

STATE OF NEW YORK

3007--A

IN ASSEMBLY

January 23, 2017

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

AN ACT to amend the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families (Part A); intentionally omitted (Part B); to amend the social services law, in relation to requiring monthly premium payments for the Essential Plan (Part C); to amend the public health law, in relation to high cost drugs; to amend the tax law, in relation to surcharges on high priced drugs; to amend the tax law, in relation to secrecy provisions; to amend the state finance law, in relation to the high priced drug reimbursement fund; to amend the social services law, in relation to the drug utilization review board; to amend the social services law, in relation to prescription drugs in Medicaid managed care programs; to amend the public health law, in relation to the use of preferred drug program and clinical drug review program; to amend the social services law, in relation to Medicaid reimbursement of covered outpatient drugs; to authorize the suspension of a provider's Medicaid enrollment for inappropriate prescribing of opioids; to amend the social services law, in relation to refills of controlled substances; to amend the social services law, in relation to aligning pharmacy copayment requirements with federal regulations, and to adjusting consumer price index penalties for generic drugs; and to repeal subdivisions 25 and 25-a of section 364-j of the social services law, relating to the coverage of certain medically necessary prescription drugs by managed care providers (Part D); intentionally omitted (Part E); to amend the social services law, in relation to carving out transportation from managed long term care benefit and adult day health care programs located at a licensed residential health care facility (Part F); intentionally omitted (Part G); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend the public health law, in relation to health care

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

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initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend the public health law, in relation to the assessments on covered lives; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services, in relation to the effectiveness of such chapter; to amend chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services, in relation to the effectiveness of such chapter; to amend chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof, in relation to extending the effectiveness of portions thereof; to amend the public health law, in relation to extending access to community health care services in rural areas; to amend the social services law, in relation to rates of payment for personal care service providers; to amend the public health law, in relation to the comprehensive diagnostic and treatment centers indigent care program; and to amend the public health law, in relation to health care initiative pool distributions (Part H); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 60 of the laws of 2014 amending the social services law relating to eliminating prescriber prevails for brand name drugs with generic equivalents, in relation to the effectiveness thereof; to amend the public health law, in relation to extending the nursing home cash assessment; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend 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 state fiscal year, in relation to delay of certain administrative cost; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend chapter 109 of the laws of 2010, amending the social services law relating to transportation costs, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to the effectiveness thereof; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive



health services, in relation to the effectiveness thereof; to amend chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to extending the provisions thereof; to amend chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof; and to amend the public health law, in relation to extending the authority of the commissioner of health to issue ACO certificates (Part I); to amend the insurance law, in relation to pharmacy benefit managers and the purchase of prescription drugs; and to amend the public health law, in relation to pharmacy benefit managers; and to repeal certain provisions of such law relating thereto (Part J); to amend the public health law, in relation to the health care facility transformation program (Part K); intentionally omitted (Part L); to amend the public health law, in relation to creating the "Emerging Contaminant Monitoring Act" (Part M); to amend the public health law, the real property law, and the environmental conservation law, in relation to creating the "residential well testing act" (Part N); intentionally omitted (Part O); 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 extending government rates for behavioral services and adding a value based payment requirement; and to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services and adding a value based payment requirement (Part P); intentionally omitted (Part Q); 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; and 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, in relation to extending certain provisions concerning the hospital excess liability pool (Part R); to direct the commissioner of developmental disabilities to report on the housing needs of individuals with developmental disabilities and the implementation of the transformation panel's recommendations; and providing for the repeal of such provisions upon expiration thereof (Part S); to amend the penal law, in relation to criminal possession of a controlled substance in the seventh degree; to amend the general business law, in relation to drug-related paraphernalia; to amend the public health law, in relation to the sale and possession of hypodermic syringes and needles; and to repeal section 220.45 of the penal law relating to criminally possessing a hypodermic instrument (Part T); in relation to the Western New York Children's Psychiatric Center (Part U); to amend the social services law, in relation to school-based health centers and sponsoring organ-



izations for managed care programs (Part V); to amend the social services law, in relation to fiscal intermediary certification under the consumer directed personal assistance program; to amend the social services law and the public health law, in relation to needs assessment and rate adequacy for medicaid; to amend the social services law, in relation to the nursing home benchmark rate; to amend the public health law, in relation to home care workforce recruitment and retention funding; and to amend the public health law, in relation to home care worker wage parity (Part W); to amend the social services law, in relation to requiring the commissioner of health to provide written notice thirty days prior to implementing or adjusting a rate, premium, component of premium, add-on payment, quality pool, or other rate component related to a managed care provider (Part X); relating to the number of workers accruing overtime in state agencies and requiring certain agencies to maintain all full time equivalent positions from the previous year (Part Y); in relation to the transfer of inpatient services (Part Z); to amend the social services law, in relation to establishing the enhanced safety net hospital program; and to prohibit the commissioner of health from reducing payment for general hospital emergency services visits (Part AA); and to amend chapter 495 of the laws of 2004 amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part BB)

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 2017-2018
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through BB. 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. Paragraph 2 of subsection (d) of section 3224-a of the
14 insurance law, as amended by section 57-b of part A of chapter 56 of the
15 laws of 2013, is amended to read as follows:

16 (2) "health care provider" shall mean an entity licensed or certified
17 pursuant to article twenty-eight, thirty-six or forty of the public
18 health law, a facility licensed pursuant to article nineteen or thirty-
19 one of the mental hygiene law, a fiscal intermediary operating under
20 section three hundred sixty five-f of the social services law, an indi-
21 vidual or agency approved by the department of health pursuant to title
22 two-A of article twenty-five of the public health law, a health care
23 professional licensed, registered or certified pursuant to title eight
24 of the education law, a dispenser or provider of pharmaceutical

1 products, services or durable medical equipment, or a representative
2 designated by such entity or person.

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

7 § 3235-a. Payment for early intervention services. (a) No policy of
8 accident and health insurance, including contracts issued pursuant to
9 article forty-three of this chapter, shall exclude coverage for other-
10 wise covered services solely on the basis that the services constitute
11 early intervention program services under title two-A of article twen-
12 ty-five of the public health law.

13 (b) Where a policy of accident and health insurance, including a
14 contract issued pursuant to article forty-three of this chapter,
15 provides coverage for an early intervention program service, such cover-
16 age shall not be applied against any maximum annual or lifetime monetary
17 limits set forth in such policy or contract. When such policy of acci-
18 dent and health insurance, including a contract issued pursuant to arti-
19 cle forty-three of this chapter, provides coverage for services that
20 constitutes early intervention services as set forth in paragraph (h) of
21 subdivision seven of section twenty five-hundred forty-one of the public
22 health law or early intervention evaluation services as set forth in
23 subdivision nine of section twenty-five hundred forty-one of the public
24 health law, or provides coverage for autism spectrum disorder pursuant
25 to paragraph twenty-five of subsection (i) of section thirty-two hundred
26 sixteen, paragraph seventeen of subsection (l) of section thirty-two
27 hundred twenty-one, or subsection (ee) of section forty-three hundred
28 three of this chapter, the insurer shall pay for such services to the
29 extent that the services are a covered benefit under the policy. Any
30 documentation obtained pursuant to clause (ii) of paragraph (a) of
31 subdivision three of section twenty-five hundred fifty-nine of the
32 public health law and submitted to the insurer shall be sufficient to
33 meet precertification, preauthorization and/or medical necessity
34 requirements imposed under such policy of accident and health insurance,
35 including a contract issued pursuant to article forty-three of this
36 chapter. Visit limitations and other terms and conditions of the policy
37 will continue to apply to early intervention services. However, any
38 visits used for early intervention program services shall not reduce the
39 number of visits otherwise available under the policy or contract for
40 such services.

41 (c) A policy of accident and health insurance, including a contract
42 issued pursuant to article forty-three of this chapter, shall not deny
43 coverage based upon the following:

44 (i) the location where services are provided; or
45 (ii) the duration of the child's condition and/or that the child's
46 condition is not amendable to significant improvement within a certain
47 period of time as specified in the policy.

48 (d) Any right of subrogation to benefits which a municipality or
49 provider is entitled in accordance with paragraph (d) of subdivision
50 three of section twenty-five hundred fifty-nine of the public health law
51 shall be valid and enforceable to the extent benefits are available
52 under any accident and health insurance policy. The right of subrogation
53 does not attach to insurance benefits paid or provided under any acci-
54 dent and health insurance policy prior to receipt by the insurer of
55 written notice from the municipality or provider, as applicable. [The]
56 An insurer shall, within fifteen business days of receipt of a notice of

1 right of subrogation, notify the provider, in a format determined by the
2 department of health, through the department of health's designated
3 fiscal agent whether the insurer is acting as a third party administra-
4 tor.

5 (e) Upon receipt of written request and notice from the municipality
6 and service coordinator the insurer shall provide [the] such munici-
7 pality and service coordinator with information on the extent of bene-
8 fits available to the covered person under such policy, including wheth-
9 er the insurer is acting as a third party administrator, within fifteen
10 days of the insurer's receipt of written request and notice authorizing
11 such release. The service coordinator shall provide such information to
12 the rendering provider assigned to provide services to the child.

13 [(d)] (f) No insurer, including a health maintenance organization
14 issued a certificate of authority under article forty-four of the public
15 health law and a corporation organized under article forty-three of this
16 chapter, shall refuse to issue an accident and health insurance policy
17 or contract or refuse to renew an accident and health insurance policy
18 or contract solely because the applicant or insured is receiving
19 services under the early intervention program.

20 § 3. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on or after April 1, 2017; provided
22 however, that the amendments to section 3224-a of the insurance law as
23 made by section one of this act and the amendments to section 3235-a of
24 the insurance law as made by section two of this act shall apply only to
25 policies and contracts issued, renewed, modified, altered or amended on
26 or after such date.

27 PART B

28 Intentionally Omitted

29 PART C

30 Section 1. Subdivision 5 of section 369-gg of the social services law,
31 as added by section 51 of part C of chapter 60 of the laws of 2014, is
32 amended to read as follows:

33 5. Premiums and cost sharing. (a) Subject to federal approval, the
34 commissioner shall establish premium payments enrollees shall pay to
35 approved organizations for coverage of health care services pursuant to
36 this title. Such premium payments shall be established in the following
37 manner:

38 (i) up to twenty dollars monthly for an individual with a household
39 income above one hundred and fifty percent of the federal poverty line
40 but at or below two hundred percent of the federal poverty line defined
41 and annually revised by the United States department of health and human
42 services for a household of the same size; and

43 (ii) no payment is required for individuals with a household income at
44 or below one hundred and fifty percent of the federal poverty line
45 defined and annually revised by the United States department of health
46 and human services for a household of the same size.

47 (b) The commissioner shall establish cost sharing obligations for
48 enrollees, subject to federal approval, provided, however, for individ-
49 uals with a household income from one hundred thirty-eight to one
50 hundred fifty percent of the federal poverty level cost sharing
51 provisions shall maintain an actuarial value of 99.68 percent, and for

1 individuals with a household income from one hundred fifty-one to two
2 hundred percent of the federal poverty level cost sharing provisions
3 shall maintain an actuarial value of 90.02 percent.

4 § 2. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after January 1, 2017.

6 PART D

7 Section 1. The public health law is amended by adding a new section
8 280 to read as follows:

9 § 280. High cost drugs. 1. High priced drugs. The department may iden-
10 tify, for review, drugs which:

11 (a) when first introduced on the market, are prohibitively expensive
12 for patients who could benefit from the drug; or

13 (b) suddenly or over a relatively brief period of time experience a
14 large price increase and such increase is not explained by a significant
15 increase in ingredient costs or by some other relevant factor; or

16 (c) have been determined to be priced disproportionately in relation to
17 their therapeutic benefits.

