
25 this section may, for a period not to exceed twenty-four months imme-
26 diately following the completion of such educational program, practice
27 nurse anesthesia under subdivision four of section sixty-nine hundred
28 two of this article as a graduate nurse anesthetist in the same manner
29 as a certified registered nurse anesthetist under that subdivision.

30 (b) A registered professional nurse licensed under section sixty-nine
31 hundred five of this article who is duly enrolled in a program of educa-
32 tional preparation may practice nurse anesthesia as a student nurse
33 anesthetist under the supervision of an anesthesiologist or a certified
34 registered nurse anesthetist, who is immediately available as needed.

35 § 3. This act shall take effect immediately.

36 PART I

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

39 34. Monies paid by the department to managed care organizations are
40 public funds and retain their status as public funds regardless of any
41 payments made by the managed care organization to subcontractors or
42 providers.

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

45 35. Recovery of overpayments from network providers. (a) Where the
46 Medicaid inspector general, during the course of an audit or investi-
47 gation, identifies improper medical assistance payments made by a
48 managed care organization to its subcontractor or subcontractors or
49 provider or providers, the state shall have the right to recover the
50 improper payment from the subcontractor or subcontractors, provider or
51 providers, or the managed care organization.

52 (b) Where the state is unsuccessful in recovering the improper payment
53 from the subcontractor or subcontractors or provider or providers, the
54 Medicaid inspector general may require the managed care organization to

1 recover the improper medical assistance payments identified in paragraph
2 (a) of this subdivision. The managed care organization shall remit to
3 the state the full amount of the identified improper payment no later
4 than six months after receiving notice of the overpayment.

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

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

12 36. Reporting acts of fraud. (a) All managed care organizations shall
13 promptly refer to the office of the Medicaid inspector general all cases
14 of potential fraud, waste, or abuse.

15 (b) Any managed care organization making a complaint or furnishing a
16 report, referral, information or records in good faith pursuant to this
17 section shall be immune from civil liability for making such complaint,
18 referral, or report to the office of the Medicaid inspector general.

19 (c) A managed care organization that willfully fails to promptly make
20 a referral to the Medicaid inspector general when there is actual know-
21 ledge that an act of fraud is being or has been committed may be fined
22 in an amount not exceeding one hundred thousand dollars for each deter-
23 mination.

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

26 § 37. Violations of medical assistance program laws, regulations or
27 directives; fines. 1. (a) Any individual or entity participating in the
28 medical assistance program that fails to comply with or violates any
29 statute, rule, regulation, or directive of the medical assistance
30 program, may be fined in an amount not exceeding the sum of five thou-
31 sand dollars for each violation.

32 (b) Every failure to comply with or violation of any statute, rule,
33 regulation, or directive of the medical assistance program shall be a
34 separate and distinct offense and, in the case of a continuing
35 violation, every day's continuance thereof shall be a separate and
36 distinct offense.

37 2. (a) Any entity authorized to operate under article forty-four of
38 this chapter or article forty-three of the insurance law, including any
39 subcontractor or provider thereof, and participating in the medical
40 assistance program that fails to comply with or violates any statute,
41 rule, regulation, or directive of the medical assistance program, or any
42 term of its contract with the department, may be fined in an amount not
43 exceeding the sum of five thousand dollars for each violation.

44 (b) Every failure to comply with or violation of any statute, rule,
45 regulation, or directive of the medical assistance program, or term of
46 the entity's contract with the department shall be a separate and
47 distinct offense and, in the case of a continuing violation, every day's
48 continuance thereof shall be a separate and distinct offense.

49 3. Any entity participating in the medical assistance program and
50 authorized to operate under article forty-four of this chapter or arti-
51 cle forty-three of the insurance law that submits a cost report to the
52 medical assistance program that contains data which is intentionally or
53 systematically inaccurate or improper, may be fined in an amount not
54 exceeding one hundred thousand dollars for each determination.

55 4. Any entity authorized to operate under article forty-four of this
56 chapter or article forty-three of the insurance law, and participating

1 in the medical assistance program that intentionally or systematically
2 submits inaccurate encounter data to the state may be fined in an amount
3 not exceeding one hundred thousand dollars for each determination.

4 5. The Medicaid inspector general shall, in consultation with the
5 commissioner, consider the following prior to assessing a fine against
6 an individual or entity under this section and have the discretion to
7 reduce or eliminate a fine under this section:

8 (a) the effect, if any, on the quality of medical care provided to or
9 arranged for recipients of medical assistance as a result of the acts of
10 the individual or entity;

11 (b) the amount of damages to the program;

12 (c) the degree of culpability of the individual or entity in commit-
13 ting the proscribed actions and any mitigating circumstances;

14 (d) any prior violations committed by the individual or entity relat-
15 ing to the medical assistance program, Medicare or any other social
16 services programs which resulted in either criminal or administrative
17 sanction, penalty, or fine;

18 (e) the degree to which factors giving rise to the proscribed actions
19 were out of the control of the individual or entity;

20 (f) the number and nature of the violations or other related offenses;

21 (g) any other facts relating to the nature and seriousness of the
22 violations including any exculpatory facts; and/or

23 (h) any other relevant factors.

24 6. The Medicaid inspector general shall, in consultation with the
25 commissioner, promulgate regulations enumerating those violations which
26 may result in a fine pursuant to subdivisions one and two of this
27 section, the amounts of any fines which may be assessed under this
28 section, and the appeal rights afforded to individuals or entities
29 subject to a fine.

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

33 (d) (i) Penalties under this subdivision may be applied to any and all
34 circumstances described in paragraph (b) of this subdivision until the
35 managed care organization complies with the requirements for submission
36 of encounter data. (ii) No penalties for late, incomplete or inaccurate
37 encounter data shall be assessed against managed care organizations in
38 addition to those provided for in this subdivision, provided, however,
39 that nothing in this paragraph shall prohibit the imposition of penal-
40 ties, in cases of fraud or abuse, otherwise authorized by law.

41 § 6. This act shall take effect on the ninetieth day after it shall
42 have become a law; provided, however, that the amendments to section
43 364-j of the social services law made by sections one, two, three and
44 five of this act shall not affect the repeal of such section and shall
45 be deemed repealed therewith.

46

PART J

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

50 (h) knowingly conceals or knowingly and improperly avoids or decreases
51 an obligation to pay or transmit money or property to the state or a
52 local government, or conspires to do the same; shall be liable to the
53 state or a local government, as applicable, for a civil penalty of not
54 less than six thousand dollars and not more than twelve thousand

1 dollars, as adjusted to be equal to the civil penalty allowed under the
2 federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, as
3 adjusted for inflation by the Federal Civil Penalties Inflation Adjust-
4 ment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410),
5 plus three times the amount of all damages, including consequential
6 damages, which the state or local government sustains because of the act
7 of that person.

8 § 2. This act shall take effect immediately.

9

PART K

10 Section 1. Notwithstanding any contrary provision of law, the depart-
11 ment of health is authorized to require any Medicaid-enrolled provider,
12 and any health care provider that is part of a network of providers of a
13 managed care organization operating pursuant to section 364-j of the
14 social services law or section 4403-f of the public health law, to
15 report on costs incurred by the provider in rendering health care
16 services to Medicaid beneficiaries. The department of health may specify
17 the frequency and format of such reports, determine the type and amount
18 of information to be submitted, and require the submission of supporting
19 documentation. In the case of a provider in a managed care network, the
20 department of health may require the managed care organization to obtain
21 the required information from the network provider on behalf of the
22 department.

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

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

54 § 3. This act shall take effect immediately.



1

PART L

2 Section 1. Subdivision 7 of section 369 of the social services law, as
3 amended by section 7 of part F of chapter 56 of the laws of 2012, is
4 amended to read as follows:

5 7. Notwithstanding any provision of law to the contrary, the depart-
6 ment shall, when it determines necessary program features are in place,
7 assume sole responsibility for commencing actions or proceedings in
8 accordance with the provisions of this section, sections one hundred
9 one, one hundred four, one hundred four-b, paragraph (a) of subdivision
10 three of section three hundred sixty-six, subparagraph one of paragraph
11 (h) of subdivision four of section three hundred sixty-six, and para-
12 graph (b) of subdivision two of section three hundred sixty-seven-a of
13 this chapter, to recover the cost of medical assistance furnished pursu-
14 ant to this title and title eleven-D of this article. The department is
15 authorized to contract with an entity that shall conduct activities on
16 behalf of the department pursuant to this subdivision, and may contract
17 with an entity to conduct similar activities on behalf of the child
18 health insurance program established pursuant to title one-A of article
19 twenty-five of the public health law to the extent allowed by law.
20 Prior to assuming such responsibility from a social services district,
21 the department of health shall, in consultation with the district,
22 define the scope of the services the district will be required to
23 perform on behalf of the department of health pursuant to this subdivi-
24 sion.

25 § 2. Section 2511 of the public health law is amended by adding a new
26 subdivision 22 to read as follows:

27 22. Notwithstanding the provisions of this section, section twenty-
28 five hundred ten of this title, and any other inconsistent provision of
29 law, in the event federal funding pursuant to Title XXI of the federal
30 social security act is reduced or eliminated on and after October first,
31 two thousand seventeen:

32 (a) The director of the division of the budget, in consultation with
33 the commissioner, shall identify the amount of such reduction or elimi-
34 nation and notify the temporary president of the senate and the speaker
35 of the assembly in writing that the federal actions will reduce or elimi-
36 inate expected funding to New York state by such amount.

37 (b) The director of the division of the budget, in consultation with
38 the commissioner, shall determine if programmatic changes are necessary
39 to continue covering eligible children within state-only funding levels,
40 identify available resources or actions, identify specific changes need-
41 ed to align the program with current funding levels, and establish a
42 plan for implementing such changes which may include emergency requ-
43 lations promulgated by the commissioner. Such plan shall be submitted to
44 the legislature prior to its implementation.

45 § 3. This act shall take effect immediately.

46

PART M

47 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter
48 266 of the laws of 1986, amending the civil practice law and rules and
49 other laws relating to malpractice and professional medical conduct, as
50 amended by section 15 of part H of chapter 57 of the laws of 2017, is
51 amended to read as follows:

52 (a) The superintendent of financial services and the commissioner of
53 health or their designee shall, from funds available in the hospital

1 excess liability pool created pursuant to subdivision 5 of this section,
2 purchase a policy or policies for excess insurance coverage, as author-
3 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
4 law; or from an insurer, other than an insurer described in section 5502
5 of the insurance law, duly authorized to write such coverage and actual-
6 ly writing medical malpractice insurance in this state; or shall
7 purchase equivalent excess coverage in a form previously approved by the
8 superintendent of financial services for purposes of providing equiv-
9 alent excess coverage in accordance with section 19 of chapter 294 of
10 the laws of 1985, for medical or dental malpractice occurrences between
11 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
12 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
13 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
14 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
15 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
16 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
17 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
18 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
19 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
20 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
21 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
22 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
23 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
24 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
25 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
26 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
27 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
28 between July 1, 2016 and June 30, 2017, [and] between July 1, 2017 and
29 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse
30 the hospital where the hospital purchases equivalent excess coverage as
31 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this
32 section for medical or dental malpractice occurrences between July 1,
33 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
34 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
35 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
36 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
37 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July
38 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
39 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
40 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
41 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
42 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
43 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
44 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
45 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
46 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
47 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
48 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015
49 and June 30, 2016, between July 1, 2016 and June 30, 2017, [and] between
50 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
51 2019 for physicians or dentists certified as eligible for each such
52 period or periods pursuant to subdivision 2 of this section by a general
53 hospital licensed pursuant to article 28 of the public health law;
54 provided that no single insurer shall write more than fifty percent of
55 the total excess premium for a given policy year; and provided, however,
56 that such eligible physicians or dentists must have in force an individ-



1 ual policy, from an insurer licensed in this state of primary malprac-
2 tice insurance coverage in amounts of no less than one million three
3 hundred thousand dollars for each claimant and three million nine
4 hundred thousand dollars for all claimants under that policy during the
5 period of such excess coverage for such occurrences or be endorsed as
6 additional insureds under a hospital professional liability policy which
7 is offered through a voluntary attending physician ("channeling")
8 program previously permitted by the superintendent of financial services
9 during the period of such excess coverage for such occurrences. During
10 such period, such policy for excess coverage or such equivalent excess
11 coverage shall, when combined with the physician's or dentist's primary
12 malpractice insurance coverage or coverage provided through a voluntary
13 attending physician ("channeling") program, total an aggregate level of
14 two million three hundred thousand dollars for each claimant and six
15 million nine hundred thousand dollars for all claimants from all such
16 policies with respect to occurrences in each of such years provided,
17 however, if the cost of primary malpractice insurance coverage in excess
18 of one million dollars, but below the excess medical malpractice insur-
19 ance coverage provided pursuant to this act, exceeds the rate of nine
20 percent per annum, then the required level of primary malpractice insur-
21 ance coverage in excess of one million dollars for each claimant shall
22 be in an amount of not less than the dollar amount of such coverage
23 available at nine percent per annum; the required level of such coverage
24 for all claimants under that policy shall be in an amount not less than
25 three times the dollar amount of coverage for each claimant; and excess
26 coverage, when combined with such primary malpractice insurance cover-
27 age, shall increase the aggregate level for each claimant by one million
28 dollars and three million dollars for all claimants; and provided
29 further, that, with respect to policies of primary medical malpractice
30 coverage that include occurrences between April 1, 2002 and June 30,
31 2002, such requirement that coverage be in amounts no less than one
32 million three hundred thousand dollars for each claimant and three
33 million nine hundred thousand dollars for all claimants for such occur-
34 rences shall be effective April 1, 2002.

35 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
36 amending the civil practice law and rules and other laws relating to
37 malpractice and professional medical conduct, as amended by section 16
38 of part H of chapter 57 of the laws of 2017, is amended to read as
39 follows:

40 (3)(a) The superintendent of financial services shall determine and
41 certify to each general hospital and to the commissioner of health the
42 cost of excess malpractice insurance for medical or dental malpractice
43 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
44 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
45 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
46 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
47 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
48 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
49 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
50 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
51 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
52 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
53 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
54 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
55 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
56 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July



1 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
 2 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
 3 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
 4 2016 and June 30, 2017, [and] between July 1, 2017 and June 30, 2018,
 5 and between July 1, 2018 and June 30, 2019 allocable to each general
 6 hospital for physicians or dentists certified as eligible for purchase
 7 of a policy for excess insurance coverage by such general hospital in
 8 accordance with subdivision 2 of this section, and may amend such deter-
 9 mination and certification as necessary.

10 (b) The superintendent of financial services shall determine and
 11 certify to each general hospital and to the commissioner of health the
 12 cost of excess malpractice insurance or equivalent excess coverage for
 13 medical or dental malpractice occurrences between July 1, 1987 and June
 14 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
 15 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
 16 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
 17 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
 18 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
 19 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
 20 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
 21 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
 22 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
 23 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
 24 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
 25 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
 26 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
 27 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
 28 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
 29 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
 30 30, 2016, [and] between July 1, 2016 and June 30, 2017, [and] between
 31 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
 32 2019 allocable to each general hospital for physicians or dentists
 33 certified as eligible for purchase of a policy for excess insurance
 34 coverage or equivalent excess coverage by such general hospital in
 35 accordance with subdivision 2 of this section, and may amend such deter-
 36 mination and certification as necessary. The superintendent of financial
 37 services shall determine and certify to each general hospital and to the
 38 commissioner of health the ratable share of such cost allocable to the
 39 period July 1, 1987 to December 31, 1987, to the period January 1, 1988
 40 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to
 41 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989
 42 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to
 43 the period July 1, 1990 to December 31, 1990, to the period January 1,
 44 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,
 45 to the period January 1, 1992 to June 30, 1992, to the period July 1,
 46 1992 to December 31, 1992, to the period January 1, 1993 to June 30,
 47 1993, to the period July 1, 1993 to December 31, 1993, to the period
 48 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
 49 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
 50 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
 51 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
 52 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
 53 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
 54 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
 55 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
 56 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December

1 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
2 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
3 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
4 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
5 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
6 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
7 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
8 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
9 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
10 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
11 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
12 30, 2017, and to the period July 1, 2017 [and] to June 30, 2018, and to
13 the period July 1, 2018 to June 30, 2019.

14 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
15 18 of chapter 266 of the laws of 1986, amending the civil practice law
16 and rules and other laws relating to malpractice and professional
17 medical conduct, as amended by section 17 of part H of chapter 57 of the
18 laws of 2017, are amended to read as follows:

19 (a) To the extent funds available to the hospital excess liability
20 pool pursuant to subdivision 5 of this section as amended, and pursuant
21 to section 6 of part J of chapter 63 of the laws of 2001, as may from
22 time to time be amended, which amended this subdivision, are insuffi-
23 cient to meet the costs of excess insurance coverage or equivalent
24 excess coverage for coverage periods during the period July 1, 1992 to
25 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
26 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
27 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
28 during the period July 1, 1997 to June 30, 1998, during the period July
29 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
30 2000, during the period July 1, 2000 to June 30, 2001, during the period
31 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
32 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
33 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
34 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
35 during the period July 1, 2006 to June 30, 2007, during the period July
36 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
37 2009, during the period July 1, 2009 to June 30, 2010, during the period
38 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
39 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
40 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
41 June 30, 2015, during the period July 1, 2015 [and] to June 30, 2016,
42 during the period July 1, 2016 [and] to June 30, 2017, [and] during the
43 period July 1, 2017 [and] to June 30, 2018, and during the period July
44 1, 2018 to June 30, 2019 allocated or reallocated in accordance with
45 paragraph (a) of subdivision 4-a of this section to rates of payment
46 applicable to state governmental agencies, each physician or dentist for
47 whom a policy for excess insurance coverage or equivalent excess cover-
48 age is purchased for such period shall be responsible for payment to the
49 provider of excess insurance coverage or equivalent excess coverage of
50 an allocable share of such insufficiency, based on the ratio of the
51 total cost of such coverage for such physician to the sum of the total
52 cost of such coverage for all physicians applied to such insufficiency.

53 (b) Each provider of excess insurance coverage or equivalent excess
54 coverage covering the period July 1, 1992 to June 30, 1993, or covering
55 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
56 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,

1 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
2 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
3 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
4 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
5 the period July 1, 2001 to October 29, 2001, or covering the period
6 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
7 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
8 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
9 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
10 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
11 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
12 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
13 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
14 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
15 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
16 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
17 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
18 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
19 June 30, 2019 shall notify a covered physician or dentist by mail,
20 mailed to the address shown on the last application for excess insurance
21 coverage or equivalent excess coverage, of the amount due to such
22 provider from such physician or dentist for such coverage period deter-
23 mined in accordance with paragraph (a) of this subdivision. Such amount
24 shall be due from such physician or dentist to such provider of excess
25 insurance coverage or equivalent excess coverage in a time and manner
26 determined by the superintendent of financial services.

27 (c) If a physician or dentist liable for payment of a portion of the
28 costs of excess insurance coverage or equivalent excess coverage cover-
29 ing the period July 1, 1992 to June 30, 1993, or covering the period
30 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
31 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
32 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
33 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
34 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
35 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
36 od July 1, 2001 to October 29, 2001, or covering the period April 1,
37 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
38 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
39 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
40 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
41 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
42 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
43 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
44 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
45 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
46 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
47 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
48 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
49 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
50 2019 determined in accordance with paragraph (a) of this subdivision
51 fails, refuses or neglects to make payment to the provider of excess
52 insurance coverage or equivalent excess coverage in such time and manner
53 as determined by the superintendent of financial services pursuant to
54 paragraph (b) of this subdivision, excess insurance coverage or equiv-
55 alent excess coverage purchased for such physician or dentist in accord-
56 ance with this section for such coverage period shall be cancelled and



1 shall be null and void as of the first day on or after the commencement
2 of a policy period where the liability for payment pursuant to this
3 subdivision has not been met.

4 (d) Each provider of excess insurance coverage or equivalent excess
5 coverage shall notify the superintendent of financial services and the
6 commissioner of health or their designee of each physician and dentist
7 eligible for purchase of a policy for excess insurance coverage or
8 equivalent excess coverage covering the period July 1, 1992 to June 30,
9 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
10 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
11 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
12 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
13 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
14 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
15 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
16 ing the period April 1, 2002 to June 30, 2002, or covering the period
17 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
18 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
19 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
20 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
21 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
22 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
23 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
24 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
25 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
26 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
27 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
28 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
29 od July 1, 2018 to June 30, 2019 that has made payment to such provider
30 of excess insurance coverage or equivalent excess coverage in accordance
31 with paragraph (b) of this subdivision and of each physician and dentist
32 who has failed, refused or neglected to make such payment.

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



1 period July 1, 1993 to June 30, 1994, and covering the period July 1,
2 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
3 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
4 ing the period July 1, 1997 to June 30, 1998, and covering the period
5 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
6 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
7 and covering the period July 1, 2001 to October 29, 2001, and covering
8 the period April 1, 2002 to June 30, 2002, and covering the period July
9 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
10 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
11 covering the period July 1, 2005 to June 30, 2006, and covering the
12 period July 1, 2006 to June 30, 2007, and covering the period July 1,
13 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
14 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
15 ing the period July 1, 2010 to June 30, 2011, and covering the period
16 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
17 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
18 and covering the period July 1, 2014 to June 30, 2015, and covering the
19 period July 1, 2015 to June 30, 2016, and covering the period July 1,
20 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
21 2018, and covering the period July 1, 2018 to June 30, 2019 for a physi-
22 cian or dentist where such excess insurance coverage or equivalent
23 excess coverage is cancelled in accordance with paragraph (c) of this
24 subdivision.

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

29 § 40. The superintendent of financial services shall establish rates
30 for policies providing coverage for physicians and surgeons medical
31 malpractice for the periods commencing July 1, 1985 and ending June 30,
32 [2018] 2019; provided, however, that notwithstanding any other provision
33 of law, the superintendent shall not establish or approve any increase
34 in rates for the period commencing July 1, 2009 and ending June 30,
35 2010. The superintendent shall direct insurers to establish segregated
36 accounts for premiums, payments, reserves and investment income attrib-
37 utable to such premium periods and shall require periodic reports by the
38 insurers regarding claims and expenses attributable to such periods to
39 monitor whether such accounts will be sufficient to meet incurred claims
40 and expenses. On or after July 1, 1989, the superintendent shall impose
41 a surcharge on premiums to satisfy a projected deficiency that is
42 attributable to the premium levels established pursuant to this section
43 for such periods; provided, however, that such annual surcharge shall
44 not exceed eight percent of the established rate until July 1, [2018]
45 2019, at which time and thereafter such surcharge shall not exceed twen-
46 ty-five percent of the approved adequate rate, and that such annual
47 surcharges shall continue for such period of time as shall be sufficient
48 to satisfy such deficiency. The superintendent shall not impose such
49 surcharge during the period commencing July 1, 2009 and ending June 30,
50 2010. On and after July 1, 1989, the surcharge prescribed by this
51 section shall be retained by insurers to the extent that they insured
52 physicians and surgeons during the July 1, 1985 through June 30, [2018]
53 2019 policy periods; in the event and to the extent physicians and
54 surgeons were insured by another insurer during such periods, all or a
55 pro rata share of the surcharge, as the case may be, shall be remitted
56 to such other insurer in accordance with rules and regulations to be



1 promulgated by the superintendent. Surcharges collected from physicians
2 and surgeons who were not insured during such policy periods shall be
3 apportioned among all insurers in proportion to the premium written by
4 each insurer during such policy periods; if a physician or surgeon was
5 insured by an insurer subject to rates established by the superintendent
6 during such policy periods, and at any time thereafter a hospital,
7 health maintenance organization, employer or institution is responsible
8 for responding in damages for liability arising out of such physician's
9 or surgeon's practice of medicine, such responsible entity shall also
10 remit to such prior insurer the equivalent amount that would then be
11 collected as a surcharge if the physician or surgeon had continued to
12 remain insured by such prior insurer. In the event any insurer that
13 provided coverage during such policy periods is in liquidation, the
14 property/casualty insurance security fund shall receive the portion of
15 surcharges to which the insurer in liquidation would have been entitled.
16 The surcharges authorized herein shall be deemed to be income earned for
17 the purposes of section 2303 of the insurance law. The superintendent,
18 in establishing adequate rates and in determining any projected defi-
19 ciency pursuant to the requirements of this section and the insurance
20 law, shall give substantial weight, determined in his discretion and
21 judgment, to the prospective anticipated effect of any regulations
22 promulgated and laws enacted and the public benefit of stabilizing
23 malpractice rates and minimizing rate level fluctuation during the peri-
24 od of time necessary for the development of more reliable statistical
25 experience as to the efficacy of such laws and regulations affecting
26 medical, dental or podiatric malpractice enacted or promulgated in 1985,
27 1986, by this act and at any other time. Notwithstanding any provision
28 of the insurance law, rates already established and to be established by
29 the superintendent pursuant to this section are deemed adequate if such
30 rates would be adequate when taken together with the maximum authorized
31 annual surcharges to be imposed for a reasonable period of time whether
32 or not any such annual surcharge has been actually imposed as of the
33 establishment of such rates.