18 2. Reporting requirements. (a) Drug manufacturers shall provide the
19 department, upon request, the following information with respect to
20 drugs identified by the department for review:

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

23 (ii) research and development costs of the drug, including payments to
24 predecessor entities conducting research and development, such as
25 biotechnology companies, universities and medical schools, and private
26 research institutions;

27 (iii) administrative, marketing, and advertising costs for the drug,
28 apportioned by marketing activities that are directed to consumers,
29 marketing activities that are directed to prescribers, and the total
30 cost of all marketing and advertising that is directed primarily to
31 consumers and prescribers in New York, including but not limited to
32 prescriber detailing, copayment discount programs, and direct-to-consum-
33 er marketing;

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

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

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

40 (vii) the average rebates and discounts provided per payer type;

41 (viii) the average profit margin of each drug over the prior five-year
42 period; and

43 (ix) any other information the manufacturer feels is necessary to
44 provide to justify the drug price, including but not limited to, costs
45 incurred for research and development for predecessor drugs, or other
46 drugs related to the drug brought to market.

47 (b) The department shall develop a standard reporting form that satis-
48 fies the requirements of paragraph (a) of this subdivision.

49 (c) All information disclosed pursuant to paragraph (a) of this subdi-
50 vision shall be considered confidential and shall not be disclosed by
51 the department in a form that identifies a specific manufacturer or
52 prices charged for drugs by such manufacturer.

53 3. Review of drug cost and pricing. The department may refer cost and
54 pricing information collected pursuant to subdivision two of this

1 section with respect to a particular drug to the drug utilization review
 2 board, and request the board to recommend a per-unit benchmark price for
 3 the drug, taking into consideration such cost and pricing information as
 4 well as other factors, including but not limited to:

5 (a) the seriousness and prevalence of the disease or condition that is
 6 treated by the drug;

7 (b) the extent of utilization of the drug;

8 (c) the effectiveness of the drug in treating the conditions for which
 9 it is prescribed or improve a patient's health, quality of life, or
 10 overall health outcomes;

11 (d) the likelihood that use of the drug will reduce the need for other
 12 medical care, including hospitalization;

13 (e) the average wholesale price and retail price of the drug;

14 (f) the number of pharmaceutical manufacturers that produce the drug;
 15 and

16 (g) whether there are pharmaceutical equivalents to the drug.

17 4. Designation of high priced drugs. (a) If the drug utilization
 18 review board recommends a benchmark price for a drug, such recommenda-
 19 tion, along with the documentation supporting such recommendation, shall
 20 be submitted to the attorney general for review. The attorney general
 21 shall approve, deny, or refer the recommendation back to the drug utili-
 22 zation review board for further review. The attorney general shall only
 23 approve a recommended benchmark price once he or she is satisfied that
 24 the price is adequate to guarantee patient access to such drug.

25 (b) If the price at which a drug is being sold by a manufacturer
 26 exceeds the benchmark price for the drug determined by the department
 27 pursuant to this section, the commissioner shall designate such drug a
 28 high priced drug and notify the manufacturer of such drug of such desig-
 29 nation. The commissioner shall publish on the department website a list
 30 of drugs designated as high priced drugs pursuant to this subdivision,
 31 along with the date on which each drug first appeared on such list and
 32 the benchmark price for such drug determined by the department.

33 5. Rebates. (a) The commissioner may require a drug manufacturer to
 34 provide rebates to the department for a drug determined to be a high
 35 priced drug pursuant to subdivision three of this section when such drug
 36 is paid for under the Medicaid program. In determining the amount of any
 37 such rebate, the commissioner may consider information provided by the
 38 drug manufacturer with respect to surcharges paid by the manufacturer,
 39 or decreases in the price of the drug as a result of surcharges paid by
 40 others, pursuant to article twenty-C of the tax law.

41 (b) Rebates required by this section shall be in addition to any
 42 rebates payable to the department pursuant to any other provision of
 43 federal or state law. The additional rebates authorized pursuant to
 44 this subparagraph shall apply to drugs dispensed to enrollees of managed
 45 care providers pursuant to section three hundred sixty-four-j of the
 46 social services law and to drugs dispensed to Medicaid recipients who
 47 are not enrollees of such providers.

48 § 2. The tax law is amended by adding a new article 20-C to read as
 49 follows:

50 ARTICLE 20-C

51 SURCHARGE ON HIGH PRICED DRUGS

52 Section 492. Definitions.

53 493. Imposition of surcharge.

54 494. Returns to be secret.

55 § 492. Definitions. 1. The following terms shall have the following
 56 meanings when used in this section.



1 (a) "High priced drug" shall mean a drug determined to be a high
2 priced drug pursuant to section two hundred eighty of the public health
3 law, but not until the fifteenth day after the manufacturer was notified
4 of such designation and appeared on a list of such drugs to be main-
5 tained by the state department of health on its website pursuant to
6 subdivision seven of section four hundred ninety-three of this article.

7 (b) "Gross receipt" shall mean the amount received in or by reason of
8 any sale of a high priced drug, conditional or otherwise, or in or by
9 reason of the furnishing of such high priced drug. Gross receipt is
10 expressed in money, whether paid in cash, credit or property of any kind
11 or nature, and shall be determined without any deduction therefrom on
12 account of the cost of the service sold or the cost of materials, labor
13 or services used or other costs, interest or discount paid, or any other
14 expenses whatsoever. "Amount received" for the purpose of the definition
15 of gross receipt, as used throughout this article, means the amount
16 charged for the sale or provision of a high priced drug.

17 (c) "Establishment" shall mean any person, firm, corporation or asso-
18 ciation required to be registered with the education department pursuant
19 to section six thousand eight hundred eight or section six thousand
20 eight hundred eight-b of the education law, except for a "pharmacy"
21 defined in subdivision one of section six thousand eight hundred two of
22 the education law and any person, firm, corporation or association that
23 would be required to be registered with the education department pursu-
24 ant to section six thousand eight hundred eight-b of the education law
25 but for the exception in subdivision two of such section, except for a
26 "pharmacy" defined in subdivision one of section six thousand eight
27 hundred two of the education law.

28 (d) "Excess charge amount of the gross receipt" shall mean the differ-
29 ence between the price charged by an establishment for a high priced
30 drug and the benchmark price for such drug as determined by the depart-
31 ment of health pursuant to section two hundred eighty of the public
32 health law.

33 (e) "Invoice" shall mean the invoice, sales slip, memorandum of sale,
34 or other document evidencing a sale of a high priced drug.

35 § 493. Imposition of surcharge. 1. There is hereby imposed a surcharge
36 on the excess charge amount of the gross receipt from the first sale in
37 the state of a high priced drug by an establishment at the rate of sixty
38 percent. The surcharge imposed by this article shall be charged against
39 and be paid by the establishment making such first sale and shall not be
40 added as a separate charge or line item on any invoice given to the
41 customer or otherwise passed down to the customer. However, an estab-
42 lishment liable for the surcharge imposed by this article shall clearly
43 note on the invoice for the first sale of such high priced drug in the
44 state its liability for the surcharge imposed by this article with
45 regard to such sale, along with its name, address, and taxpayer iden-
46 tification number. Any sale of a high priced drug in this state shall be
47 presumed to be the first sale of such drug in the state unless the sell-
48 er with regard to such sale can prove that the surcharge imposed by this
49 article is due from another establishment in the chain of title of such
50 drug, which burden can be satisfied, among other ways, by producing an
51 invoice from the establishment owing such surcharge in which such estab-
52 lishment has noted its liability for such surcharge.

53 2. Every establishment liable for the surcharge imposed by this arti-
54 cle shall, on or before the twentieth date of each month, file with the
55 commissioner a return, on forms to be prescribed by the commissioner,
56 showing the total excess charge amount of its gross receipt from the

1 first sale in the state of high priced drugs during the preceding calen-
2 dar month and the amount of surcharge due thereon. Such returns shall
3 contain such further information as the commissioner may require. Every
4 establishment required to file a return under this section shall, at the
5 time of filing such return, pay to the commissioner the total amount of
6 surcharge due on such first sales of high priced drugs for the period
7 covered by such return. If a return is not filed when due, the surcharge
8 shall be due on the day on which the return is required to be filed.

9 3. Establishments making sales of high priced drugs in this state
10 shall maintain all invoices pertaining to such sales for three years
11 after such sales unless the commissioner provides for a different
12 retention period by rule or regulation. The establishment shall produce
13 such records upon demand by the department.

14 4. Whenever the commissioner shall determine that any moneys received
15 under the provisions of this article were paid in error, he may cause
16 the same to be refunded, with interest, in accordance with such rules
17 and regulations as he or she may prescribe, except that no interest
18 shall be allowed or paid if the amount thereof would be less than one
19 dollar. Such interest shall be at the overpayment rate set by the
20 commissioner pursuant to subdivision twenty-sixth of section one hundred
21 seventy-one of this chapter, or if no rate is set, at the rate of six
22 percent per annum, from the date when the surcharge, penalty or interest
23 to be refunded was paid to a date preceding the date of the refund check
24 by not more than thirty days. Provided, however, that for the purposes
25 of this subdivision, any surcharge paid before the last day prescribed
26 for its payment shall be deemed to have been paid on such last day. Such
27 moneys received under the provisions of this article that the commis-
28 sioner shall determine were paid in error, may be refunded out of funds
29 in the custody of the comptroller to the credit of such surcharges
30 provided an application therefor is filed with the commissioner within
31 two years from the time the erroneous payment was made.

32 5. The provisions of article twenty-seven of this chapter shall apply
33 to the surcharge imposed by this article in the same manner and with the
34 same force and effect as if the language of such article had been incor-
35 porated in full into this section and had expressly referred to the
36 surcharge imposed by this article, except to the extent that any
37 provision of such article is either inconsistent with a provision of
38 this article or is not relevant to this article.

39 6. (a) The surcharges, interest, and penalties imposed by this article
40 and collected or received by the commissioner shall be deposited daily
41 with such responsible banks, banking houses or trust companies, as may
42 be designated by the superintendent of financial services, to the credit
43 of the high priced drug reimbursement fund established pursuant to
44 section eighty-nine-j of the state finance law. An account may be estab-
45 lished in one or more of such depositories. Such deposits will be kept
46 separate and apart from all other money in the possession of the super-
47 intendent of financial services. The superintendent of financial
48 services shall require adequate security from all such depositories. Of
49 the total revenue collected or received under this article, the super-
50 intendent of financial services shall retain such amount as the commis-
51 sioner may determine to be necessary for refunds under this article. The
52 commissioner is authorized and directed to deduct from the amounts it
53 receives under this article, before deposit into the trust accounts
54 designated by the superintendent of financial services, a reasonable
55 amount necessary to effectuate refunds of appropriations of the depart-

1 ment to reimburse the department for the costs incurred to administer,
2 collect and distribute the surcharges imposed by this article.

3 (b) On or before the twelfth and twenty-sixth day of each succeeding
4 month, after reserving such amount for such refunds and deducting such
5 amounts for such costs, as provided for in paragraph (a) of this
6 subsection, the commissioner shall certify to the superintendent of
7 financial services the amount of all revenues so received during the
8 prior month as a result of the surcharges, interest and penalties so
9 imposed. The amount of revenues so certified shall be paid over by the
10 fifteenth and the final business day of each succeeding month from such
11 account into the high priced drug reimbursement fund established pursu-
12 ant to section eighty-nine-j of the state finance law.