34 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
35 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
36 1986, amending the civil practice law and rules and other laws relating
37 to malpractice and professional medical conduct, relating to the effec-
38 tiveness of certain provisions of such chapter, as amended by section 19
39 of part H of chapter 57 of the laws of 2017, are amended to read as
40 follows:

41 § 5. The superintendent of financial services and the commissioner of
42 health shall determine, no later than June 15, 2002, June 15, 2003, June
43 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
44 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
45 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [and]
46 June 15, 2018, and June 15, 2019 the amount of funds available in the
47 hospital excess liability pool, created pursuant to section 18 of chap-
48 ter 266 of the laws of 1986, and whether such funds are sufficient for
49 purposes of purchasing excess insurance coverage for eligible partic-
50 ipating physicians and dentists during the period July 1, 2001 to June
51 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
52 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
53 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
54 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
55 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,
56 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,



1 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
2 2016, or July 1, 2016 to June 30, 2017, or [to] July 1, 2017 to June 30,
3 2018, or July 1, 2018 to June 30, 2019 as applicable.

4 (a) This section shall be effective only upon a determination, pursu-
5 ant to section five of this act, by the superintendent of financial
6 services and the commissioner of health, and a certification of such
7 determination to the state director of the budget, the chair of the
8 senate committee on finance and the chair of the assembly committee on
9 ways and means, that the amount of funds in the hospital excess liabil-
10 ity pool, created pursuant to section 18 of chapter 266 of the laws of
11 1986, is insufficient for purposes of purchasing excess insurance cover-
12 age for eligible participating physicians and dentists during the period
13 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
14 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
15 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
16 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
17 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
18 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
19 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
20 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
21 2018, or July 1, 2018 to June 30, 2019 as applicable.

22 (e) The commissioner of health shall transfer for deposit to the
23 hospital excess liability pool created pursuant to section 18 of chapter
24 266 of the laws of 1986 such amounts as directed by the superintendent
25 of financial services for the purchase of excess liability insurance
26 coverage for eligible participating physicians and dentists for the
27 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
28 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
29 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
30 2007, as applicable, and the cost of administering the hospital excess
31 liability pool for such applicable policy year, pursuant to the program
32 established in chapter 266 of the laws of 1986, as amended, no later
33 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
34 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
35 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
36 2015, June 15, 2016, June 15, 2017, [and] June 15, 2018, and June 15,
37 2019 as applicable.

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

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



1 total number of physicians or dentists for whom excess coverage or
 2 equivalent excess coverage was purchased with funds available in the
 3 hospital excess liability pool as of the thirtieth of June, two thousand
 4 [seventeen] eighteen, as applied to the difference between the number of
 5 eligible physicians or dentists for whom a policy for excess coverage or
 6 equivalent excess coverage was purchased for the coverage period ending
 7 the thirtieth of June, two thousand [seventeen] eighteen and the number
 8 of such eligible physicians or dentists who have applied for excess
 9 coverage or equivalent excess coverage for the coverage period beginning
 10 the first of July, two thousand [seventeen] eighteen.
 11 § 7. This act shall take effect immediately.

12 PART N

13 Section 1. The opening paragraph of subdivision 1 of section 1 of part
 14 C of chapter 57 of the laws of 2006, establishing a cost of living
 15 adjustment for designated human services, is amended to read as follows:
 16 Subject to available appropriations, the commissioners of the office
 17 of mental health, office of mental retardation and developmental disa-
 18 bilities, office of alcoholism and substance abuse services, [department
 19 of health,] office of children and family services and the state office
 20 for the aging shall establish an annual cost of living adjustment
 21 (COLA), subject to the approval of the director of the budget, effective
 22 April first of each state fiscal year, provided, however, that in state
 23 fiscal year 2006-07, the cost of living adjustment will be effective
 24 October first, to project for the effects of inflation, for rates of
 25 payments, contracts or any other form of reimbursement for the programs
 26 listed in paragraphs (i), (ii), (iii), (iv)[,] and (v) [and (vi)] of
 27 subdivision four of this section. The COLA shall be applied to the
 28 appropriate portion of reimbursable costs or contract amounts.
 29 § 2. Paragraph (iv) of subdivision 4 of section 1 of part C of chapter
 30 57 of the laws of 2006, establishing a cost of living adjustment for
 31 designated human services, is REPEALED and paragraphs (v) and (vi) are
 32 renumbered paragraphs (iv) and (v).
 33 § 3. This act shall take effect immediately.

34 PART O

35 Section 1. Subdivisions 9 and 10 of section 2541 of the public health
 36 law, as added by chapter 428 of the laws of 1992, are amended to read as
 37 follows:
 38 9. "Evaluation" means a multidisciplinary professional, objective
 39 [assessment] examination conducted by appropriately qualified personnel
 40 and conducted pursuant to section twenty-five hundred forty-four of this
 41 title to determine a child's eligibility under this title.
 42 10. "Evaluator" means a [team of two or more professionals approved
 43 pursuant to section twenty-five hundred fifty-one of this title] provid-
 44 er approved by the department to conduct screenings and evaluations.
 45 § 2. Section 2541 of the public health law is amended by adding three
 46 new subdivisions 12-a, 14-a and 15-a to read as follows:
 47 12-a. "Multidisciplinary" means the involvement of two or more sepa-
 48 rate disciplines or professions, which may mean the involvement of one
 49 individual who meets the definition of qualified personnel as defined in
 50 subdivision fifteen of this section and who is qualified, in accordance
 51 with state licensure, certification or other comparable standards, to
 52 evaluate all five developmental domains.

1 14-a. A "partial evaluation" shall mean an evaluation in a single
2 developmental area for purposes of determining eligibility, and may also
3 mean an examination of the child to determine the need for a modifica-
4 tion to the child's individualized family service plan.

5 15-a. "Screening" means the procedures used by qualified personnel, as
6 defined in subdivision fifteen of this section, to determine whether a
7 child is suspected of having a disability and in need of early inter-
8 vention services, and shall include, where available and appropriate for
9 the child, the administration of a standardized instrument or instru-
10 ments approved by the department, in accordance with subdivision three
11 of section twenty-five hundred forty-four of this title.

12 § 3. Subdivision 3 of section 2542 of the public health law, as
13 amended by chapter 231 of the laws of 1993, is amended to read as
14 follows:

15 3. [The] (a) Unless an infant or toddler has already been referred to
16 the early intervention program or the health officer of the public
17 health district in which the infant or toddler resides, as designated by
18 the municipality, the following persons and entities, within two working
19 days of identifying an infant or toddler suspected of having a disabili-
20 ty or at risk of having a disability, shall refer such infant or toddler
21 to the early intervention official or the health officer [of the public
22 health district in which the infant or toddler resides, as designated by
23 the municipality], as applicable, but in no event over the objection of
24 the parent made in accordance with procedures established by the depart-
25 ment for use by such primary referral sources[, unless the child has
26 already been referred]: hospitals, child health care providers, day
27 care programs, local school districts, public health facilities, early
28 childhood direction centers and such other social service and health
29 care agencies and providers as the commissioner shall specify in regu-
30 lation; provided, however, that the department shall establish proce-
31 dures, including regulations if required, to ensure that primary refer-
32 ral sources adequately inform the parent or guardian about the early
33 intervention program, including through brochures and written materials
34 created or approved by the department.

35 (b) The primary referral sources identified in paragraph (a) of this
36 subdivision shall, with parental consent, complete and transmit at the
37 time of referral, a referral form developed by the department which
38 contains information sufficient to document the primary referral
39 source's concern or basis for suspecting the child has a disability or
40 is at risk of having a disability, and where applicable, specifies the
41 child's diagnosed condition that establishes the child's eligibility for
42 the early intervention program. The primary referral source shall inform
43 the parent of a child with a diagnosed condition that has a high proba-
44 bility of resulting in developmental delay, that (i) eligibility for the
45 program may be established by medical or other records and (ii) of the
46 importance of providing consent for the primary referral source to tran-
47 smitt records or reports necessary to support the diagnosis, or, for
48 parents or guardians of children who do not have a diagnosed condition,
49 records or reports that would assist in determining eligibility for the
50 program.

51 § 4. Section 2544 of the public health law, as added by chapter 428 of
52 the laws of 1992, paragraph (c) of subdivision 2 as added by section 1
53 of part A of chapter 56 of the laws of 2012 and subdivision 11 as added
54 by section 3 of part B3 of chapter 62 of the laws of 2003, is amended to
55 read as follows:



1 § 2544. Screening and evaluations. 1. Each child thought to be an
2 eligible child is entitled to [a multidisciplinary] an evaluation
3 conducted in accordance with this section, and the early intervention
4 official shall ensure such evaluation, with parental consent.

5 2. (a) [The] Subject to the provisions of this title, the parent may
6 select an evaluator from the list of approved evaluators as described in
7 section twenty-five hundred forty-two of this title to conduct the
8 applicable screening and/or evaluation in accordance with this section.
9 The parent or evaluator shall immediately notify the early intervention
10 official of such selection. The evaluator shall review the information
11 and documentation provided with the referral to determine the appropri-
12 ate screening or evaluation process to follow in accordance with this
13 section. The evaluator may begin the screening or evaluation no sooner
14 than four working days after such notification, unless otherwise
15 approved by the initial service coordinator.

16 (b) [the evaluator shall designate an individual as the principal
17 contact for the multidisciplinary team] Initial service coordinators
18 shall inform the parent of the applicable screening or evaluation proce-
19 dures that may be performed. For a child referred to the early inter-
20 vention official who has a diagnosed physical or mental condition that
21 has a high probability of resulting in developmental delay, the initial
22 service coordinator shall inform the parent that the evaluation of the
23 child shall be conducted in accordance with the procedures set forth in
24 subdivision five of this section.

25 (c) If, in consultation with the evaluator, the service coordinator
26 identifies a child that is potentially eligible for programs or services
27 offered by or under the auspices of the office for people with develop-
28 mental disabilities, the service coordinator shall, with parent consent,
29 notify the office for people with developmental disabilities' regional
30 developmental disabilities services office of the potential eligibility
31 of such child for said programs or services.

32 3. [(a) To determine eligibility, an evaluator shall, with parental
33 consent, either (i) screen a child to determine what type of evaluation,
34 if any, is warranted, or (ii) provide a multidisciplinary evaluation. In
35 making the determination whether to provide an evaluation, the evaluator
36 may rely on a recommendation from a physician or other qualified person
37 as designated by the commissioner.

38 (b)] Screenings for children referred to the early intervention
39 program to determine whether they are suspected of having a disability.

40 (a) For a child referred to the early intervention program, the evalu-
41 ator shall first perform a screening of the child, with parental
42 consent, to determine whether the child is suspected of having a disa-
43 bility.

44 (b) The evaluator shall utilize a standardized instrument or instru-
45 ments approved by the department to conduct the screening. If the evalu-
46 ator does not utilize a standardized instrument or instruments approved
47 by the department for the screening, the evaluator shall document in
48 writing why such standardized instrument or instruments are unavailable
49 or inappropriate for the child.

50 (c) The evaluator shall explain the results of the screening to the
51 parent and shall fully document the results in writing.

52 (d) If, based upon the screening, a child is [believed to be eligible,
53 or if otherwise elected by the parent] suspected of having a disability,
54 the child shall, with [the consent of a parent] parental consent,
55 receive [a multidisciplinary evaluation. All evaluations shall be
56 conducted in accordance with] an evaluation to be conducted in accord-



1 ance with the procedures set forth in subdivision four of this section,
2 the coordinated standards and procedures, and [with] regulations promul-
3 gated by the commissioner.

4 (e) If, based upon the screening, a child is not suspected of having a
5 disability, an evaluation shall not be provided, unless requested by the
6 parent. The early intervention official shall provide the parent with
7 written notice of the screening results, which shall include information
8 on the parent's right to request an evaluation.

9 (f) A screening shall not be provided to children who are referred to
10 the early intervention program who have a diagnosed physical or mental
11 condition with a high probability of resulting in developmental delay
12 that establishes eligibility for the program or for children who have
13 previously received an evaluation under the early intervention program.