13 7. The state department of health shall maintain and publish on its
14 website a list of drugs determined, pursuant to section two hundred
15 eighty of the public health law, to be high priced drugs, along with the
16 date on which each drug first appeared on that list and the benchmark
17 price for such drug determined pursuant to section two hundred eighty of
18 the public health law by the department of health. Promptly after
19 including a high priced drug on such list, the state department of
20 health shall notify the manufacturer of such drug and the department
21 that the drug has been determined to be a high priced drug.

22 8. The state department of education and the state department of
23 health shall cooperate with the department in administering this
24 surcharge, including sharing with the department pertinent information
25 about establishments upon the request of the commissioner.

26 9. The commissioner may make, adopt and amend rules, regulations,
27 procedures and forms necessary for the proper administration of this
28 article.

29 § 494. Returns to be secret. 1. Except in accordance with proper judi-
30 cial order or as in this section or otherwise provided by law, it shall
31 be unlawful for the commissioner, any officer or employee of the depart-
32 ment, or any officer or person who, pursuant to this section, is permit-
33 ted to inspect any return or report or to whom a copy, an abstract or a
34 portion of any return or report is furnished, or to whom any information
35 contained in any return or report is furnished, or any person engaged or
36 retained by such department on an independent contract basis or any
37 person who in any manner may acquire knowledge of the contents of a
38 return or report filed pursuant to this article to divulge or make known
39 in any manner the contents or any other information relating to the
40 business of an establishment contained in any return or report required
41 under this article. The officers charged with the custody of such
42 returns or reports shall not be required to produce any of them or
43 evidence of anything contained in them in any action or proceeding in
44 any court, except on behalf of the state, the state department of
45 health, the state department of education or the commissioner in an
46 action or proceeding under the provisions of this chapter or on behalf
47 of the state or the commissioner in any other action or proceeding
48 involving the collection of a tax due under this chapter to which the
49 state or the commissioner is a party or a claimant or on behalf of any
50 party to any action or proceeding under the provisions of this article,
51 when the returns or the reports or the facts shown thereby are directly
52 involved in such action or proceeding, or in an action or proceeding
53 relating to the regulation or surcharge of high priced drugs on behalf
54 of officers to whom information shall have been supplied as provided in
55 subsection two of this section, in any of which events the court may
56 require the production of, and may admit in evidence so much of said



1 returns or reports or of the facts shown thereby as are pertinent to the
2 action or proceeding and no more. Nothing herein shall be construed to
3 prohibit the commissioner, in his or her discretion, from allowing the
4 inspection or delivery of a certified copy of any return or report filed
5 under this article or of any information contained in any such return or
6 report by or to a duly authorized officer or employee of the state
7 department of health or the state department of education; or by or to
8 the attorney general or other legal representatives of the state when an
9 action shall have been recommended or commenced pursuant to this chapter
10 in which such returns or reports or the facts shown thereby are directly
11 involved; or the inspection of the returns or reports required under
12 this article by the comptroller or duly designated officer or employee
13 of the state department of audit and control, for purposes of the audit
14 of a refund of any surcharge paid by an establishment or other person
15 under this article; nor to prohibit the delivery to an establishment, or
16 a duly authorized representative of such establishment, a certified copy
17 of any return or report filed by such establishment pursuant to this
18 article, nor to prohibit the publication of statistics so classified as
19 to prevent the identification of particular returns or reports and the
20 items thereof.

21 2. The commissioner, in his or her discretion and pursuant to such
22 rules and regulations as he or she may adopt, may permit the commission-
23 er of internal revenue of the United States, or the appropriate officers
24 of any other state which regulates or surcharges high priced drugs, or
25 the duly authorized representatives of such commissioner or of any such
26 officers, to inspect returns or reports made pursuant to this article,
27 or may furnish to such commissioner or other officers, or duly author-
28 ized representatives, a copy of any such return or report or an abstract
29 of the information therein contained, or any portion thereof, or may
30 supply such commissioner or any such officers or such representatives
31 with information relating to the business of an establishment making
32 returns or reports hereunder. The commissioner may refuse to supply
33 information pursuant to this subsection to the commissioner of internal
34 revenue of the United States or to the officers of any other state if
35 the statutes of the United States, or of the state represented by such
36 officers, do not grant substantially similar privileges to the commis-
37 sioner, but such refusal shall not be mandatory. Information shall not
38 be supplied to the commissioner of internal revenue of the United States
39 or the appropriate officers of any other state which regulates or
40 surcharges high priced drugs, or the duly authorized representatives of
41 such commissioner or of any of such officers, unless such commissioner,
42 officer or other representatives shall agree not to divulge or make
43 known in any manner the information so supplied, but such officers may
44 transmit such information to their employees or legal representatives
45 when necessary, who in turn shall be subject to the same restrictions as
46 those hereby imposed upon such commissioner, officer or other represen-
47 tatives.

48 3. (a) Any officer or employee of the state who willfully violates the
49 provisions of subsection one or two of this section shall be dismissed
50 from office and be incapable of holding any public office in this state
51 for a period of five years thereafter.

52 (b) A violation of this article shall be considered a violation of
53 secrecy provisions under article thirty-seven of this chapter.

54 § 3. Section 1825 of the tax law, as amended by section 89 of part A
55 of chapter 59 of the laws of 2014, is amended to read as follows:

1 § 1825. Violation of secrecy provisions of the tax law.--Any person
2 who violates the provisions of subdivision (b) of section twenty-one,
3 subdivision one of section two hundred two, subdivision eight of section
4 two hundred eleven, subdivision (a) of section three hundred fourteen,
5 subdivision one or two of section four hundred thirty-seven, section
6 four hundred eighty-seven, section four hundred ninety-four, subdivision
7 one or two of section five hundred fourteen, subsection (e) of section
8 six hundred ninety-seven, subsection (a) of section nine hundred nine-
9 ty-four, subdivision (a) of section eleven hundred forty-six, section
10 twelve hundred eighty-seven, subdivision (a) of section fourteen hundred
11 eighteen, subdivision (a) of section fifteen hundred eighteen, subdivi-
12 sion (a) of section fifteen hundred fifty-five of this chapter, and
13 subdivision (e) of section 11-1797 of the administrative code of the
14 city of New York shall be guilty of a misdemeanor.

15 § 4. The state finance law is amended by adding a new section 89-j to
16 read as follows:

17 § 89-j. High Priced Drug Reimbursement Fund. 1. There is hereby
18 established in the sole custody of the superintendent of financial
19 services an agency fund, to be known as the "High Priced Drug Reimburse-
20 ment Fund."

21 2. Such fund shall consist of revenues derived from the surcharge on
22 high priced drugs imposed by article twenty-C of the tax law and all
23 other moneys credited or transferred thereto from any other fund or
24 source pursuant to law.

25 3. All moneys retained in such fund shall be held on behalf of health
26 insurers and the New York Medicaid program, and paid out by the super-
27 intendent of financial services to health insurers and the New York
28 Medicaid program in proportion to health insurers' and the New York
29 Medicaid program's respective costs attributable to each pharmaceutical
30 product for which the surcharge on high price drugs was imposed. The
31 superintendent of financial services shall establish regulations to
32 apportion such revenues derived to reflect health insurers' and the New
33 York Medicaid program's respective costs for such drugs.

34 4. All moneys distributed from the high priced drug reimbursement fund
35 to a health insurer shall be, at the discretion of the superintendent of
36 financial services, either (1) credited to the premiums charged by such
37 health insurer for the next policy period or (2) credited to policyhold-
38 ers pursuant to procedures that the superintendent of financial services
39 shall establish by regulations.

40 5. For purposes of this section: (a) "health insurer" shall mean an
41 insurance company authorized in this state to write accident and health
42 insurance, a company organized pursuant to article forty-three of the
43 insurance law, a municipal cooperative health benefit plan established
44 pursuant to article forty-seven of the insurance law, a health mainte-
45 nance organization certified pursuant to article forty-four of the
46 public health law, an institution of higher education certified pursuant
47 to section one thousand one hundred twenty-four of the insurance law,
48 the New York state health insurance plan established under article elev-
49 en of the civil service law, or an employer with an employee benefit
50 plan, as defined by the federal Employee Retirement Income Security Act
51 of 1974, provided that the employer voluntarily elects;

52 (b) "New York Medicaid program" shall mean the medical assistance
53 program for needy persons established pursuant to title eleven of arti-
54 cle five of the social services law.

1 6. The superintendent of financial services may issue such rules and
2 regulations as he or she shall deem necessary to implement this section
3 and administer the high priced drug reimbursement fund.

4 7. The funds so received and deposited in the high priced drug
5 reimbursement fund shall not be deemed to be state funds.

6 8. Moneys distributed from the fund shall not be subject to appropri-
7 ation.

8 9. No amounts may be paid out of this fund prior to April first, two
9 thousand eighteen.

10 § 5. Subdivision 1 and paragraph (f) of subdivision 2 of section 369-
11 bb of the social services law, subdivision 1 as amended and paragraph
12 (f) of subdivision 2 as added by section 20 of part A of chapter 56 of
13 the laws of 2013, are amended and two new paragraphs (g) and (h) are
14 added to subdivision 2 to read as follows:

15 1. A [nineteen-member] twenty-three member drug utilization review
16 board is hereby created in the department. The board is responsible for
17 the establishment and implementation of medical standards and criteria
18 for the retrospective and prospective DUR program.

19 (f)(i) The commissioner shall designate a person from the department
20 to serve as chairperson of the board.

21 (ii) Two persons who are health care economists.

22 (g) One person who is an actuary.

23 (h) One person representing the department of financial services.

24 § 6. Paragraphs (g), (h) and (i) of subdivision 8 of section 369-bb of
25 the social services law are relettered paragraphs (h), (i) and (j) and a
26 new paragraph (g) is added to read as follows:

27 (g) The review of the drug cost and pricing of specific drugs submit-
28 ted to the board pursuant to section two hundred eighty of the public
29 health law, and the formulation of recommendations as to a per-unit
30 benchmark price for such drugs, in accordance with the provisions of
31 such section.

32 § 7. The social services law is amended by adding a new section 365-i
33 to read as follows:

34 § 365-i. Prescription drugs in medicaid managed care programs. 1.
35 Definitions. (a) The definitions of terms in section two hundred seventy
36 of the public health law shall apply to this section.

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

39 (i) "Managed care provider" means a managed care provider under
40 section three hundred sixty-four-j of this title, a managed long term
41 care plan under section forty-four hundred three-f of the public health
42 law, or any other entity that provides or arranges for the provision of
43 medical assistance services and supplies to participants directly or
44 indirectly (including by referral), including case management, and the
45 managed care provider's authorized agents.

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

49 2. Providing and payment for prescription drugs for medicaid managed
50 care provider participants. Prescription drugs eligible for reimburse-
51 ment under this article prescribed in relation to a service provided by
52 a managed care provider shall be provided and paid for under the
53 preferred drug program and the clinical drug review program under title
54 one of article two-a of the public health law. The managed care provider
55 shall account to and reimburse the department for the net cost to the
56 department for prescription drugs provided to the managed care provid-

1 er's participants. Payment for prescription drugs shall be included in
2 the capitation payments to the managed care provider for services or
3 supplies provided to a managed care provider's participants.

4 § 8. Section 270 of the public health law is amended by adding a new
5 subdivision 15 to read as follows:

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

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

12 § 274-a. Use of preferred drug program and clinical drug review
13 program. The commissioner shall contract with any third-party health
14 care payer that so chooses, to use the preferred drug program and the
15 clinical drug review program to provide and pay for prescription drugs
16 for the third-party health care payer's enrollees. To contract under
17 this section, the third-party health care payer shall provide coverage
18 for prescription drugs authorized under this title. The third-party
19 health care payer shall account to and reimburse the department for the
20 net cost to the department for prescription drugs provided to the third-
21 party health care payers' enrollees. The contract shall include terms
22 required by the commissioner.

23 § 10. Section 272 of the public health law is amended by adding a new
24 subdivision 12 to read as follows:

25 12. (a) As used in this section, unless the context clearly requires
26 otherwise, "high-priced drug" means a drug which:

27 (i) when first introduced on the market, is prohibitively expensive
28 for patients who could benefit from the drug; or

29 (ii) suddenly or over a relatively brief period of time experiences a
30 large price increase and such increase is not explained by a significant
31 increase in ingredient costs or by some other relevant factor; or

32 (iii) has been determined to be priced disproportionately in relation
33 to its therapeutic benefits.

34 (b) Where a drug meets the criteria in paragraph (a) of this subdivi-
35 sion:

36 (i) the commissioner may negotiate with the manufacturer of the drug
37 for payment of an enhanced supplemental rebate, including under any
38 provision of this section, and designate the drug to be on the preferred
39 drug list; and

40 (ii) the high-priced drug shall not be placed on the preferred drug
41 list in the absence of a negotiated enhanced supplemental rebate under
42 this subdivision, or a rebate under section two hundred eighty of this
43 article, notwithstanding paragraph (b) of subdivision ten of this
44 section.

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

47 § 12. The opening paragraph and subparagraphs (i) and (ii) of para-
48 graph (b) and paragraph (d) of subdivision 9 of section 367-a of the
49 social services law, the opening paragraph and paragraph (d) as amended
50 by chapter 19 of the laws of 1998, subparagraphs (i) and (ii) of para-
51 graph (b) as amended by section 2 of part C of chapter 60 of the laws of
52 2014, subparagraph (i) of paragraph (d) as amended by section 10-a of
53 part H of chapter 59 of the laws of 2011 and subparagraph (ii) of para-
54 graph (d) as amended by section 48 of part C of chapter 58 of the laws
55 of 2009, are amended to read as follows:

1 Notwithstanding any inconsistent provision of law or regulation to the
2 contrary, for those drugs which may not be dispensed without a
3 prescription as required by section sixty-eight hundred ten of the
4 education law and for which payment is authorized pursuant to paragraph
5 (g) of subdivision two of section three hundred sixty-five-a of this
6 title, and for those drugs that are available without a prescription as
7 required by section sixty-eight hundred ten of the education law but are
8 reimbursed as items of medical assistance pursuant to paragraph (a) of
9 subdivision four of section three hundred sixty-five-a of this title,
10 payments under this title shall be made at the following amounts:

11 (i) [if the drug dispensed is a multiple source prescription drug for
12 which an upper limit has been set by the federal centers for medicare
13 and medicaid services, the lower of: (A) an amount equal to the specific
14 upper limit set by such federal agency for the multiple source
15 prescription drug; (B) the estimated acquisition cost of such drug to
16 pharmacies which, for purposes of this subparagraph, shall mean the
17 average wholesale price of a prescription drug based on the package size
18 dispensed from, as reported by the prescription drug pricing service
19 used by the department, less twenty-five percent thereof; (C) the maxi-
20 mum acquisition cost, if any, established pursuant to paragraph (e) of
21 this subdivision, provided that the methodology used by the department
22 to establish a maximum acquisition cost shall not include average acqui-
23 sition cost as determined by department surveys; or (D) the dispensing
24 pharmacy's usual and customary price charged to the general public; and]
25 if the drug dispensed is a generic prescription drug, or is a drug that
26 is available without a prescription as required by section sixty-eight
27 hundred ten of the education law but is reimbursed as an item of medical
28 assistance pursuant to paragraph (a) of subdivision four of section
29 three hundred sixty-five-a of this title, the lower of: (A) an amount
30 equal to the national average drug acquisition cost set by the federal
31 centers for medicare and medicaid services for the drug, if any, or if
32 such amount if not available, the wholesale acquisition cost of the drug
33 based on the package size dispensed from, as reported by the
34 prescription drug pricing service used by the department; (B) the feder-
35 al upper limit, if any, established by the federal centers for medicare
36 and medicaid services; (C) the state maximum acquisition cost, if any,
37 established pursuant to paragraph (e) of this subdivision; or (D) the
38 dispensing pharmacy's usual and customary price charged to the general
39 public;

40 (ii) if the drug dispensed is [a multiple source prescription drug or]
41 a brand-name prescription drug [for which no specific upper limit has
42 been set by such federal agency], the lower of [the estimated acquisi-
43 tion cost of such drug to pharmacies or the dispensing pharmacy's usual
44 and customary price charged to the general public. For sole and multiple
45 source brand name drugs, estimated acquisition cost means the average
46 wholesale price of a prescription drug based upon the package size
47 dispensed from, as reported by the prescription drug pricing service
48 used by the department, less seventeen percent thereof or the wholesale
49 acquisition cost of a prescription drug based upon package size
50 dispensed from, as reported by the prescription drug pricing service
51 used by the department, minus zero and forty-one hundredths percent
52 thereof, and updated monthly by the department. For multiple source
53 generic drugs, estimated acquisition cost means the lower of the average
54 wholesale price of a prescription drug based on the package size
55 dispensed from, as reported by the prescription drug pricing service
56 used by the department, less twenty-five percent thereof, or the maximum

1 acquisition cost, if any, established pursuant to paragraph (e) of this
2 subdivision, provided that the methodology used by the department to
3 establish a maximum acquisition cost shall not include average acquisi-
4 tion cost as determined by department surveys.]:

5 (A) an amount equal to the national average drug acquisition cost set
6 by the federal centers for medicare and medicaid services for the drug,
7 if any, or if such amount is not available, the wholesale acquisition
8 cost of the drug based on the package size dispensed from, as reported
9 by the prescription drug pricing service used by the department; or (B)
10 the dispensing pharmacy's usual and customary price charged to the
11 general public; and

12 (d) In addition to the amounts paid pursuant to paragraph (b) of this
13 subdivision [to pharmacies for those drugs which may not be dispensed
14 without a prescription, as required by section sixty-eight hundred ten
15 of the education law and for which payment is authorized pursuant to
16 paragraph (g) of subdivision two of section three hundred sixty-five-a
17 of this title], the department shall pay a professional pharmacy
18 dispensing fee for each such [prescription] drug dispensed[, which
19 dispensing fee shall not be less than the following amounts:

20 (i) for prescription drugs categorized as generic by the prescription
21 drug pricing service used by the department, three dollars and fifty
22 cents per prescription; and

23 (ii) for prescription drugs categorized as brand-name prescription
24 drugs by the prescription drug pricing service used by the department,
25 three dollars and fifty cents per prescription, provided, however, that
26 for brand name prescription drugs reimbursed pursuant to subparagraph
27 (ii) of paragraph (a-1) of subdivision four of section three hundred
28 sixty-five-a of this title, the dispensing fee shall be four dollars and
29 fifty cents per prescription] in the amount of ten dollars per
30 prescription or written order of a practitioner; provided, however that
31 this professional dispensing fee will not apply to drugs that are avail-
32 able without a prescription as required by section sixty-eight hundred
33 ten of the education law but do not meet the definition of a covered
34 outpatient drug pursuant to Section 1927K of the Social Security Act.

35 § 13. It shall be an unacceptable practice in the Medicaid program
36 established pursuant to title 11 of article 5 of the social services law
37 for a provider to prescribe opioids in violation of the requirements of
38 paragraph (g-1) of subdivision 2 of section 365-a of such law, in
39 violation of any other applicable law limiting or restricting the
40 prescribing of opioids, and/or contrary to recommendations issued by the
41 drug utilization review board established by section 369-bb of the
42 social services law, such practice may result in the provider being
43 sanctioned pursuant to 18 NYCRR 515.

44 § 14. Paragraph (g-1) of subdivision 2 of section 365-a of the social
45 services law, as amended by section 5 of part C of chapter 60 of the
46 laws of 2014, is amended to read as follows:

47 (g-1) drugs provided on an in-patient basis, those drugs contained on
48 the list established by regulation of the commissioner of health pursu-
49 ant to subdivision four of this section, and those drugs which may not
50 be dispensed without a prescription as required by section sixty-eight
51 hundred ten of the education law and which the commissioner of health
52 shall determine to be reimbursable based upon such factors as the avail-
53 ability of such drugs or alternatives at low cost if purchased by a
54 medicaid recipient, or the essential nature of such drugs as described
55 by such commissioner in regulations, provided, however, that such drugs,
56 exclusive of long-term maintenance drugs, shall be dispensed in quanti-

1 ties no greater than a thirty day supply or one hundred doses, whichever
2 is greater; provided further that the commissioner of health is author-
3 ized to require prior authorization for any refill of a prescription
4 when more than a ten day supply of the previously dispensed amount
5 should remain were the product used as normally indicated, or in the
6 case of a controlled substance, as defined in section thirty-three
7 hundred two of the public health law, when more than a seven day supply
8 of the previously dispensed amount should remain were the product used
9 as normally indicated; provided further that the commissioner of health
10 is authorized to require prior authorization of prescriptions of opioid
11 analgesics in excess of four prescriptions in a thirty-day period in
12 accordance with section two hundred seventy-three of the public health
13 law; medical assistance shall not include any drug provided on other
14 than an in-patient basis for which a recipient is charged or a claim is
15 made in the case of a prescription drug, in excess of the maximum reim-
16 bursable amounts to be established by department regulations in accord-
17 ance with standards established by the secretary of the United States
18 department of health and human services, or, in the case of a drug not
19 requiring a prescription, in excess of the maximum reimbursable amount
20 established by the commissioner of health pursuant to paragraph (a) of
21 subdivision four of this section;

22 § 15. Subparagraph (iii) of paragraph (c) of subdivision 6 of section
23 367-a of the social services law, as amended by section 9 of part C of
24 chapter 60 of the laws of 2014, is amended to read as follows:

25 (iii) Notwithstanding any other provision of this paragraph, co-pay-
26 ments charged for each generic prescription drug dispensed shall be one
27 dollar and for each brand name prescription drug dispensed shall be
28 [three dollars] two dollars and fifty cents; provided, however, that the
29 co-payments charged for [each brand name prescription drug on the
30 preferred drug list established pursuant to section two hundred seven-
31 ty-two of the public health law or, for managed care providers operating
32 pursuant to section three hundred sixty-four-j of this title, for each
33 brand name prescription drug on a managed care provider's formulary that
34 such provider has designated as a preferred drug, and the co-payments
35 charged for] each brand name prescription drug reimbursed pursuant to
36 subparagraph (ii) of paragraph (a-1) of subdivision four of section
37 three hundred sixty-five-a of this title shall be one dollar.

38 § 16. Subparagraphs 1 and 5 of paragraph (f) of subdivision 7 of
39 section 367-a of the social services law, as added by section 11 of part
40 B of chapter 59 of the laws of 2016, are amended to read as follows:

41 (1) The department may require manufacturers of drugs other than
42 single source drugs and innovator multiple source drugs, as such terms
43 are defined in 42 U.S.C. § 1396r-8(k), to provide rebates to the depart-
44 ment for any drug that has increased more than three hundred percent of
45 its state maximum acquisition cost (SMAC) [, on or after] during the
46 period April 1, 2016 through March 31, 2017, or that has increased more
47 than seventy-five percent of its SMAC on or after April 1, 2017, in
48 comparison to its SMAC at any time during the course of the preceding
49 twelve months. The required rebate shall be limited to the amount by
50 which the current SMAC for the drug exceeds [three hundred percent] the
51 applicable percentage of the SMAC for the same drug at any time during
52 the course of the preceding twelve months. Such rebates shall be in
53 addition to any rebates payable to the department pursuant to any other
54 provision of federal or state law. Nothing herein shall affect the
55 department's obligation to reimburse for covered outpatient drugs pursu-
56 ant to paragraph (d) of this subdivision.