14 4. The evaluation of [each] a child shall:

15 (a) include the administration of an evaluation instrument or instru-
16 ments approved by the department. If the evaluator does not utilize an
17 instrument or instruments approved by the department as part of the
18 evaluation of the child, the evaluator shall document in writing why
19 such instrument or instruments are not appropriate or available for the
20 child;

21 (b) be conducted by personnel trained to utilize appropriate methods
22 and procedures;

23 [(b)] (c) be based on informed clinical opinion;

24 [(c)] (d) be made without regard to the availability of services in
25 the municipality or who might provide such services; [and

26 (d)] (e) with parental consent, include the following:

27 (i) a review of pertinent records related to the child's current
28 health status and medical history; and

29 (ii) an evaluation of the child's level of functioning in each of the
30 developmental areas set forth in paragraph (c) of subdivision seven of
31 section twenty-five hundred forty-one of this title[;] to determine
32 whether the child has a disability as defined in this title that estab-
33 lishes the child's eligibility for the program; and

34 (f) if the child has been determined eligible by the evaluator after
35 conducting the procedures set forth in paragraphs (a) through (e) of
36 this subdivision, the evaluation shall also include:

37 [(iii)] (i) an assessment [of the unique needs of the child in terms
38 of] for the purposes of identifying the child's unique strengths and
39 needs in each of the developmental areas [set forth in paragraph (c) of
40 subdivision seven of section twenty-five hundred forty-one of this
41 title, including the identification of] and the early intervention
42 services appropriate to meet those needs;

43 [(iv)] (ii) a family-directed assessment, if consented to by the fami-
44 ly, in order to identify the family's resources, priorities, and
45 concerns and the supports necessary to enhance the family's capacity to
46 meet the developmental needs of the child. The family assessment shall
47 be voluntary on the part of each family member participating in the
48 assessment;

49 [(iii)] (iii) an [evaluation] assessment of the transportation needs of the
50 child, if any; and

51 [(v)] (iv) such other matters as the commissioner may prescribe in
52 regulation.

53 5. Evaluations for children who are referred to the early intervention
54 official with diagnosed physical or mental conditions that have a high
55 probability of resulting in developmental delay. (a) If a child has a
56 diagnosed physical or mental condition that has a high probability of



1 resulting in developmental delay, the child's medical or other records
2 shall be used, when available, to establish the child's eligibility for
3 the program.

4 (b) The evaluator shall, upon review of the referral form provided in
5 accordance with section twenty-five hundred forty-two of this title or
6 any medical or other records, or at the time of initial contact with the
7 child's family, determine whether the child has a diagnosed condition
8 that establishes the child's eligibility for the program. If the evalu-
9 ator has reason to believe, after speaking with the child's family, that
10 the child may have a diagnosed condition that establishes the child's
11 eligibility but the evaluator has not been provided with medical or
12 other documentation of such diagnosis, the evaluator shall, with
13 parental consent, obtain such documentation, when available, prior to
14 proceeding with the evaluation of the child.

15 (c) The evaluator shall review all records received to document that
16 the child's diagnosis as set forth in such records establishes the
17 child's eligibility for the early intervention program.

18 (d) Notwithstanding subdivision four of this section, if the child's
19 eligibility for the early intervention program is established in accord-
20 ance with this subdivision, the evaluation of the child shall (i)
21 consist of a review of the results of the medical or other records that
22 established the child's eligibility, and any other pertinent evaluations
23 or records available and (ii) comply with the procedures set forth in
24 paragraph (f) of subdivision four of this section. The evaluation proce-
25 dures set forth in paragraphs (a) through (e) of subdivision four of
26 this section shall not be required or conducted.

27 6. An evaluation shall not include a reference to any specific provid-
28 er of early intervention services.

29 [6.] 7. Nothing in this section shall restrict an evaluator from
30 utilizing, in addition to findings from his or her personal examination,
31 other examinations, evaluations or assessments conducted for such child,
32 including those conducted prior to the evaluation under this section, if
33 such examinations, evaluations or assessments are consistent with the
34 coordinated standards and procedures.

35 [7.] 8. Following completion of the evaluation, the evaluator shall
36 provide the parent and service coordinator with a copy of a summary of
37 the full evaluation. To the extent practicable, the summary shall be
38 provided in the native language of the parent. Upon request of the
39 parent, early intervention official or service coordinator, the evalu-
40 ator shall provide a copy of the full evaluation to such parent, early
41 intervention official or service coordinator.

42 [8.] 9. A parent who disagrees with the results of an evaluation may
43 obtain an additional evaluation or partial evaluation at public expense
44 to the extent authorized by federal law or regulation.

45 [9.] 10. Upon receipt of the results of an evaluation, a service coor-
46 ordinator may, with parental consent, require additional diagnostic infor-
47 mation regarding the condition of the child, provided, however, that
48 such evaluation or assessment is not unnecessarily duplicative or inva-
49 sive to the child, and provided further, that:

50 (a) where the evaluation has established the child's eligibility, such
51 additional diagnostic information shall be used solely to provide addi-
52 tional information to the parent and service coordinator regarding the
53 child's need for services and cannot be a basis for refuting eligibil-
54 ity;

55 (b) the service coordinator provides the parent with a written expla-
56 nation of the basis for requiring additional diagnostic information;

1 (c) the additional diagnostic procedures are at no expense to the
2 parent; and

3 (d) the evaluation is completed and a meeting to develop an IFSP is
4 held within the time prescribed in subdivision one of section twenty-
5 five hundred forty-five of this title.

6 [10.] 11. (a) If the screening indicates that the infant or toddler is
7 not an eligible child and the parent elects not to have an evaluation,
8 or if the evaluation indicates that the infant or toddler is not an
9 eligible child, the service coordinator shall inform the parent of other
10 programs or services that may benefit such child, and the child's family
11 and, with parental consent, refer such child to such programs or
12 services.

13 (b) A parent may appeal a determination that a child is ineligible
14 pursuant to the provisions of section twenty-five hundred forty-nine of
15 this title, provided, however, that a parent may not initiate such
16 appeal until all evaluations are completed. In addition, for a child
17 referred to the early intervention official who has a diagnosed physical
18 or mental condition that establishes the child's eligibility for the
19 program in accordance with subdivision five of this section, the parent
20 may appeal the denial of a request to have the evaluator conduct the
21 evaluation procedures set forth in paragraphs (a) through (e) of subdi-
22 vision four of this section, provided, however, that the parent may not
23 initiate the appeal until the evaluation conducted in accordance with
24 subdivision five of this section is completed.

25 [11.] 12. Notwithstanding any other provision of law to the contrary,
26 where a request has been made to review an IFSP prior to the six-month
27 interval provided in subdivision seven of section twenty-five hundred
28 forty-five of this title for purposes of increasing frequency or dura-
29 tion of an approved service, including service coordination, the early
30 intervention official may require an additional evaluation or partial
31 evaluation at public expense by an approved evaluator other than the
32 current provider of service, with parent consent.

33 § 5. Section 3235-a of the insurance law, as added by section 3 of
34 part C of chapter 1 of the laws of 2002, subsection (c) as amended by
35 section 17 of part A of chapter 56 of the laws of 2012, is amended to
36 read as follows:

37 § 3235-a. Payment for early intervention services. (a) No policy of
38 accident and health insurance, including contracts issued pursuant to
39 article forty-three of this chapter, shall exclude coverage for other-
40 wise covered services solely on the basis that the services constitute
41 early intervention program services under title two-A of article twen-
42 ty-five of the public health law; provided, however, the insurer,
43 including a health maintenance organization issued a certificate of
44 authority under article forty-four of the public health law and a corpo-
45 ration organized under article forty-three of this chapter shall pay for
46 such services to the extent that the services are a covered benefit
47 under the policy.

48 (b) Where a policy of accident and health insurance, including a
49 contract issued pursuant to article forty-three of this chapter,
50 provides coverage for an early intervention program service, such cover-
51 age shall not be applied against any maximum annual or lifetime monetary
52 limits set forth in such policy or contract. Any documentation obtained
53 pursuant to subparagraph (ii) of paragraph (a) of subdivision three of
54 section twenty-five hundred fifty-nine of the public health law and
55 submitted to the insurer shall be considered as part of precertif-
56 ication, preauthorization and/or medical necessity review imposed under



1 such policy of accident and health insurance, including a contract
2 issued pursuant to article forty-three of this chapter. Visit limita-
3 tions and other terms and conditions of the policy will continue to
4 apply to early intervention services. However, any visits used for early
5 intervention program services shall not reduce the number of visits
6 otherwise available under the policy or contract for such services.

7 (c) Any right of subrogation to benefits which a municipality or
8 provider is entitled in accordance with paragraph (d) of subdivision
9 three of section twenty-five hundred fifty-nine of the public health law
10 shall be valid and enforceable to the extent benefits are available
11 under any accident and health insurance policy. The right of subrogation
12 does not attach to insurance benefits paid or provided under any acci-
13 dent and health insurance policy prior to receipt by the insurer of
14 written notice from the municipality or provider, as applicable. The
15 insurer shall provide [the] such municipality and service coordinator
16 with information on the extent of benefits available to the covered
17 person under such policy within fifteen days of the insurer's receipt of
18 written request and notice authorizing such release. The service coordi-
19 nator shall provide such information to the rendering provider assigned
20 to provide services to the child.

21 (d) No insurer, including a health maintenance organization issued a
22 certificate of authority under article forty-four of the public health
23 law and a corporation organized under article forty-three of this chap-
24 ter, shall refuse to issue an accident and health insurance policy or
25 contract or refuse to renew an accident and health insurance policy or
26 contract solely because the applicant or insured is receiving services
27 under the early intervention program.

28 § 6. Paragraph (a) of subdivision 3 of section 2559 of the public
29 health law, as amended by section 11 of part A of chapter 56 of the laws
30 of 2012, is amended to read as follows:

31 (a) Providers of evaluations and early intervention services, herein-
32 after collectively referred to in this subdivision as "provider" or
33 "providers", shall in the first instance and where applicable, seek
34 payment from all third party payors including governmental agencies
35 prior to claiming payment from a given municipality for evaluations
36 conducted under the program and for services rendered to eligible chil-
37 dren, provided that, the obligation to seek payment shall not apply to a
38 payment from a third party payor who is not prohibited from applying
39 such payment, and will apply such payment, to an annual or lifetime
40 limit specified in the insured's policy. If such a claim is denied by a
41 third party payor, the provider shall request an appeal of such denial,
42 in a manner prescribed by the department, in accordance with article
43 forty-nine of this chapter and article forty-nine of the insurance law,
44 and shall receive a determination of such appeal prior to submitting a
45 claim for payment from another third party payor or from the munici-
46 pality. A provider shall not delay or discontinue services to eligible
47 children pending payment of the claim or pending a determination of any
48 denial for payment that has been appealed.

49 (i) [Parents] In a form prescribed by the department, parents shall
50 provide the municipality [and], service coordinator and provider infor-
51 mation on any insurance policy, plan or contract under which an eligible
52 child has coverage.

53 (ii) [Parents] In a timeline and format as prescribed by the depart-
54 ment, the municipality shall request from the parent, and the parent
55 shall provide the municipality [and the service coordinator], who shall
56 provide such documentation to the service coordinator and provider,



1 with: (A) a written order, referral [from a primary care provider as
2 documentation, for eligible children, of] or recommendation, signed by a
3 physician, physician assistant or nurse practitioner, for the medical
4 necessity of early intervention evaluation services to determine program
5 eligibility for early intervention services;

6 (B) a copy of an individualized family service plan agreed upon pursu-
7 ant to section twenty-five hundred forty-five of this title that
8 contains documentation, signed by a physician, physician assistant or
9 nurse practitioner on the medical necessity of early intervention
10 services included in the individualized family service plan;

11 (C) written consent to contact the child's physician, physician
12 assistant or nurse practitioner for purposes of obtaining a signed writ-
13 ten order, referral, or recommendation as documentation for the medical
14 necessity of early intervention evaluation services to determine program
15 eligibility for early intervention services; or

16 (D) written consent to contact the child's physician, physician
17 assistant or nurse practitioner for purposes of obtaining signed
18 documentation of the medical necessity of early intervention services
19 contained within the individualized family service plan agreed upon
20 pursuant to section twenty-five hundred forty-five of this title.

21 (iii) [providers] Providers shall utilize the department's fiscal
22 agent and data system for claiming payment and for requesting appeals of
23 claims denied by third party payors, for evaluations and services
24 rendered under the early intervention program.

25 § 7. Paragraph (d) of subdivision 3 of section 2559 of the public
26 health law, as amended by section 11 of part A of chapter 56 of the laws
27 of 2012, is amended to read as follows:

28 (d) A municipality, or its designee, and a provider shall be subrogat-
29 ed, to the extent of the expenditures by such municipality or for early
30 intervention services furnished to persons eligible for benefits under
31 this title, to any rights such person may have or be entitled to from
32 third party reimbursement. The provider shall submit any documentation
33 obtained pursuant to subparagraph (ii) of paragraph (a) of this subdivi-
34 sion and shall submit notice to the insurer or plan administrator of his
35 or her exercise of such right of subrogation upon the provider's assign-
36 ment as the early intervention service provider for the child. The right
37 of subrogation does not attach to benefits paid or provided under any
38 health insurance policy or health benefits plan prior to receipt of
39 written notice of the exercise of subrogation rights by the insurer or
40 plan administrator providing such benefits.