1 (5) Beginning in two thousand seventeen, the department shall provide
2 an annual report to the legislature no later than February first setting
3 forth:

4 (i) The number of drugs that exceeded the ceiling price established in
5 this paragraph during the preceding year in comparison to the number of
6 drugs that experienced at least a three hundred percent price increase
7 during two thousand fourteen and two thousand fifteen, or at least a
8 seventy-five percent price increase during two thousand fifteen and two
9 thousand sixteen;

10 (ii) The average percent amount above the ceiling price of drugs that
11 exceeded the ceiling price in the preceding year in comparison to the
12 number of drugs that experienced a price increase more than three
13 hundred percent during two thousand fourteen and two thousand fifteen,
14 or at least a seventy-five percent price increase during two thousand
15 fifteen and two thousand sixteen;

16 (iii) The number of generic drugs available to enrollees in Medicaid
17 fee for service or Medicaid managed care, by fiscal quarter, in the
18 preceding year in comparison to the drugs available, by fiscal quarter,
19 during two thousand fourteen [and], two thousand fifteen, and two thou-
20 sand sixteen; and

21 (iv) The total drug spend on generic drugs for the preceding year in
22 comparison to the total drug spend on generic drugs during two thousand
23 fourteen [and], two thousand fifteen, and two thousand sixteen.

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

33 § 18. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after April 1, 2017; provided,
35 however, that sections fourteen, fifteen, and sixteen of this act shall
36 take effect July 1, 2017; provided, further, that the amendments to
37 paragraph (c) of subdivision 6 of section 367-a of the social services
38 law made by section fifteen of this act shall not affect the repeal of
39 such paragraph and shall be deemed repealed therewith; provided,
40 further, that the amendments to paragraph (f) of subdivision 7 of
41 section 367-a of the social services law made by section sixteen of this
42 act shall not affect the repeal of such paragraph and shall be deemed
43 repealed therewith; and provided, further, that the amendments to subdi-
44 vision 9 of section 367-a of the social services law made by section
45 twelve of this act shall not affect the expiration of such subdivision
46 and shall be deemed to expire therewith.

47 PART E

48 Intentionally Omitted

49 PART F

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

1 4. The commissioner of health is authorized to assume responsibility
2 from a local social services official for the provision and reimburse-
3 ment of transportation costs under this section. If the commissioner
4 elects to assume such responsibility, the commissioner shall notify the
5 local social services official in writing as to the election, the date
6 upon which the election shall be effective and such information as to
7 transition of responsibilities as the commissioner deems prudent. The
8 commissioner is authorized to contract with a transportation manager or
9 managers to manage transportation services in any local social services
10 district, other than transportation services provided or arranged for;
11 enrollees of managed long term care plans issued certificates of author-
12 ity under section forty-four hundred three-f of the public health law;
13 and adult day health care programs located at a licensed residential
14 health care facility as defined by section twenty-eight hundred one of
15 the public health law or an approved extension site thereof. Any trans-
16 portation manager or managers selected by the commissioner to manage
17 transportation services shall have proven experience in coordinating
18 transportation services in a geographic and demographic area similar to
19 the area in New York state within which the contractor would manage the
20 provision of services under this section. Such a contract or contracts
21 may include responsibility for: review, approval and processing of
22 transportation orders; management of the appropriate level of transpor-
23 tation based on documented patient medical need; and development of new
24 technologies leading to efficient transportation services. If the
25 commissioner elects to assume such responsibility from a local social
26 services district, the commissioner shall examine and, if appropriate,
27 adopt quality assurance measures that may include, but are not limited
28 to, global positioning tracking system reporting requirements and
29 service verification mechanisms. Any and all reimbursement rates devel-
30 oped by transportation managers under this subdivision shall be subject
31 to the review and approval of the commissioner.

32 § 2. This act shall take effect October 1, 2017; provided, further,
33 that the amendments to section 365-h of the social services law made by
34 section one of this act shall not affect the repeal of such section and
35 shall be deemed repealed therewith.

36

PART G

37

Intentionally Omitted

38

PART H

39 Section 1. Subdivision 5 of section 168 of chapter 639 of the laws of
40 1996, constituting the New York Health Care Reform Act of 1996, as
41 amended by section 1 of part B of chapter 60 of the laws of 2014, is
42 amended to read as follows:

43 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
44 law, as amended or as added by this act, shall expire on December 31,
45 [2017] 2020, and shall be thereafter effective only in respect to any
46 act done on or before such date or action or proceeding arising out of
47 such act including continued collections of funds from assessments and
48 allowances and surcharges established pursuant to sections 2807-c,
49 2807-j, 2807-s and 2807-t of the public health law, and administration
50 and distributions of funds from pools established pursuant to sections
51 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
52 health law related to patient services provided before December 31,

1 [2017] 2020, and continued expenditure of funds authorized for programs
2 and grants until the exhaustion of funds therefor;

3 § 2. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
4 constituting the New York Health Care Reform Act of 2000, as amended by
5 section 2 of part B of chapter 60 of the laws of 2014, is amended to
6 read as follows:

7 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
8 law, as amended by this act, shall expire on December 31, [2017] 2020,
9 and shall be thereafter effective only in respect to any act done before
10 such date or action or proceeding arising out of such act including
11 continued collections of funds from assessments and allowances and
12 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
13 2807-t of the public health law, and administration and distributions of
14 funds from pools established pursuant to sections 2807-c, 2807-j,
15 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
16 health law, as amended or added by this act, related to patient services
17 provided before December 31, [2017] 2020, and continued expenditure of
18 funds authorized for programs and grants until the exhaustion of funds
19 therefor;

20 § 3. Subparagraph (xv) of paragraph (a) of subdivision 6 of section
21 2807-s of the public health law, as amended by section 3 of part B of
22 chapter 60 of the laws of 2014, is amended to read as follows:

23 (xv) A gross annual statewide amount for the period January first, two
24 thousand fifteen through December thirty-first, two thousand [seventeen]
25 twenty, shall be one billion forty-five million dollars.

26 § 4. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
27 2807-s of the public health law, as amended by section 4 of part B of
28 chapter 60 of the laws of 2014, is amended to read as follows:

29 (xiii) twenty-three million eight hundred thirty-six thousand dollars
30 each state fiscal year for the period April first, two thousand twelve
31 through March thirty-first, two thousand [seventeen] twenty;

32 § 5. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of
33 section 2807-j of the public health law, as amended by section 5 of part
34 B of chapter 60 of the laws of 2014, are amended to read as follows:

35 (iv) seven hundred sixty-five million dollars annually of the funds
36 accumulated for the periods January first, two thousand through December
37 thirty-first, two thousand [sixteen] nineteen, and

38 (v) one hundred ninety-one million two hundred fifty thousand dollars
39 of the funds accumulated for the period January first, two thousand
40 [seventeen] twenty through March thirty-first, two thousand [seventeen]
41 twenty.

42 § 6. Subdivisions 5-a and 7 of section 2807-m of the public health
43 law, as amended by section 9 of part B of chapter 60 of the laws of
44 2014, subparagraphs (iv), (v) and (vi) of paragraph (d) of subdivision
45 5-a as added by section 4 of part W of chapter 57 of the laws of 2015,
46 are amended to read as follows:

47 5-a. Graduate medical education innovations pool. (a) Supplemental
48 distributions. (i) Thirty-one million dollars for the period January
49 first, two thousand eight through December thirty-first, two thousand
50 eight, shall be set aside and reserved by the commissioner from the
51 regional pools established pursuant to subdivision two of this section
52 and shall be available for distributions pursuant to subdivision five of
53 this section and in accordance with section 86-1.89 of title 10 of the
54 codes, rules and regulations of the state of New York as in effect on
55 January first, two thousand eight; provided, however, for purposes of
56 funding the empire clinical research investigation program (ECRIP) in

1 accordance with paragraph eight of subdivision (e) and paragraph two of
2 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and
3 regulations of the state of New York, distributions shall be made using
4 two regions defined as New York city and the rest of the state and the
5 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-
6 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-
7 lations of the state of New York shall be increased from sixty thousand
8 dollars to seventy-five thousand dollars.

9 (ii) For periods on and after January first, two thousand nine,
10 supplemental distributions pursuant to subdivision five of this section
11 and in accordance with section 86-1.89 of title 10 of the codes, rules
12 and regulations of the state of New York shall no longer be made and the
13 provisions of section 86-1.89 of title 10 of the codes, rules and regu-
14 lations of the state of New York shall be null and void.

15 (b) Empire clinical research investigator program (ECRIP). Nine
16 million one hundred twenty thousand dollars annually for the period
17 January first, two thousand nine through December thirty-first, two
18 thousand ten, and two million two hundred eighty thousand dollars for
19 the period January first, two thousand eleven, through March thirty-
20 first, two thousand eleven, nine million one hundred twenty thousand
21 dollars each state fiscal year for the period April first, two thousand
22 eleven through March thirty-first, two thousand fourteen, [and] up to
23 eight million six hundred twelve thousand dollars each state fiscal year
24 for the period April first, two thousand fourteen through March thirty-
25 first, two thousand seventeen, and within amounts appropriated for each
26 state fiscal year for periods on and after April first, two thousand
27 seventeen, shall be set aside and reserved by the commissioner from the
28 regional pools established pursuant to subdivision two of this section
29 to be allocated regionally with two-thirds of the available funding
30 going to New York city and one-third of the available funding going to
31 the rest of the state and shall be available for distribution as
32 follows:

33 Distributions shall first be made to consortia and teaching general
34 hospitals for the empire clinical research investigator program (ECRIP)
35 to help secure federal funding for biomedical research, train clinical
36 researchers, recruit national leaders as faculty to act as mentors, and
37 train residents and fellows in biomedical research skills based on
38 hospital-specific data submitted to the commissioner by consortia and
39 teaching general hospitals in accordance with clause (G) of this subpar-
40 agraph. Such distributions shall be made in accordance with the follow-
41 ing methodology:

42 (A) The greatest number of clinical research positions for which a
43 consortium or teaching general hospital may be funded pursuant to this
44 subparagraph shall be one percent of the total number of residents
45 training at the consortium or teaching general hospital on July first,
46 two thousand eight for the period January first, two thousand nine
47 through December thirty-first, two thousand nine rounded up to the near-
48 est one position.

49 (B) Distributions made to a consortium or teaching general hospital
50 shall equal the product of the total number of clinical research posi-
51 tions submitted by a consortium or teaching general hospital and
52 accepted by the commissioner as meeting the criteria set forth in para-
53 graph (b) of subdivision one of this section, subject to the reduction
54 calculation set forth in clause (C) of this subparagraph, times one
55 hundred ten thousand dollars.

1 (C) If the dollar amount for the total number of clinical research
2 positions in the region calculated pursuant to clause (B) of this
3 subparagraph exceeds the total amount appropriated for purposes of this
4 paragraph, including clinical research positions that continue from and
5 were funded in prior distribution periods, the commissioner shall elimi-
6 nate one-half of the clinical research positions submitted by each
7 consortium or teaching general hospital rounded down to the nearest one
8 position. Such reduction shall be repeated until the dollar amount for
9 the total number of clinical research positions in the region does not
10 exceed the total amount appropriated for purposes of this paragraph. If
11 the repeated reduction of the total number of clinical research posi-
12 tions in the region by one-half does not render a total funding amount
13 that is equal to or less than the total amount reserved for that region
14 within the appropriation, the funding for each clinical research posi-
15 tion in that region shall be reduced proportionally in one thousand
16 dollar increments until the total dollar amount for the total number of
17 clinical research positions in that region does not exceed the total
18 amount reserved for that region within the appropriation. Any reduction
19 in funding will be effective for the duration of the award. No clinical
20 research positions that continue from and were funded in prior distrib-
21 ution periods shall be eliminated or reduced by such methodology.

22 (D) Each consortium or teaching general hospital shall receive its
23 annual distribution amount in accordance with the following:

24 (I) Each consortium or teaching general hospital with a one-year ECRIP
25 award shall receive its annual distribution amount in full upon
26 completion of the requirements set forth in items (I) and (II) of clause
27 (G) of this subparagraph. The requirements set forth in items (IV) and
28 (V) of clause (G) of this subparagraph must be completed by the consor-
29 tium or teaching general hospital in order for the consortium or teach-
30 ing general hospital to be eligible to apply for ECRIP funding in any
31 subsequent funding cycle.

32 (II) Each consortium or teaching general hospital with a two-year
33 ECRIP award shall receive its first annual distribution amount in full
34 upon completion of the requirements set forth in items (I) and (II) of
35 clause (G) of this subparagraph. Each consortium or teaching general
36 hospital will receive its second annual distribution amount in full upon
37 completion of the requirements set forth in item (III) of clause (G) of
38 this subparagraph. The requirements set forth in items (IV) and (V) of
39 clause (G) of this subparagraph must be completed by the consortium or
40 teaching general hospital in order for the consortium or teaching gener-
41 al hospital to be eligible to apply for ECRIP funding in any subsequent
42 funding cycle.

43 (E) Each consortium or teaching general hospital receiving distrib-
44 utions pursuant to this subparagraph shall reserve seventy-five thousand
45 dollars to primarily fund salary and fringe benefits of the clinical
46 research position with the remainder going to fund the development of
47 faculty who are involved in biomedical research, training and clinical
48 care.

49 (F) Undistributed or returned funds available to fund clinical
50 research positions pursuant to this paragraph for a distribution period
51 shall be available to fund clinical research positions in a subsequent
52 distribution period.

53 (G) In order to be eligible for distributions pursuant to this subpar-
54 agraph, each consortium and teaching general hospital shall provide to
55 the commissioner by July first of each distribution period, the follow-
56 ing data and information on a hospital-specific basis. Such data and

1 information shall be certified as to accuracy and completeness by the
2 chief executive officer, chief financial officer or chair of the consor-
3 tium governing body of each consortium or teaching general hospital and
4 shall be maintained by each consortium and teaching general hospital for
5 five years from the date of submission:

6 (I) For each clinical research position, information on the type,
7 scope, training objectives, institutional support, clinical research
8 experience of the sponsor-mentor, plans for submitting research outcomes
9 to peer reviewed journals and at scientific meetings, including a meet-
10 ing sponsored by the department, the name of a principal contact person
11 responsible for tracking the career development of researchers placed in
12 clinical research positions, as defined in paragraph (c) of subdivision
13 one of this section, and who is authorized to certify to the commission-
14 er that all the requirements of the clinical research training objec-
15 tives set forth in this subparagraph shall be met. Such certification
16 shall be provided by July first of each distribution period;

17 (II) For each clinical research position, information on the name,
18 citizenship status, medical education and training, and medical license
19 number of the researcher, if applicable, shall be provided by December
20 thirty-first of the calendar year following the distribution period;

21 (III) Information on the status of the clinical research plan, accom-
22 plishments, changes in research activities, progress, and performance of
23 the researcher shall be provided upon completion of one-half of the
24 award term;

25 (IV) A final report detailing training experiences, accomplishments,
26 activities and performance of the clinical researcher, and data, meth-
27 ods, results and analyses of the clinical research plan shall be
28 provided three months after the clinical research position ends; and

29 (V) Tracking information concerning past researchers, including but
30 not limited to (A) background information, (B) employment history, (C)
31 research status, (D) current research activities, (E) publications and
32 presentations, (F) research support, and (G) any other information
33 necessary to track the researcher; and

34 (VI) Any other data or information required by the commissioner to
35 implement this subparagraph.

36 (H) Notwithstanding any inconsistent provision of this subdivision,
37 for periods on and after April first, two thousand thirteen, ECRIP grant
38 awards shall be made in accordance with rules and regulations promulgat-
39 ed by the commissioner. Such regulations shall, at a minimum:

40 (1) provide that ECRIP grant awards shall be made with the objective
41 of securing federal funding for biomedical research, training clinical
42 researchers, recruiting national leaders as faculty to act as mentors,
43 and training residents and fellows in biomedical research skills;

44 (2) provide that ECRIP grant applicants may include interdisciplinary
45 research teams comprised of teaching general hospitals acting in collab-
46 oration with entities including but not limited to medical centers,
47 hospitals, universities and local health departments;

48 (3) provide that applications for ECRIP grant awards shall be based on
49 such information requested by the commissioner, which shall include but
50 not be limited to hospital-specific data;

51 (4) establish the qualifications for investigators and other staff
52 required for grant projects eligible for ECRIP grant awards; and

53 (5) establish a methodology for the distribution of funds under ECRIP
54 grant awards.

55 (c) Ambulatory care training. Four million nine hundred thousand
56 dollars for the period January first, two thousand eight through Decem-

1 ber thirty-first, two thousand eight, four million nine hundred thousand
2 dollars for the period January first, two thousand nine through December
3 thirty-first, two thousand nine, four million nine hundred thousand
4 dollars for the period January first, two thousand ten through December
5 thirty-first, two thousand ten, one million two hundred twenty-five
6 thousand dollars for the period January first, two thousand eleven
7 through March thirty-first, two thousand eleven, four million three
8 hundred thousand dollars each state fiscal year for the period April
9 first, two thousand eleven through March thirty-first, two thousand
10 fourteen, [and] up to four million sixty thousand dollars each state
11 fiscal year for the period April first, two thousand fourteen through
12 March thirty-first, two thousand seventeen, and within amounts appropri-
13 ated for each state fiscal year for periods on and after April first,
14 two thousand seventeen, shall be set aside and reserved by the commis-
15 sioner from the regional pools established pursuant to subdivision two
16 of this section and shall be available for distributions to sponsoring
17 institutions to be directed to support clinical training of medical
18 students and residents in free-standing ambulatory care settings,
19 including community health centers and private practices. Such funding
20 shall be allocated regionally with two-thirds of the available funding
21 going to New York city and one-third of the available funding going to
22 the rest of the state and shall be distributed to sponsoring insti-
23 tutions in each region pursuant to a request for application or request
24 for proposal process with preference being given to sponsoring insti-
25 tutions which provide training in sites located in underserved rural or
26 inner-city areas and those that include medical students in such train-
27 ing.

28 (d) Physician loan repayment program. One million nine hundred sixty
29 thousand dollars for the period January first, two thousand eight
30 through December thirty-first, two thousand eight, one million nine
31 hundred sixty thousand dollars for the period January first, two thou-
32 sand nine through December thirty-first, two thousand nine, one million
33 nine hundred sixty thousand dollars for the period January first, two
34 thousand ten through December thirty-first, two thousand ten, four
35 hundred ninety thousand dollars for the period January first, two thou-
36 sand eleven through March thirty-first, two thousand eleven, one million
37 seven hundred thousand dollars each state fiscal year for the period
38 April first, two thousand eleven through March thirty-first, two thou-
39 sand fourteen, [and] up to one million seven hundred five thousand
40 dollars each state fiscal year for the period April first, two thousand
41 fourteen through March thirty-first, two thousand seventeen, and within
42 amounts appropriated for each state fiscal year for periods on and after
43 April first, two thousand seventeen, shall be set aside and reserved by
44 the commissioner from the regional pools established pursuant to subdivi-
45 sion two of this section and shall be available for purposes of physi-
46 cian loan repayment in accordance with subdivision ten of this section.
47 Notwithstanding any contrary provision of this section, sections one
48 hundred twelve and one hundred sixty-three of the state finance law, or
49 any other contrary provision of law, such funding shall be allocated
50 regionally with one-third of available funds going to New York city and
51 two-thirds of available funds going to the rest of the state and shall
52 be distributed in a manner to be determined by the commissioner without
53 a competitive bid or request for proposal process as follows:

54 (i) Funding shall first be awarded to repay loans of up to twenty-five
55 physicians who train in primary care or specialty tracks in teaching



1 general hospitals, and who enter and remain in primary care or specialty
2 practices in underserved communities, as determined by the commissioner.

3 (ii) After distributions in accordance with subparagraph (i) of this
4 paragraph, all remaining funds shall be awarded to repay loans of physi-
5 cians who enter and remain in primary care or specialty practices in
6 underserved communities, as determined by the commissioner, including
7 but not limited to physicians working in general hospitals, or other
8 health care facilities.

9 (iii) In no case shall less than fifty percent of the funds available
10 pursuant to this paragraph be distributed in accordance with subpara-
11 graphs (i) and (ii) of this paragraph to physicians identified by gener-
12 al hospitals.

13 (iv) In addition to the funds allocated under this paragraph, for the
14 period April first, two thousand fifteen through March thirty-first, two
15 thousand sixteen, two million dollars shall be available for the
16 purposes described in subdivision ten of this section;

17 (v) In addition to the funds allocated under this paragraph, for the
18 period April first, two thousand sixteen through March thirty-first, two
19 thousand seventeen, two million dollars shall be available for the
20 purposes described in subdivision ten of this section;

21 (vi) Notwithstanding any provision of law to the contrary, and subject
22 to the extension of the Health Care Reform Act of 1996, sufficient funds
23 shall be available for the purposes described in subdivision ten of this
24 section in amounts necessary to fund the remaining year commitments for
25 awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

26 (e) Physician practice support. Four million nine hundred thousand
27 dollars for the period January first, two thousand eight through Decem-
28 ber thirty-first, two thousand eight, four million nine hundred thousand
29 dollars annually for the period January first, two thousand nine through
30 December thirty-first, two thousand ten, one million two hundred twen-
31 ty-five thousand dollars for the period January first, two thousand
32 eleven through March thirty-first, two thousand eleven, four million
33 three hundred thousand dollars each state fiscal year for the period
34 April first, two thousand eleven through March thirty-first, two thou-
35 sand fourteen, [and] up to four million three hundred sixty thousand
36 dollars each state fiscal year for the period April first, two thousand
37 fourteen through March thirty-first, two thousand seventeen, and within
38 amounts appropriated for each state fiscal year for periods on and after
39 April first, two thousand seventeen, shall be set aside and reserved by
40 the commissioner from the regional pools established pursuant to subdi-
41 vision two of this section and shall be available for purposes of physi-
42 cian practice support. Notwithstanding any contrary provision of this
43 section, sections one hundred twelve and one hundred sixty-three of the
44 state finance law, or any other contrary provision of law, such funding
45 shall be allocated regionally with one-third of available funds going to
46 New York city and two-thirds of available funds going to the rest of the
47 state and shall be distributed in a manner to be determined by the
48 commissioner without a competitive bid or request for proposal process
49 as follows:

50 (i) Preference in funding shall first be accorded to teaching general
51 hospitals for up to twenty-five awards, to support costs incurred by
52 physicians trained in primary or specialty tracks who thereafter estab-
53 lish or join practices in underserved communities, as determined by the
54 commissioner.

55 (ii) After distributions in accordance with subparagraph (i) of this
56 paragraph, all remaining funds shall be awarded to physicians to support

1 the cost of establishing or joining practices in underserved communi-
2 ties, as determined by the commissioner, and to hospitals and other
3 health care providers to recruit new physicians to provide services in
4 underserved communities, as determined by the commissioner.