41 § 8. Subdivision 7 of section 4900 of the public health law, as
42 amended by chapter 558 of the laws of 1999, is amended to read as
43 follows:

44 7. "Health care provider" means a health care professional or a facil-
45 ity licensed pursuant to articles twenty-eight, thirty-six, forty-four
46 or forty-seven of this chapter [or], a facility licensed pursuant to
47 article nineteen, twenty-three, thirty-one or thirty-two of the mental
48 hygiene law, qualified personnel pursuant to title two-A of article
49 twenty-five of this chapter or an agency as defined by the department of
50 health in regulations promulgated pursuant to title two-A of article
51 twenty-five of this chapter.

52 § 9. Subdivision 1 of section 4904 of the public health law, as added
53 by chapter 705 of the laws of 1996, is amended to read as follows:

54 1. An enrollee, the enrollee's designee and, in connection with retro-
55 spective adverse determinations or adverse determinations for services
56 rendered in accordance title two-A of article twenty-five of this chap-



1 ter, an enrollee's health care provider, may appeal an adverse determi-
2 nation rendered by a utilization review agent.

3 § 10. The opening paragraph of subdivision 2 of section 4910 of the
4 public health law, as amended by chapter 237 of the laws of 2009, is
5 amended to read as follows:

6 An enrollee, the enrollee's designee and, in connection with concu-
7 rent and retrospective adverse determinations or adverse determinations
8 for services rendered in accordance with title two-A of article twenty-
9 five of this chapter, an enrollee's health care provider, shall have the
10 right to request an external appeal when:

11 § 11. Paragraph (a) of subdivision 4 of section 4914 of the public
12 health law, as amended by chapter 237 of the laws of 2009, is amended to
13 read as follows:

14 (a) Except as provided in paragraphs (b) and (c) of this subdivision,
15 payment for an external appeal, including an appeal for services
16 rendered in accordance with title two-A of article twenty-five of this
17 chapter, shall be the responsibility of the health care plan. The health
18 care plan shall make payment to the external appeal agent within forty-
19 five days from the date the appeal determination is received by the
20 health care plan, and the health care plan shall be obligated to pay
21 such amount together with interest thereon calculated at a rate which is
22 the greater of the rate set by the commissioner of taxation and finance
23 for corporate taxes pursuant to paragraph one of subsection (e) of
24 section one thousand ninety-six of the tax law or twelve percent per
25 annum, to be computed from the date the bill was required to be paid, in
26 the event that payment is not made within such forty-five days.

27 § 12. Subsection (g) of section 4900 of the insurance law, as amended
28 by chapter 558 of the laws of 1999, is amended to read as follows:

29 (g) "Health care provider" means a health care professional or a
30 facility licensed pursuant to article twenty-eight, thirty-six, forty-
31 four or forty-seven of the public health law [or], a facility licensed
32 pursuant to article nineteen, twenty-three, thirty-one or thirty-two of
33 the mental hygiene law, qualified personnel pursuant to title two-A of
34 article twenty-five of the public health law, or an agency as defined by
35 the department of health in regulations promulgated pursuant to title
36 two-A of article twenty-five of the public health law.

37 § 13. Subsection (a) of section 4904 of the insurance law, as added by
38 chapter 705 of the laws of 1996, is amended to read as follows:

39 (a) An insured, the insured's designee and, in connection with retro-
40 spective adverse determinations or adverse determinations for services
41 rendered in accordance with title two-A of article twenty-five of the
42 public health law, an insured's health care provider, may appeal an
43 adverse determination rendered by a utilization review agent.

44 § 14. The opening paragraph of subsection (b) of section 4910 of the
45 insurance law, as amended by chapter 237 of the laws of 2009, is amended
46 to read as follows:

47 An insured, the insured's designee and, in connection with concurrent
48 and retrospective adverse determinations or adverse determinations for
49 services rendered in accordance with title two-A of article twenty-five
50 of the public health law, an insured's health care provider, shall have
51 the right to request an external appeal when:

52 § 15. Paragraph 1 of subsection (d) of section 4914 of the insurance
53 law, as amended by chapter 237 of the laws of 2009, is amended to read
54 as follows:

55 (1) Except as provided in paragraphs two and three of this subsection,
56 payment for an external appeal, including an appeal for services

1 rendered in accordance with title two-A of article twenty-five of the
 2 public health law, shall be the responsibility of the health care plan.
 3 The health care plan shall make payment to the external appeal agent
 4 within forty-five days, from the date the appeal determination is
 5 received by the health care plan, and the health care plan shall be
 6 obligated to pay such amount together with interest thereon calculated
 7 at a rate which is the greater of the rate set by the commissioner of
 8 taxation and finance for corporate taxes pursuant to paragraph one of
 9 subsection (e) of section one thousand ninety-six of the tax law or
 10 twelve percent per annum, to be computed from the date the bill was
 11 required to be paid, in the event that payment is not made within such
 12 forty-five days.

13 § 16. Paragraph 1 of subsection (c) of section 109 of the insurance
 14 law, as amended by section 55 of part A of chapter 62 of the laws of
 15 2011, is amended to read as follows:

16 (1) If the superintendent finds after notice and hearing that any
 17 [authorized] insurer, representative of the insurer, [licensed] insur-
 18 ance agent, [licensed] insurance broker, [licensed] adjuster, or any
 19 other person or entity [licensed, certified, registered, or authorized
 20 pursuant] subject to this chapter, has wilfully violated the provisions
 21 of this chapter or any regulation promulgated thereunder, then the
 22 superintendent may order the person or entity to pay to the people of
 23 this state a penalty in a sum not exceeding the greater of: (i) one
 24 thousand dollars for each offense; or (ii) where the violation relates
 25 to either the failure to pay a claim or making a false statement to the
 26 superintendent or the department, the greater of (A) ten thousand
 27 dollars for each offense, or (B) a multiple of two times the aggregate
 28 damages attributable to the violation, or (C) a multiple of two times
 29 the aggregate economic gain attributable to the violation.

30 § 17. Upon enactment of the amendments to paragraph (a) of subdivision
 31 3 of section 2559 of the public health law made by section six of this
 32 act, providers of early intervention services shall receive a two
 33 percent increase in rates of reimbursement for early intervention
 34 services provided that for payments made for early intervention services
 35 to persons eligible for medical assistance pursuant to title eleven of
 36 article five of the social services law, the two percent increase shall
 37 be subject to the availability of federal financial participation.

38 § 18. This act shall take effect immediately and shall be deemed to
 39 have been in full force and effect on or after April 1, 2018; provided
 40 that the amendments to section 3235-a of the insurance law made by
 41 section five of this act shall apply only to policies and contracts
 42 issued, renewed, modified, altered or amended on or after such date.

43 PART P

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

47 Nine million one hundred twenty thousand dollars annually for the
 48 period January first, two thousand nine through December thirty-first,
 49 two thousand ten, and two million two hundred eighty thousand dollars
 50 for the period January first, two thousand eleven, through March thir-
 51 ty-first, two thousand eleven, nine million one hundred twenty thousand
 52 dollars each state fiscal year for the period April first, two thousand
 53 eleven through March thirty-first, two thousand fourteen, up to eight
 54 million six hundred twelve thousand dollars each state fiscal year for

1 the period April first, two thousand fourteen through March thirty-
 2 first, two thousand seventeen, and up to eight million six hundred
 3 twelve thousand dollars each state fiscal year for the period April
 4 first, two thousand seventeen through March thirty-first, two thousand
 5 [twenty] eighteen, shall be set aside and reserved by the commissioner
 6 from the regional pools established pursuant to subdivision two of this
 7 section to be allocated regionally with two-thirds of the available
 8 funding going to New York city and one-third of the available funding
 9 going to the rest of the state and shall be available for distribution
 10 as follows:

11 § 2. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
 12 2807-s of the public health law, as amended by section 4 of part H of
 13 chapter 57 of the laws of 2017, is amended to read as follows:

14 (xiii) twenty-three million eight hundred thirty-six thousand dollars
 15 each state fiscal year for the period April first, two thousand twelve
 16 through March thirty-first, two thousand eighteen, and fifteen million
 17 two hundred twenty-four thousand dollars for each state fiscal year for
 18 the period April first, two thousand eighteen through March thirty-
 19 first, two thousand twenty;

20 § 3. Subdivision 9 of section 2803 of the public health law is
 21 REPEALED.

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

27 PART Q

28 Section 1. The public health law is amended by adding a new section
 29 2825-f to read as follows:

30 § 2825-f. Health care facility transformation program: statewide III.
 31 1. A statewide health care facility transformation program is hereby
 32 established under the joint administration of the commissioner and the
 33 president of the dormitory authority of the state of New York for the
 34 purpose of strengthening and protecting continued access to health care
 35 services in communities. The program shall provide funding in support of
 36 capital projects, debt retirement, working capital or other non-capital
 37 projects that facilitate health care transformation activities includ-
 38 ing, but not limited to, merger, consolidation, acquisition or other
 39 activities intended to: (a) create financially sustainable systems of
 40 care; (b) preserve or expand essential health care services; (c) modern-
 41 ize obsolete facility physical plants and infrastructure; (d) foster
 42 participation in value based payments arrangements including, but not
 43 limited to, contracts with managed care plans and accountable care
 44 organizations; (e) for residential health care facilities, increase the
 45 quality of resident care or experience; or (f) improve health informa-
 46 tion technology infrastructure, including telehealth, to strengthen the
 47 acute, post-acute and long-term care continuum. Grants shall not be
 48 available to support general operating expenses. The issuance of any
 49 bonds or notes hereunder shall be subject to section sixteen hundred
 50 eighty-r of the public authorities law and the approval of the director
 51 of the division of the budget, and any projects funded through the issu-
 52 ance of bonds or notes hereunder shall be approved by the New York state
 53 public authorities control board, as required under section fifty-one of
 54 the public authorities law.

1 2. The commissioner and the president of the dormitory authority shall
2 enter into an agreement, subject to approval by the director of the
3 budget, and subject to section sixteen hundred eighty-r of the public
4 authorities law, for the purposes of awarding, distributing, and admin-
5 istering the funds made available pursuant to this section. Such funds
6 may be distributed by the commissioner for grants to general hospitals,
7 residential health care facilities, diagnostic and treatment centers and
8 clinics licensed pursuant to this chapter or the mental hygiene law, and
9 community-based health care providers as defined in subdivision three of
10 this section for grants in support of the purposes set forth in this
11 section. A copy of such agreement, and any amendments thereto, shall be
12 provided to the chair of the senate finance committee, the chair of the
13 assembly ways and means committee, and the director of the division of
14 the budget no later than thirty days prior to the release of a request
15 for applications for funding under this program. Projects awarded, in
16 whole or part, under sections twenty-eight hundred twenty-five-a and
17 twenty-eight hundred twenty-five-b of this article shall not be eligible
18 for grants or awards made available under this section.

19 3. Notwithstanding section one hundred sixty-three of the state
20 finance law or any inconsistent provision of law to the contrary, up to
21 four hundred and twenty-five million dollars of the funds appropriated
22 for this program shall be awarded without a competitive bid or request
23 for proposal process for grants to health care providers (hereafter
24 "applicants"). Provided, however, that a minimum of: (a) sixty million
25 dollars of total awarded funds shall be made to community-based health
26 care providers, which for purposes of this section shall be defined as a
27 diagnostic and treatment center licensed or granted an operating certif-
28 icate under this article; a mental health clinic licensed or granted an
29 operating certificate under article thirty-one of the mental hygiene
30 law; a substance use disorder treatment clinic licensed or granted an
31 operating certificate under article thirty-two of the mental hygiene
32 law; a primary care provider; a home care provider certified or licensed
33 pursuant to article thirty-six of this chapter; or an assisted living
34 program approved by the department pursuant to subdivision one of
35 section four hundred sixty one-1 of the social services law; and (b)
36 forty-five million dollars of the total awarded funds shall be made to
37 residential health care facilities.

38 4. Notwithstanding any inconsistent subdivision of this section or any
39 other provision of law to the contrary, the commissioner, with the
40 approval of the director of the budget, may expend up to twenty million
41 dollars of the funds appropriated for this program and designated for
42 community-based health care providers pursuant to subdivision three of
43 this section for awards made pursuant to paragraph (1) of subdivision
44 three of section four hundred sixty-one-1 of the social services law.