5 (iii) In no case shall less than fifty percent of the funds available
6 pursuant to this paragraph be distributed to general hospitals in
7 accordance with subparagraphs (i) and (ii) of this paragraph.

8 (e-1) Work group. For funding available pursuant to paragraphs (d) and
9 (e) of this subdivision:

10 (i) The department shall appoint a work group from recommendations
11 made by associations representing physicians, general hospitals and
12 other health care facilities to develop a streamlined application proc-
13 ess by June first, two thousand twelve.

14 (ii) Subject to available funding, applications shall be accepted on a
15 continuous basis. The department shall provide technical assistance to
16 applicants to facilitate their completion of applications. An applicant
17 shall be notified in writing by the department within ten days of
18 receipt of an application as to whether the application is complete and
19 if the application is incomplete, what information is outstanding. The
20 department shall act on an application within thirty days of receipt of
21 a complete application.

22 (f) Study on physician workforce. Five hundred ninety thousand dollars
23 annually for the period January first, two thousand eight through Decem-
24 ber thirty-first, two thousand ten, one hundred forty-eight thousand
25 dollars for the period January first, two thousand eleven through March
26 thirty-first, two thousand eleven, five hundred sixteen thousand dollars
27 each state fiscal year for the period April first, two thousand eleven
28 through March thirty-first, two thousand fourteen, [and] up to four
29 hundred eighty-seven thousand dollars each state fiscal year for the
30 period April first, two thousand fourteen through March thirty-first,
31 two thousand seventeen, and within amounts appropriated for each state
32 fiscal year for periods on and after April first, two thousand
33 seventeen, shall be set aside and reserved by the commissioner from the
34 regional pools established pursuant to subdivision two of this section
35 and shall be available to fund a study of physician workforce needs and
36 solutions including, but not limited to, an analysis of residency
37 programs and projected physician workforce and community needs. The
38 commissioner shall enter into agreements with one or more organizations
39 to conduct such study based on a request for proposal process.

40 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
41 any inconsistent provision of section one hundred twelve or one hundred
42 sixty-three of the state finance law or any other law, one million nine
43 hundred sixty thousand dollars annually for the period January first,
44 two thousand eight through December thirty-first, two thousand ten, four
45 hundred ninety thousand dollars for the period January first, two thou-
46 sand eleven through March thirty-first, two thousand eleven, one million
47 seven hundred thousand dollars each state fiscal year for the period
48 April first, two thousand eleven through March thirty-first, two thou-
49 sand fourteen, [and] up to one million six hundred five thousand dollars
50 each state fiscal year for the period April first, two thousand fourteen
51 through March thirty-first, two thousand seventeen, and within amounts
52 appropriated for each state fiscal year for periods on and after April
53 first, two thousand seventeen, shall be set aside and reserved by the
54 commissioner from the regional pools established pursuant to subdivision
55 two of this section and shall be available for distributions to the
56 Associated Medical Schools of New York to fund its diversity program



1 including existing and new post-baccalaureate programs for minority and
2 economically disadvantaged students and encourage participation from all
3 medical schools in New York. The associated medical schools of New York
4 shall report to the commissioner on an annual basis regarding the use of
5 funds for such purpose in such form and manner as specified by the
6 commissioner.

7 (h) In the event there are undistributed funds within amounts made
8 available for distributions pursuant to this subdivision, such funds may
9 be reallocated and distributed in current or subsequent distribution
10 periods in a manner determined by the commissioner for any purpose set
11 forth in this subdivision.

12 7. Notwithstanding any inconsistent provision of section one hundred
13 twelve or one hundred sixty-three of the state finance law or any other
14 law, up to one million dollars for the period January first, two thou-
15 sand through December thirty-first, two thousand, one million six
16 hundred thousand dollars annually for the periods January first, two
17 thousand one through December thirty-first, two thousand eight, one
18 million five hundred thousand dollars annually for the periods January
19 first, two thousand nine through December thirty-first, two thousand
20 ten, three hundred seventy-five thousand dollars for the period January
21 first, two thousand eleven through March thirty-first, two thousand
22 eleven, one million three hundred twenty thousand dollars each state
23 fiscal year for the period April first, two thousand eleven through
24 March thirty-first, two thousand fourteen, [and] up to two million
25 seventy-seven thousand dollars each state fiscal year for the period
26 April first, two thousand fourteen through March thirty-first, two thou-
27 sand seventeen, and within amounts appropriated for each state fiscal
28 year for periods on and after April first, two thousand seventeen, shall
29 be set aside and reserved by the commissioner from the regional pools
30 established pursuant to subdivision two of this section and shall be
31 available for distributions to the New York state area health education
32 center program for the purpose of expanding community-based training of
33 medical students. In addition, one million dollars annually for the
34 period January first, two thousand eight through December thirty-first,
35 two thousand ten, two hundred fifty thousand dollars for the period
36 January first, two thousand eleven through March thirty-first, two thou-
37 sand eleven, and eight hundred eighty thousand dollars each state fiscal
38 year for the period April first, two thousand eleven through March thir-
39 ty-first, two thousand fourteen, shall be set aside and reserved by the
40 commissioner from the regional pools established pursuant to subdivision
41 two of this section and shall be available for distributions to the New
42 York state area health education center program for the purpose of post-
43 secondary training of health care professionals who will achieve specif-
44 ic program outcomes within the New York state area health education
45 center program. The New York state area health education center program
46 shall report to the commissioner on an annual basis regarding the use of
47 funds for each purpose in such form and manner as specified by the
48 commissioner.

49 § 7. Paragraph (a) of subdivision 12 of section 367-b of the social
50 services law, as amended by section 10 of part B of chapter 60 of the
51 laws of 2014, is amended to read as follows:

52 (a) For the purpose of regulating cash flow for general hospitals, the
53 department shall develop and implement a payment methodology to provide
54 for timely payments for inpatient hospital services eligible for case
55 based payments per discharge based on diagnosis-related groups provided
56 during the period January first, nineteen hundred eighty-eight through

1 March thirty-first two thousand [seventeen] twenty, by such hospitals
2 which elect to participate in the system.

3 § 8. Subdivision 6 of section 2807-t of the public health law, as
4 amended by section 15 of part B of chapter 60 of the laws of 2014, is
5 amended to read as follows:

6 6. Prospective adjustments. (a) The commissioner shall annually recon-
7 cile the sum of the actual payments made to the commissioner or the
8 commissioner's designee for each region pursuant to section twenty-eight
9 hundred seven-s of this article and pursuant to this section for the
10 prior year with the regional allocation of the gross annual statewide
11 amount specified in subdivision six of section twenty-eight hundred
12 seven-s of this article for such prior year. The difference between the
13 actual amount raised for a region and the regional allocation of the
14 specified gross annual amount for such prior year shall be applied as a
15 prospective adjustment to the regional allocation of the specified gross
16 annual payment amount for such region for the year next following the
17 calculation of the reconciliation. The authorized dollar value of the
18 adjustments shall be the same as if calculated retrospectively.

19 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
20 sion, for covered lives assessment rate periods on and after January
21 first, two thousand fifteen through December thirty-first, two thousand
22 [seventeen] twenty, for amounts collected in the aggregate in excess of
23 one billion forty-five million dollars on an annual basis, prospective
24 adjustments shall be suspended if the annual reconciliation calculation
25 from the prior year would otherwise result in a decrease to the regional
26 allocation of the specified gross annual payment amount for that region,
27 provided, however, that such suspension shall be lifted upon a determi-
28 nation by the commissioner, in consultation with the director of the
29 budget, that sixty-five million dollars in aggregate collections on an
30 annual basis over and above one billion forty-five million dollars on an
31 annual basis have been reserved and set aside for deposit in the HCRA
32 resources fund. Any amounts collected in the aggregate at or below one
33 billion forty-five million dollars on an annual basis, shall be subject
34 to regional adjustments reconciling any decreases or increases to the
35 regional allocation in accordance with paragraph (a) of this subdivi-
36 sion.

37 § 9. Section 34 of part A3 of chapter 62 of the laws of 2003 amending
38 the general business law and other laws relating to enacting major
39 components necessary to implement the state fiscal plan for the 2003-04
40 state fiscal year, as amended by section 6 of part B of chapter 60 of
41 the laws of 2014, is amended to read as follows:

42 § 34. (1) Notwithstanding any inconsistent provision of law, rule or
43 regulation and effective April 1, 2008 through March 31, [2017] 2020,
44 the commissioner of health is authorized to transfer and the state comp-
45 troller is authorized and directed to receive for deposit to the credit
46 of the department of health's special revenue fund - other, health care
47 reform act (HCRA) resources fund - 061, provider collection monitoring
48 account, within amounts appropriated each year, those funds collected
49 and accumulated pursuant to section 2807-v of the public health law,
50 including income from invested funds, for the purpose of payment for
51 administrative costs of the department of health related to adminis-
52 tration of statutory duties for the collections and distributions
53 authorized by section 2807-v of the public health law.

54 (2) Notwithstanding any inconsistent provision of law, rule or regu-
55 lation and effective April 1, 2008 through March 31, [2017] 2020, the
56 commissioner of health is authorized to transfer and the state comp-

1 troller is authorized and directed to receive for deposit to the credit
2 of the department of health's special revenue fund - other, health care
3 reform act (HCRA) resources fund - 061, provider collection monitoring
4 account, within amounts appropriated each year, those funds collected
5 and accumulated and interest earned through surcharges on payments for
6 health care services pursuant to section 2807-s of the public health law
7 and from assessments pursuant to section 2807-t of the public health law
8 for the purpose of payment for administrative costs of the department of
9 health related to administration of statutory duties for the collections
10 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of
11 the public health law.

12 (3) Notwithstanding any inconsistent provision of law, rule or regu-
13 lation and effective April 1, 2008 through March 31, [2017] 2020, the
14 commissioner of health is authorized to transfer and the comptroller is
15 authorized to deposit, within amounts appropriated each year, those
16 funds authorized for distribution in accordance with the provisions of
17 paragraph (a) of subdivision 1 of section 2807-1 of the public health
18 law for the purposes of payment for administrative costs of the depart-
19 ment of health related to the child health insurance plan program
20 authorized pursuant to title 1-A of article 25 of the public health law
21 into the special revenue funds - other, health care reform act (HCRA)
22 resources fund - 061, child health insurance account, established within
23 the department of health.

24 (4) Notwithstanding any inconsistent provision of law, rule or regu-
25 lation and effective April 1, 2008 through March 31, [2017] 2020, the
26 commissioner of health is authorized to transfer and the comptroller is
27 authorized to deposit, within amounts appropriated each year, those
28 funds authorized for distribution in accordance with the provisions of
29 paragraph (e) of subdivision 1 of section 2807-1 of the public health
30 law for the purpose of payment for administrative costs of the depart-
31 ment of health related to the health occupation development and work-
32 place demonstration program established pursuant to section 2807-h and
33 the health workforce retraining program established pursuant to section
34 2807-g of the public health law into the special revenue funds - other,
35 health care reform act (HCRA) resources fund - 061, health occupation
36 development and workplace demonstration program account, established
37 within the department of health.

38 (5) Notwithstanding any inconsistent provision of law, rule or regu-
39 lation and effective April 1, 2008 through March 31, [2017] 2020, the
40 commissioner of health is authorized to transfer and the comptroller is
41 authorized to deposit, within amounts appropriated each year, those
42 funds allocated pursuant to paragraph (j) of subdivision 1 of section
43 2807-v of the public health law for the purpose of payment for adminis-
44 trative costs of the department of health related to administration of
45 the state's tobacco control programs and cancer services provided pursu-
46 ant to sections 2807-r and 1399-ii of the public health law into such
47 accounts established within the department of health for such purposes.