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

47 (a) the extent to which the proposed project will contribute to the
48 integration of health care services or the long term sustainability of
49 the applicant or preservation of essential health services in the commu-
50 nity or communities served by the applicant;

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

54 (c) the geographic distribution of funds;

55 (d) the relationship between the proposed project and identified
56 community need;

1 (e) the extent to which the applicant has access to alternative
2 financing;

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

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

7 (h) the extent to which the applicant has engaged the community
8 affected by the proposed project and the manner in which community
9 engagement has shaped such project; and

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

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

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

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

31 PART R

32 Section 1. Section 1373 of the public health law is amended by adding
33 two new subdivisions 1-a and 1-b to read as follows:

34 1-a. Every municipality that administers the New York state uniform
35 fire prevention and building code, and that contains an area designated
36 as high risk by the commissioner pursuant to subdivision one of this
37 section, shall submit to the department aggregate reports summarizing
38 the outcomes of inspections and remediation conducted pursuant to subdi-
39 vision seven of section three hundred eighty-one of the executive law,
40 in a format to be determined by the commissioner in consultation with
41 the secretary of state.

42 1-b. The commissioner shall have the authority to monitor each muni-
43 cipality's compliance with subdivision seven of section three hundred
44 eighty-one of the executive law, including authority to perform
45 inspections of residential and non-residential properties and to ensure
46 implementation of lead remediation measures.

47 § 2. Section 378 of the executive law is amended by adding a new
48 subdivision 17 to read as follows:

49 17. For any area designated as high risk by the commissioner of health
50 pursuant to subdivision one of section thirteen hundred seventy-three of
51 the public health law:

52 a. A presumption that all paint on any residential building on which
53 the original construction was completed prior to January first, nineteen
54 hundred seventy-eight, and the exterior of any nonresidential structure

1 on which the original construction was completed prior to January first,
2 nineteen hundred seventy-eight, is lead-based.

3 b. A requirement that the interior and exterior of any residential
4 building on which the original construction was completed prior to Janu-
5 ary first, nineteen hundred seventy-eight, and the exterior of any
6 nonresidential structure on which the original construction was
7 completed prior to January first, nineteen hundred seventy-eight, be
8 maintained in a condition such that the paint thereon does not become
9 deteriorated paint, unless the deteriorated paint surfaces comprise a
10 minimal surface area.

11 § 3. Section 381 of the executive law is amended by adding a new
12 subdivision 7 to read as follows:

13 7. Notwithstanding any other provision of law, the secretary shall
14 promulgate rules and regulations with respect to areas designated as
15 high risk by the commissioner of health pursuant to subdivision one of
16 section thirteen hundred seventy-three of the public health law:

17 a. Requiring that local code enforcement officers conduct inspections
18 of residential rental property periodically and at specified times
19 including, but not limited to, as part of an application for a certif-
20 icate of occupancy, a renewal of a certificate of occupancy, or based
21 upon the filing of a complaint. Such inspections shall include at a
22 minimum a visual assessment for deteriorated paint and bare soil present
23 within the dripline of the building.

24 b. Establishing remedies for violations of uniform code provisions
25 adopted pursuant to subdivision seventeen of section three hundred
26 seventy-eight of this article, which shall include as appropriate:

27 (i) Certification by a lead-based paint inspector or risk assessor
28 that the property has been determined through a lead-based paint
29 inspection conducted in accordance with appropriate federal regulations
30 not to contain lead-based paint.

31 (ii) Certification by a lead-based paint inspector or risk assessor
32 that all cited violations have been abated, or interim controls imple-
33 mented, and clearance has been achieved in accordance with the uniform
34 code.

35 (iii) Where exterior deteriorated paint violations, including deteri-
36 orated paint violations on an open porch, and/or bare soil violations
37 are cited, or where interior deteriorated paint violations are cited in
38 a common area, clearance may be established through a visual assessment
39 by a local code enforcement officer after reduction measures have been
40 implemented.

41 c. Establishing standards for a clearance examination and report.

42 § 4. Paragraphs b and c of subdivision 1 of section 223-b of the real
43 property law, as amended by chapter 584 of the laws of 1991, is amended
44 to read as follows:

45 b. Actions taken in good faith, by or in behalf of the tenant, to
46 secure or enforce any rights under the lease or rental agreement, under
47 section two hundred thirty-five-b of this chapter, or under any other
48 law of the state of New York, or of its governmental subdivisions, or of
49 the United States which has as its objective the regulation of premises
50 used for dwelling purposes or which pertains to the offense of rent
51 gouging in the third, second or first degree; [or]

52 c. The tenant's participation in the activities of a tenant's organ-
53 ization; or

54 d. The tenant's reporting of a suspected lead-based paint hazard to
55 the owner or to any state or local agency.

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

3 PART S

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

16 SUBPART A

17 Section 1. The public health law is amended by adding a new section
18 2805-z to read as follows:

19 § 2805-z. Community paramedicine collaboratives. 1. For purposes of
20 this section:

21 (a) A "community paramedicine collaborative" shall mean an initiative
22 comprised of the participants set forth in subdivision two of this
23 section and organized to carry out a community paramedicine program as
24 defined in paragraph (b) of this subdivision.

25 (b) A "community paramedicine program" shall mean a program carried
26 out by a community paramedicine collaborative for the purpose of achiev-
27 ing objectives identified by the collaborative, pursuant to which indi-
28 viduals who are certified under regulations issued pursuant to section
29 three thousand two of this chapter shall perform community paramedicine
30 services in residential settings other than the initial emergency
31 medical care and transportation of sick and injured persons, provided
32 that such individuals are:

33 (i) certified pursuant to article thirty of this chapter;

34 (ii) employees or volunteers of an emergency medical services provider
35 that participates in the collaborative;

36 (iii) providing services that are within their education or training;
37 and

38 (iv) working under medical control as defined by subdivision fifteen
39 of section three thousand one of this title.

40 (c) "Community paramedicine services" shall mean services provided in
41 residential settings by individuals who are certified under regulations
42 issued pursuant to section three thousand two of this chapter and
43 employees or volunteers of an emergency medical services provider, other
44 than the initial emergency medical care and transportation of sick and
45 injured persons.

46 (d) An "emergency medical services provider" shall mean an ambulance
47 service or an advanced life support first response service that is
48 certified under article thirty of this chapter to provide ambulance or
49 advanced life support first response services and staffed by individuals
50 who are certified under regulations issued pursuant to section three
51 thousand two of this chapter to provide basic or advanced life support.

1 2. (a) At a minimum, a community paramedicine collaborative shall
2 include the participation of at least one hospital licensed under this
3 article, at least one physician who may but need not be employed or
4 otherwise affiliated with a hospital participating in such collabora-
5 tive, at least one emergency medical services provider and, if the
6 community paramedicine services are to be provided in a private resi-
7 dence, at least one home care services agency licensed or certified
8 under article thirty-six of this chapter.

9 (b) Where the collaborative's objectives include a focus on serving
10 individuals with behavioral health conditions and/or individuals with
11 developmental disabilities, the collaborative shall include the partic-
12 ipation of providers operated, licensed, or certified by the office of
13 mental health, the office of alcoholism and substance abuse services,
14 and/or the office for people with developmental disabilities, as appro-
15 priate.

16 (c) Such collaborative may also include additional participants such
17 as payors and local health departments.

18 3. A community paramedicine collaborative may establish a community
19 paramedicine program to provide community paramedicine services to indi-
20 viduals living in residential settings for the purpose of achieving
21 objectives identified by the collaborative such as: preventing emergen-
22 cies, avoidable emergency room visits, avoidable medical transport, and
23 potentially avoidable hospital admissions and readmissions; improving
24 outcomes following discharge from a general hospital or other inpatient
25 admission; and/or promoting self-management of health or behavioral
26 health care conditions.

27 4. A community paramedicine collaborative shall be required to provide
28 or arrange for appropriate orientation and training for staff partic-
29 ipating in the community paramedicine program. In all cases, such orien-
30 tation and training shall address the assessment of the needs of indi-
31 viduals with behavioral health conditions and individuals with
32 developmental disabilities.

33 5. An emergency medical services provider participating in a community
34 paramedicine collaborative shall: (a) ensure that the provision of
35 community paramedicine services occurs within the provider's primary
36 operating territory pursuant to article thirty of this chapter; and (b)
37 make reasonable efforts to ensure that it has sufficiently staffed the
38 provision of initial emergency medical care and transportation of sick
39 and injured persons before making staff available to provide community
40 paramedicine services.

41 6. (a) No community paramedicine collaborative shall begin providing
42 services under a community paramedicine program until it has notified
43 the department of the initiation of such collaborative by:

44 (i) identifying the participants of the collaborative and the individ-
45 ual who will serve as the point of contact;

46 (ii) describing the goals of the collaborative in carrying out a
47 community paramedicine program;

48 (iii) describing the population to be served by the community paramed-
49 icine program and the geographic area in which the program will focus;

50 (iv) identifying the services to be offered under the community param-
51 edicine program and the collaborative participants that will provide
52 such services;

53 (v) describing the collaborative's plan to assure, to the extent
54 possible, that care provided under the community paramedicine program is
55 coordinated with other providers of the individuals served;



1 (vi) describing the quality assurance and improvement procedures that
2 will be used by the collaborative in carrying out the community paramed-
3 icine program; and

4 (vii) identifying the date of the anticipated start of activities.

5 (b) A community paramedicine collaborative shall:

6 (i) promptly update the department as to any changes in the informa-
7 tion required under paragraph (a) of this subdivision; and

8 (ii) provide information to the department about the collaborative's
9 activities and outcomes at a frequency and in a manner determined by the
10 department, which at a minimum shall include an annual report.

11 7. Nothing in this section shall be deemed to prohibit the performance
12 of any tasks or responsibilities by any person licensed or certified
13 under this chapter or under title VIII of the education law or by any
14 entity licensed or certified under this article or under the mental
15 hygiene law, provided such tasks or responsibilities are permitted
16 pursuant to such statutory provisions.

17 § 2. Subdivision 15 of section 3001 of the public health law, as
18 amended by chapter 445 of the laws of 1993, is amended to read as
19 follows:

20 15. "Medical control" means: (a) advice and direction provided by a
21 physician or under the direction of a physician to certified first
22 responders, emergency medical technicians or advanced emergency medical
23 technicians who are providing medical care at the scene of an emergency
24 or en route to a health care facility; [and] (b) indirect medical
25 control including the written policies, procedures, and protocols for
26 prehospital emergency medical care and transportation developed by the
27 state emergency medical advisory committee, approved by the state emer-
28 gency medical services council and the commissioner, and implemented by
29 regional medical advisory committees; and (c) in a community paramedi-
30 cine program established by a community paramedicine collaborative
31 pursuant to section twenty-eight hundred five-z of this chapter, advice
32 and direction provided and policies, procedures, and protocols issued by
33 a physician within the collaborative who is responsible for the overall
34 clinical supervision of the community paramedicine program.

35 § 3. The public health law is amended by adding a new section 3001-a
36 to read as follows:

37 § 3001-a. Community paramedicine services. Notwithstanding any incon-
38 sistent provision of this article, an individual who is certified under
39 regulations issued pursuant to section three thousand two of this arti-
40 cle to provide basic or advanced life support may, in the course of his
41 or her work as an employee or volunteer of an ambulance service or an
42 advanced life support first response service certified under this arti-
43 cle, also participate as an employee or volunteer of such service in a
44 community paramedicine program established by a community paramedicine
45 collaborative pursuant to section twenty-eight hundred five-z of this
46 chapter.

47 § 4. Subdivision 2 of section 365-a of the social services law is
48 amended by adding a new paragraph (ff) to read as follows:

49 (ff) subject to the availability of federal financial participation,
50 community paramedicine services provided in accordance with the require-
51 ments of section twenty-eight hundred five-z of the public health law.

52 § 5. This act shall take effect immediately.



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

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

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

50 (f) No provision of this article or any other provision of law shall
51 be construed to require a provider licensed pursuant to article twenty-
52 eight of the public health law or certified pursuant to article thirty-
53 two of this chapter to obtain an operating certificate from the office
54 of mental health if such provider has been authorized to provide inte-
55 grated services in accordance with regulations issued by the commission-
56 er of the office of mental health in consultation with the commissioner

1 of the department of health and the commissioner of the office of alco-
 2 holism and substance abuse services, including regulations issued pursu-
 3 ant to subdivision seven of section three hundred sixty-five-1 of the
 4 social services law or part L of chapter fifty-six of the laws of two
 5 thousand twelve.

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

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

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

40 SUBPART C

41 Section 1. Paragraphs (s) and (t) of subdivision 2 of section 2999-cc
 42 of the public health law, as amended by chapter 454 of the laws of 2015,
 43 are amended and a new paragraph (u) is added to read as follows:

- 44 (s) a hospice as defined in article forty of this chapter; [and]
- 45 (t) credentialed alcoholism and substance abuse counselors creden-
 46 tialed by the office of alcoholism and substance abuse services or by a
 47 credentialing entity approved by such office pursuant to section 19.07
 48 of the mental hygiene law;
- 49 (u) providers authorized to provide services and service coordination
 50 under the early intervention program pursuant to article twenty-five of
 51 this chapter; and
- 52 (v) any other provider as determined by the commissioner pursuant to
 53 regulation or, in consultation with the commissioner, by the commis-
 54 ioner of the office of mental health, the commissioner of the office of

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

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

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

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

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

44 § 4. This act shall take effect on the ninetieth day after it shall
45 have become a law; provided, however, that the commissioner of the
46 department of health, the commissioner of the office of mental health,
47 the commissioner of the office of alcoholism and substance abuse
48 services, and the commissioner of the office for people with develop-
49 mental disabilities are authorized to issue any rule or regulation
50 necessary for the implementation of this act on or before its effective
51 date.

52 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
53 sion, section or subpart of this act shall be adjudged by any court of
54 competent jurisdiction to be invalid, such judgment shall not affect,
55 impair, or invalidate the remainder thereof, but shall be confined in
56 its operation to the clause, sentence, paragraph, subdivision, section



1 or subpart thereof directly involved in the controversy in which such
2 judgment shall have been rendered. It is hereby declared to be the
3 intent of the legislature that this act would have been enacted even if
4 such invalid provisions had not been included herein.

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

8

PART T

9 Section 1. Subdivision (a) of section 31 of part B of chapter 59 of
10 the laws of 2016, amending the social services law relating to authoriz-
11 ing the commissioner of health to apply federally established consumer
12 price index penalties for generic drugs, and authorizing the commission-
13 er of health to impose penalties on managed care plans for reporting
14 late or incorrect encounter data, is amended to read as follows:

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

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

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

35 § 3. Section 2 of part II of chapter 54 of the laws of 2016, amending
36 part C of chapter 58 of the laws of 2005 authorizing reimbursements for
37 expenditures made by or on behalf of social services districts for
38 medical assistance for needy persons and administration thereof, is
39 amended to read as follows:

40 § 2. This act shall take effect immediately and shall expire and be
41 deemed repealed [two years after it shall have become a law] March 31,
42 2023.

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

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

52 § 5. Section 4-a of part A of chapter 56 of the laws of 2013, amending
53 chapter 59 of the laws of 2011 amending the public health law and other
54 laws relating to general hospital reimbursement for annual rates relat-



1 ing to the cap on local Medicaid expenditures, as amended by section 9
2 of part I of chapter 57 of the laws of 2017, is amended to read as
3 follows:

4 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
5 2807-c of the public health law, section 21 of chapter 1 of the laws of
6 1999, or any other contrary provision of law, in determining rates of
7 payments by state governmental agencies effective for services provided
8 on and after January 1, [2019] 2017 through March 31, 2019, for inpa-
9 tient and outpatient services provided by general hospitals, for inpa-
10 tient services and adult day health care outpatient services provided by
11 residential health care facilities pursuant to article 28 of the public
12 health law, except for residential health care facilities or units of
13 such facilities providing services primarily to children under twenty-
14 one years of age, for home health care services provided pursuant to
15 article 36 of the public health law by certified home health agencies,
16 long term home health care programs and AIDS home care programs, and for
17 personal care services provided pursuant to section 365-a of the social
18 services law, the commissioner of health shall apply no greater than
19 zero trend factors attributable to the 2017, 2018, and 2019 calendar
20 [year] years in accordance with paragraph (c) of subdivision 10 of
21 section 2807-c of the public health law, provided, however, that such no
22 greater than zero trend factors attributable to such 2017, 2018, and
23 2019 calendar [year] years shall also be applied to rates of payment
24 provided on and after January 1, [2019] 2017 through March 31, 2019 for
25 personal care services provided in those local social services
26 districts, including New York city, whose rates of payment for such
27 services are established by such local social services districts pursu-
28 ant to a rate-setting exemption issued by the commissioner of health to
29 such local social services districts in accordance with applicable regu-
30 lations[,], and provided further, however, that for rates of payment for
31 assisted living program services provided on and after January 1, [2019]
32 2017 through March 31, 2019, such trend factors attributable to the
33 2017, 2018, and 2019 calendar [year] years shall be established at no
34 greater than zero percent.

35 § 6. This act shall take effect immediately.

36

PART U

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

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

44 § 2. This act shall take effect immediately.

45

PART V

46 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,
47 amending the mental hygiene law and the state finance law relating to
48 the community mental health support and workforce reinvestment program,
49 the membership of subcommittees for mental health of community services
50 boards and the duties of such subcommittees and creating the community
51 mental health and workforce reinvestment account, as amended by section



1 3 of part G of chapter 60 of the laws of 2014, is amended to read as
2 follows:

3 § 7. This act shall take effect immediately and shall expire March 31,
4 [2018] 2021 when upon such date the provisions of this act shall be
5 deemed repealed.

6 § 2. This act shall take effect immediately.

7 PART W

8 Section 1. Subdivision 9 of section 730.10 of the criminal procedure
9 law, as added by section 1 of part Q of chapter 56 of the laws of 2012,
10 is amended to read as follows:

11 9. "Appropriate institution" means: (a) a hospital operated by the
12 office of mental health or a developmental center operated by the office
13 for people with developmental disabilities; [or] (b) a hospital licensed
14 by the department of health which operates a psychiatric unit licensed
15 by the office of mental health, as determined by the commissioner
16 provided, however, that any such hospital that is not operated by the
17 state shall qualify as an "appropriate institution" only pursuant to the
18 terms of an agreement between the commissioner and the hospital ; or (c)
19 a mental health unit operating within a correctional facility or local
20 correctional facility; provided however, that any such mental health
21 unit operating within a local correctional facility shall qualify as an
22 "appropriate institution" only pursuant to the terms of an agreement
23 between the commissioner of mental health, director of community
24 services and the sheriff for the respective locality, and any such
25 mental health unit operating within a correctional facility shall quali-
26 fy as an "appropriate institution" only pursuant to the terms of an
27 agreement between the commissioner of mental health and the commissioner
28 of corrections and community supervision. Nothing in this article shall
29 be construed as requiring a hospital, correctional facility or local
30 correctional facility to consent to providing care and treatment to an
31 incapacitated person at such hospital, correctional facility or local
32 correctional facility. In a city with a population of more than one
33 million, any such unit shall be limited to twenty-five beds. The commis-
34 sioner of mental health shall promulgate regulations for demonstration
35 programs to implement restoration to competency within a correctional
36 facility or local correctional facility. Subject to annual appropri-
37 ation, the commissioner of mental health may, at such commissioner's
38 discretion, make funds available for state aid grants to any county that
39 develops and operates a mental health unit within a local correctional
40 facility pursuant to this section. Nothing in this article shall be
41 construed as requiring a hospital, correctional facility or local
42 correctional facility to consent to providing care and treatment to an
43 incapacitated person at such hospital, correctional facility or local
44 correctional facility.

45 § 2. This act shall take effect immediately and shall be deemed to
46 have been in full force and effect on and after April 1, 2018; provided,
47 however, this act shall expire and be deemed repealed March 31, 2023.

48 PART X

49 Section 1. Section 3 of part A of chapter 111 of the laws of 2010
50 amending the mental hygiene law relating to the receipt of federal and
51 state benefits received by individuals receiving care in facilities
52 operated by an office of the department of mental hygiene, as amended by

1 section 1 of part LL of chapter 58 of the laws of 2015, is amended to
2 read as follows:

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

5 § 2. This act shall take effect immediately.

6 PART Y

7 Section 1. Subdivision 10 of section 7605 of the education law, as
8 added by section 4 of part AA of chapter 57 of the laws of 2013, is
9 amended and a new subdivision 12 is added to read as follows:

10 10. (a) A person without a license from: performing assessments such
11 as basic information collection, gathering of demographic data, and
12 informal observations, screening and referral used for general eligibil-
13 ity for a program or service and determining the functional status of an
14 individual for the purpose of determining need for services [unrelated
15 to a behavioral health diagnosis or treatment plan. Such licensure
16 shall not be required to create, develop or implement a service plan
17 unrelated to a behavioral health diagnosis or treatment plan]; coun-
18 seling individuals regarding the appropriateness of benefits they are
19 eligible for; providing general counseling that is not psychotherapy and
20 assisting individuals or groups with difficult day to day problems such
21 as finding employment, locating sources of assistance, and organizing
22 community groups to work on a specific problem; providing peer services;
23 or to select for suitability and provide substance abuse treatment
24 services or group re-entry services to incarcerated individuals in state
25 correctional facilities.

26 (b) A person without a license from creating, developing or implement-
27 ing a service plan or recovery plan that is not a behavioral health
28 diagnosis or treatment plan. Such service or recovery plans shall
29 include, but are not limited to, coordinating, evaluating or determining
30 the need for, or the provision of the following services: job training
31 and employability[,]; housing[,]; homeless services and shelters for
32 homeless individuals and families; refugee services; residential, day or
33 community habilitation services; general public assistance[,]; in home
34 services and supports or home-delivered meals[,; investigations conducted
35 or assessments made by]; recovery supports; adult or child protective
36 services including investigations; detention as defined in section five
37 hundred two of the executive law; prevention and residential services
38 for victims of domestic violence; services for runaway and homeless
39 youth; foster care, adoption, preventive services or services in accord-
40 ance with an approved plan pursuant to section four hundred four of the
41 social services law, including, adoption and foster home studies and
42 assessments, family service plans, transition plans [and], permanency
43 planning activities, and case planning or case management as such terms
44 are defined in part four hundred twenty-eight of title eighteen of the
45 New York codes, rules and regulations; residential rehabilitation; home
46 and community based services; and de-escalation techniques, peer
47 services or skill development. [A license under this article shall not
48 be required for persons to participate]

49 (c) (i) A person without a license from participating as a member of a
50 multi-disciplinary team to develop or implement a [behavioral health
51 services or] treatment plan; provided [however,] that such team shall
52 include one or more professionals licensed under this article or arti-
53 cles one hundred thirty-one, one hundred thirty-nine, one hundred
54 fifty-four or one hundred sixty-three of this chapter who must directly

1 observe each patient either in person or by electronic means, prior to
 2 the rendering of a diagnosis; and provided, further, that the activities
 3 performed by members of the team shall be consistent with the scope of
 4 practice for each team member licensed or authorized under title VIII of
 5 this chapter, and those who are not so authorized may not independently
 6 engage in the following restricted practices, but may assist licensed
 7 professionals or multi-disciplinary team members with: the diagnosis of
 8 mental, emotional, behavioral, addictive and developmental disorders and
 9 disabilities; patient assessment and evaluating; the provision of
 10 psychotherapeutic treatment; the provision of treatment other than
 11 psychotherapeutic treatment; [and/or] or the development and implementa-
 12 tion of assessment-based treatment plans as defined in section seventy-
 13 seven hundred one of this [chapter] title.

14 (ii) As used in this subdivision, a treatment plan shall be limited to
 15 plans for treatment within the following settings: facilities or
 16 programs operating pursuant to article nineteen-G of the executive law
 17 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
 18 mental hygiene law.

19 (iii) As used in this subdivision, the term "assist" shall include the
 20 provision of services within the practice of psychology, under the
 21 supervision of a person licensed under this article.

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

26 12. Notwithstanding any other provision of law to the contrary, noth-
 27 ing in this article shall be construed to prohibit or limit the activ-
 28 ities or services provided by any person who is employed or who
 29 commences employment in a program or service operated, regulated, fund-
 30 ed, or approved by the department of mental hygiene, the office of chil-
 31 dren and family services, the department of corrections and community
 32 supervision, the office of temporary and disability assistance, the
 33 state office for the aging and the department of health or a local
 34 governmental unit as that term is defined in section 41.03 of the mental
 35 hygiene law or a social services district as defined in section sixty-
 36 one of the social services law on or before July first, two thousand
 37 twenty. Provided, however, that any person who commences employment in
 38 such program or service after July first, two thousand twenty and
 39 performs services that are restricted under this article shall be appro-
 40 priately licensed or authorized under this article.

41 § 2. Paragraph (f) of subdivision 1 of section 7702 of the education
 42 law, as amended by chapter 230 of the laws of 2004, is amended and a new
 43 paragraph (m) is added to read as follows:

44 (f) [Assist] General counseling that is not psychotherapy, and assist-
 45 ing individuals or groups with difficult day to day problems such as
 46 finding employment, locating sources of assistance, and organizing
 47 community groups to work on a specific problem.

48 (m) Provide peer services.

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

52 7. (a) Prevent a person without a license from: performing assessments
 53 such as basic information collection, gathering of demographic data, and
 54 informal observations, screening and referral used for general eligibil-
 55 ity for a program or service and determining the functional status of an
 56 individual for the purpose of determining need for services [unrelated

1 to a behavioral health diagnosis or treatment plan. Such licensure shall
2 not be required to create, develop or implement a service plan unrelated
3 to a behavioral health diagnosis or treatment plan]; counseling individ-
4 uals regarding the appropriateness of benefits they are eligible for;
5 providing general counseling that is not psychotherapy and assisting
6 individuals or groups with difficult day to day problems such as finding
7 employment, locating sources of assistance, and organizing community
8 groups to work on a specific problem; providing peer services; or to
9 select for suitability and provide substance abuse treatment services or
10 group re-entry services to incarcerated individuals in state correction-
11 al facilities.

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

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

54 (ii) As used in this subdivision, a treatment plan shall be limited to
55 plans for treatment within the following settings: facilities or
56 programs operating pursuant to article nineteen-G of the executive law



1 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
2 mental hygiene law.

3 (iii) As used in this subdivision, the term "assist" shall include the
4 provision of services within the practice of master social work or clin-
5 ical social work, under the supervision of a person licensed under this
6 article.

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

11 8. Notwithstanding any other provision of law to the contrary, nothing
12 in this article shall be construed to prohibit or limit the activities
13 or services provided by any person who is employed or who commences
14 employment in a program or service operated, regulated, funded, or
15 approved by the department of mental hygiene, the office of children and
16 family services, the department of corrections and community super-
17 vision, the office of temporary and disability assistance, the state
18 office for the aging and the department of health or a local govern-
19 mental unit as that term is defined in section 41.03 of the mental
20 hygiene law or a social services district as defined in section sixty-
21 one of the social services law on or before July first, two thousand
22 twenty. Provided however, that any person who commences employment in
23 such program or service after July first, two thousand twenty and
24 performs services that are restricted under this article shall be appro-
25 priately licensed or authorized under this article.

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

29 8. (a) Prevent a person without a license from: performing assessments
30 such as basic information collection, gathering of demographic data, and
31 informal observations, screening and referral used for general eligibil-
32 ity for a program or service and determining the functional status of an
33 individual for the purpose of determining need for services [unrelated
34 to a behavioral health diagnosis or treatment plan. Such licensure
35 shall not be required to create, develop or implement a service plan
36 unrelated to a behavioral health diagnosis or treatment plan]; coun-
37 seling individuals regarding the appropriateness of benefits they are
38 eligible for; providing general counseling that is not psychotherapy and
39 assisting individuals or groups with difficult day to day problems such
40 as finding employment, locating sources of assistance, and organizing
41 community groups to work on a specific problem; providing peer services;
42 or to select for suitability and provide substance abuse treatment
43 services or group re-entry services to incarcerated individuals in state
44 correctional facilities.

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

1 for victims of domestic violence; services for runaway and homeless
2 youth; foster care, adoption, preventive services or services in accord-
3 ance with an approved plan pursuant to section four hundred four of the
4 social services law, including, adoption and foster home studies and
5 assessments, family service plans, transition plans [and], permanency
6 planning activities, and case planning or case management as such terms
7 are defined in part four hundred twenty-eight of title eighteen of the
8 New York codes, rules and regulations; residential rehabilitation; home
9 and community based services; and de-escalation techniques, peer
10 services or skill development. [A license under this article shall not
11 be required for persons to participate]

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

31 (ii) As used in this subdivision, a treatment plan shall be limited to
32 plans for treatment within the following settings: facilities or
33 programs operating pursuant to article nineteen-G of the executive law
34 or pursuant to articles seven, sixteen, thirty-one and thirty-two of the
35 mental hygiene law.

36 (iii) As used in this subdivision, the term "assist" shall include the
37 provision of services within the practice of mental health counseling,
38 marriage and family therapy, creative arts therapy or psychoanalysis,
39 under the supervision of a person licensed under this article.

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

44 9. Notwithstanding any other provision of law to the contrary, nothing
45 in this article shall be construed to prohibit or limit the activities
46 or services provided by any person who is employed or who commences
47 employment in a program or service operated, regulated, funded, or
48 approved by the department of mental hygiene, the office of children and
49 family services, the department of corrections and community super-
50 vision, the office of temporary and disability assistance, the state
51 office for the aging and the department of health or a local govern-
52 mental unit as that term is defined in section 41.03 of the mental
53 hygiene law or a social services district as defined in section sixty-
54 one of the social services law on or before July first, two thousand
55 twenty. Provided however, that any person who commences employment in
56 such program or service after July first, two thousand twenty and



1 performs services that are restricted under this article shall be appro-
2 priately licensed or authorized under this article.

3 § 5. Not later than July 1, 2019 the department of mental hygiene, the
4 office of children and family services, the office of temporary and
5 disability assistance, the department of corrections and community
6 supervision, the state office for the aging, or the department of health
7 (hereinafter referred to as "agencies") shall individually or collec-
8 tively consult with the state education department (hereinafter referred
9 to as "department") to develop formal guidance for service providers
10 authorized to operate under the respective agencies to identify the
11 tasks and functions performed by each agency's service provider work-
12 force categorized as tasks and functions restricted to licensed person-
13 nel including tasks and functions that do not require a license under
14 articles 153, 154 and 163 of the education law. Subsequent to such
15 consultation, and not later than December 31, 2019, the department shall
16 issue guidance to each such agency with respect to each agency's service
17 provider workforce. Each agency may issue additional guidance from time
18 to time, subject to consultation with the department. Notwithstanding
19 any provision of law to the contrary, no person shall be held liable for
20 unauthorized practice of a profession subject to licensure under arti-
21 cles 153, 154 and 163 of the education law if such person acts in
22 accordance with such agency guidance until July 1, 2020, to allow
23 further consultation on guidance as necessary. Upon issuance by such
24 state agency of guidance, the department shall have 180 days from the
25 date of the issuance of such guidance to issue a statement of disagree-
26 ment with the agency's guidance. If the department has issued a state-
27 ment of disagreement, the department and state agency shall engage in a
28 collaborative process to gather input from stakeholders to resolve the
29 issues.

30 § 6. Programs and services operated, regulated, funded, or approved by
31 the department of mental hygiene, the office of children and family
32 services, the department of corrections and community supervision, the
33 office of temporary and disability assistance, the state office for the
34 aging and the department of health or a local governmental unit as the
35 term is defined in section 41.03 of the mental hygiene law or a social
36 services district as defined in section 61 of the social services law
37 shall not be required to receive a waiver pursuant to section 6503-a of
38 the education law and, further, such programs and services shall also be
39 considered to be approved settings for the receipt of supervised experi-
40 ence for the professions governed by articles 153, 154 and 163 of the
41 education law.

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

46 a. Nothing in this act shall prohibit or limit the activities or
47 services on the part of any person in the employ of a program or service
48 operated, regulated, funded, or approved by the department of mental
49 hygiene, the office of children and family services, the office of
50 temporary and disability assistance, the department of corrections and
51 community supervision, the state office for the aging, the department of
52 health, or a local governmental unit as that term is defined in article
53 41 of the mental hygiene law or a social services district as defined in
54 section 61 of the social services law, provided, however, this section
55 shall not authorize the use of any title authorized pursuant to article

1 154 of the education law, except that this section shall be deemed
2 repealed on July 1, [2018] 2020.

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

7 a. In relation to activities and services provided under article 153
8 of the education law, nothing in this act shall prohibit or limit such
9 activities or services on the part of any person in the employ of a
10 program or service operated, regulated, funded, or approved by the
11 department of mental hygiene or the office of children and family
12 services, or a local governmental unit as that term is defined in arti-
13 cle 41 of the mental hygiene law or a social services district as
14 defined in section 61 of the social services law. In relation to activ-
15 ities and services provided under article 163 of the education law,
16 nothing in this act shall prohibit or limit such activities or services
17 on the part of any person in the employ of a program or service oper-
18 ated, regulated, funded, or approved by the department of mental
19 hygiene, the office of children and family services, the department of
20 corrections and community supervision, the office of temporary and disa-
21 bility assistance, the state office for the aging and the department of
22 health or a local governmental unit as that term is defined in article
23 41 of the mental hygiene law or a social services district as defined in
24 section 61 of the social services law, pursuant to authority granted by
25 law. This section shall not authorize the use of any title authorized
26 pursuant to article 153 or 163 of the education law by any such employed
27 person, except as otherwise provided by such articles respectively.
28 This section shall be deemed repealed July 1, [2018] 2020.

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

34 § 16. This act shall take effect immediately; provided that sections
35 thirteen, fourteen and fifteen of this act shall take effect immediately
36 and shall be deemed to have been in full force and effect on and after
37 June 1, 2010 and such sections shall be deemed repealed July 1, [2018]
38 2020; provided further that the amendments to section 9 of chapter 420
39 of the laws of 2002 amending the education law relating to the profes-
40 sion of social work made by section thirteen of this act shall repeal on
41 the same date as such section repeals; provided further that the amend-
42 ments to section 17-a of chapter 676 of the laws of 2002 amending the
43 education law relating to the practice of psychology made by section
44 fourteen of this act shall repeal on the same date as such section
45 repeals.

46 § 10. This act shall take effect immediately.

47

PART Z

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

51 (vii) a person with a developmental or physical disability who
52 receives home and community-based services or care-at-home services
53 through a demonstration waiver under section eleven hundred fifteen of
54 the federal social security act, existing waivers under section nineteen



1 hundred fifteen (c) of the federal social security act, or who has char-
2 acteristics and needs similar to such persons;

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

6 (x) "nursing facility services" means nursing care and health related
7 services provided in a nursing facility; a level of care provided in a
8 hospital which is equivalent to the care which is provided in a nursing
9 facility; and care, services or supplies provided pursuant to a waiver
10 granted pursuant to subsection (c) of section 1915 of the federal social
11 security act or successor federal waiver.

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

14 7-c. The commissioner of health in consultation with the commissioner
15 of developmental disabilities is authorized to submit the appropriate
16 waivers, including, but not limited to, those authorized pursuant to
17 section eleven hundred fifteen of the federal social security act, in
18 order to achieve the purposes of high-quality and integrated care and
19 services for a population of persons with developmental disabilities, as
20 such term is defined in section 1.03 of the mental hygiene law.

21 § 4. Subdivision 6-a of section 93 of part C of chapter 58 of the laws
22 of 2007, amending the social services law and other laws relating to
23 enacting the major components of legislation necessary to implement the
24 health and mental hygiene budget for the 2007-2008 state fiscal year, as
25 amended by section 20 of part B of chapter 56 of the laws of 2013, is
26 amended to read as follows:

27 6-a. section fifty-seven of this act shall expire and be deemed
28 repealed on December 31, [2018] 2024; provided that the amendments made
29 by such section to subdivision 4 of section 366-c of the social services
30 law shall apply with respect to determining initial and continuing
31 eligibility for medical assistance, including the continued eligibility
32 of recipients originally determined eligible prior to the effective date
33 of this act, and provided further that such amendments shall not apply
34 to any person or group of persons if it is subsequently determined by
35 the Centers for Medicare and Medicaid services or by a court of compe-
36 tent jurisdiction that medical assistance with federal financial partic-
37 ipation is available for the costs of services provided to such person
38 or persons under the provisions of subdivision 4 of section 366-c of the
39 social services law in effect immediately prior to the effective date of
40 this act.

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

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

1 cial participation is available therefor. The commissioner of health
2 shall make any amendments to the state plan for medical assistance, or
3 apply for any waiver or approval under the federal social security act
4 that are necessary to carry out the provisions of this paragraph.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

10 § 14. 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 § 15. 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 § 16. 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 § 17. 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 § 18. 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 § 19. 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 § 20. 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 six 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 thirteen 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 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
 40 sion, section or part of this act shall be adjudged by any court of
 41 competent jurisdiction to be invalid, such judgment shall not affect,
 42 impair, or invalidate the remainder thereof, but shall be confined in
 43 its operation to the clause, sentence, paragraph, subdivision, section
 44 or part thereof directly involved in the controversy in which such judg-
 45 ment shall have been rendered. It is hereby declared to be the intent of
 46 the legislature that this act would have been enacted even if such
 47 invalid provisions had not been included herein.

48 § 3. This act shall take effect immediately provided, however, that
 49 the applicable effective date of Parts A through AA of this act shall be
 50 as specifically set forth in the last section of such Parts.