48 (6) Notwithstanding any inconsistent provision of law, rule or regu-
49 lation and effective April 1, 2008 through March 31, [2017] 2020, the
50 commissioner of health is authorized to transfer and the comptroller is
51 authorized to deposit, within amounts appropriated each year, the funds
52 authorized for distribution in accordance with the provisions of section
53 2807-1 of the public health law for the purposes of payment for adminis-
54 trative costs of the department of health related to the programs funded
55 pursuant to section 2807-1 of the public health law into the special
56 revenue funds - other, health care reform act (HCRA) resources fund -

1 061, pilot health insurance account, established within the department
2 of health.

3 (7) Notwithstanding any inconsistent provision of law, rule or regu-
4 lation and effective April 1, 2008 through March 31, [2017] 2020, the
5 commissioner of health is authorized to transfer and the comptroller is
6 authorized to deposit, within amounts appropriated each year, those
7 funds authorized for distribution in accordance with the provisions of
8 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c
9 of the public health law from monies accumulated and interest earned in
10 the bad debt and charity care and capital statewide pools through an
11 assessment charged to general hospitals pursuant to the provisions of
12 subdivision 18 of section 2807-c of the public health law and those
13 funds authorized for distribution in accordance with the provisions of
14 section 2807-1 of the public health law for the purposes of payment for
15 administrative costs of the department of health related to programs
16 funded under section 2807-1 of the public health law into the special
17 revenue funds - other, health care reform act (HCRA) resources fund -
18 061, primary care initiatives account, established within the department
19 of health.

20 (8) Notwithstanding any inconsistent provision of law, rule or regu-
21 lation and effective April 1, 2008 through March 31, [2017] 2020, the
22 commissioner of health is authorized to transfer and the comptroller is
23 authorized to deposit, within amounts appropriated each year, those
24 funds authorized for distribution in accordance with section 2807-1 of
25 the public health law for the purposes of payment for administrative
26 costs of the department of health related to programs funded under
27 section 2807-1 of the public health law into the special revenue funds -
28 other, health care reform act (HCRA) resources fund - 061, health care
29 delivery administration account, established within the department of
30 health.

31 (9) Notwithstanding any inconsistent provision of law, rule or regu-
32 lation and effective April 1, 2008 through March 31, [2017] 2020, the
33 commissioner of health is authorized to transfer and the comptroller is
34 authorized to deposit, within amounts appropriated each year, those
35 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the
36 public health law and section 367-i of the social services law and for
37 distribution in accordance with the provisions of subdivision 9 of
38 section 2807-j of the public health law for the purpose of payment for
39 administration of statutory duties for the collections and distributions
40 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a
41 and 3614-b of the public health law and section 367-i of the social
42 services law into the special revenue funds - other, health care reform
43 act (HCRA) resources fund - 061, provider collection monitoring account,
44 established within the department of health.

45 § 10. Section 2 of chapter 600 of the laws of 1986 amending the public
46 health law relating to the development of pilot reimbursement programs
47 for ambulatory care services, as amended by section 11 of part B of
48 chapter 60 of the laws of 2014, is amended to read as follows:

49 § 2. This act shall take effect immediately, except that this act
50 shall expire and be of no further force and effect on and after April 1,
51 [2017] 2020; provided, however, that the commissioner of health shall
52 submit a report to the governor and the legislature detailing the objec-
53 tive, impact, design and computation of any pilot reimbursement program
54 established pursuant to this act, on or before March 31, 1994 and annu-
55 ally thereafter. Such report shall include an assessment of the finan-

1 cial impact of such payment system on providers, as well as the impact
2 of such system on access to care.

3 § 11. Paragraph (i) of subdivision (b) of section 1 of chapter 520 of
4 the laws of 1978, relating to providing for a comprehensive survey of
5 health care financing, education and illness prevention and creating
6 councils for the conduct thereof, as amended by section 12 of part B of
7 chapter 60 of the laws of 2014, is amended to read as follows:

8 (i) oversight and evaluation of the inpatient financing system in
9 place for 1988 through March 31, [2017] 2020, and the appropriateness
10 and effectiveness of the bad debt and charity care financing provisions;

11 § 12. Paragraph (l) of subdivision 9 of section 3614 of the public
12 health law, as added by section 13 of part B of chapter 60 of the laws
13 of 2014, is amended to read as follows:

14 (l) for the period April first, two thousand sixteen through March
15 thirty-first, two thousand [seventeen] twenty, up to one hundred million
16 dollars annually.

17 § 13. Paragraph (p) of subdivision 1 of section 367-q of the social
18 services law, as added by section 14 of part B of chapter 60 of the laws
19 of 2014, is amended to read as follows:

20 (p) for the period April first, two thousand sixteen through March
21 thirty-first, two thousand [seventeen] twenty, up to twenty-eight
22 million five hundred thousand dollars annually.

23 § 14. Subdivision 4-c of section 2807-p of the public health law, as
24 amended by section 16 of part B of chapter 60 of the laws of 2014, is
25 amended to read as follows:

26 4-c. Notwithstanding any provision of law to the contrary, the commis-
27 sioner shall make additional payments for uncompensated care to volun-
28 tary non-profit diagnostic and treatment centers that are eligible for
29 distributions under subdivision four of this section in the following
30 amounts: for the period June first, two thousand six through December
31 thirty-first, two thousand six, in the amount of seven million five
32 hundred thousand dollars, for the period January first, two thousand
33 seven through December thirty-first, two thousand seven, seven million
34 five hundred thousand dollars, for the period January first, two thou-
35 sand eight through December thirty-first, two thousand eight, seven
36 million five hundred thousand dollars, for the period January first, two
37 thousand nine through December thirty-first, two thousand nine, fifteen
38 million five hundred thousand dollars, for the period January first, two
39 thousand ten through December thirty-first, two thousand ten, seven
40 million five hundred thousand dollars, for the period January first, two
41 thousand eleven through December thirty-first, two thousand eleven, seven
42 million five hundred thousand dollars, for the period January first, two
43 thousand twelve through December thirty-first, two thousand twelve,
44 seven million five hundred thousand dollars, for the period January
45 first, two thousand thirteen through December thirty-first, two thousand
46 thirteen, seven million five hundred thousand dollars, for the period
47 January first, two thousand fourteen through December thirty-first, two
48 thousand fourteen, seven million five hundred thousand dollars, for the
49 period January first, two thousand fifteen through December thirty-
50 first, two thousand fifteen, seven million five hundred thousand
51 dollars, for the period January first two thousand sixteen through
52 December thirty-first, two thousand sixteen, seven million five hundred
53 thousand dollars, and for the period January first, two thousand [seven-
54 teen] twenty through March thirty-first, two thousand [seventeen]
55 twenty, in the amount of one million six hundred thousand dollars,
56 provided, however, that for periods on and after January first, two

1 thousand eight, such additional payments shall be distributed to volun-
2 tary, non-profit diagnostic and treatment centers and to public diagnos-
3 tic and treatment centers in accordance with paragraph (g) of subdivi-
4 sion four of this section. In the event that federal financial
5 participation is available for rate adjustments pursuant to this
6 section, the commissioner shall make such payments as additional adjust-
7 ments to rates of payment for voluntary non-profit diagnostic and treat-
8 ment centers that are eligible for distributions under subdivision
9 four-a of this section in the following amounts: for the period June
10 first, two thousand six through December thirty-first, two thousand six,
11 fifteen million dollars in the aggregate, and for the period January
12 first, two thousand seven through June thirtieth, two thousand seven,
13 seven million five hundred thousand dollars in the aggregate. The
14 amounts allocated pursuant to this paragraph shall be aggregated with
15 and distributed pursuant to the same methodology applicable to the
16 amounts allocated to such diagnostic and treatment centers for such
17 periods pursuant to subdivision four of this section if federal finan-
18 cial participation is not available, or pursuant to subdivision four-a
19 of this section if federal financial participation is available.
20 Notwithstanding section three hundred sixty-eight-a of the social
21 services law, there shall be no local share in a medical assistance
22 payment adjustment under this subdivision.

23 § 15. Subparagraph (ii) of paragraph (c) of subdivision 1 of section
24 2807-1 of the public health law, as amended by section 7 of part B of
25 chapter 60 of the laws of 2014, is amended to read as follows:

26 (ii) deposit by the commissioner, within amounts appropriated, and the
27 state comptroller is hereby authorized and directed to receive for
28 deposit to, to the credit of the emergency medical services training
29 account established in section ninety-seven-q of the state finance law
30 or the health care reform act (HCRA) resources fund, whichever is appli-
31 cable, up to sixteen million dollars on an annualized basis for the
32 periods January first, nineteen hundred ninety-seven through December
33 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars
34 for the period January first, two thousand through December thirty-
35 first, two thousand, up to twenty-one million dollars for the period
36 January first, two thousand one through December thirty-first, two thou-
37 sand one, up to twenty-two million dollars for the period January first,
38 two thousand two through December thirty-first, two thousand two, up to
39 twenty-two million five hundred fifty thousand dollars for the period
40 January first, two thousand three through December thirty-first, two
41 thousand three, up to nine million six hundred eighty thousand dollars
42 for the period January first, two thousand four through December thir-
43 ty-first, two thousand four, up to twelve million one hundred thirty
44 thousand dollars for the period January first, two thousand five through
45 December thirty-first, two thousand five, up to twenty-four million two
46 hundred fifty thousand dollars for the period January first, two thou-
47 sand six through December thirty-first, two thousand six, up to twenty
48 million four hundred ninety-two thousand dollars annually for the period
49 January first, two thousand seven through December thirty-first, two
50 thousand ten, up to five million one hundred twenty-three thousand
51 dollars for the period January first, two thousand eleven through March
52 thirty-first, two thousand eleven, up to eighteen million three hundred
53 fifty thousand dollars for the period April first, two thousand eleven
54 through March thirty-first, two thousand twelve, up to eighteen million
55 nine hundred fifty thousand dollars for the period April first, two
56 thousand twelve through March thirty-first, two thousand thirteen, up to

1 nineteen million four hundred nineteen thousand dollars for the period
2 April first, two thousand thirteen through March thirty-first, two thou-
3 sand fourteen, and up to nineteen million six hundred fifty-nine thou-
4 sand seven hundred dollars each state fiscal year for the period of
5 April first, two thousand fourteen through March thirty-first, two thou-
6 sand [seventeen] twenty;

7 § 16. Clause (C) of subparagraph (ii) of paragraph (c) of subdivision
8 1 of section 2807-1 of the public health law, as amended by section 7 of
9 part B of chapter 60 of the laws of 2014, is amended to read as follows:

10 (C) for services and expenses, including grants, related to emergency
11 assistance distributions as designated by the commissioner. Notwith-
12 standing section one hundred twelve or one hundred sixty-three of the
13 state finance law or any other contrary provision of law, such distrib-
14 utions shall be limited to providers or programs where, as determined by
15 the commissioner, emergency assistance is vital to protect the life or
16 safety of patients, to ensure the retention of facility caregivers or
17 other staff, or in instances where health facility operations are jeop-
18 ardized, or where the public health is jeopardized or other emergency
19 situations exist, up to three million dollars annually for the period
20 April first, two thousand seven through March thirty-first, two thousand
21 eleven, up to two million nine hundred thousand dollars each state
22 fiscal year for the period April first, two thousand eleven through
23 March thirty-first, two thousand fourteen, and up to two million nine
24 hundred thousand dollars each state fiscal year for the period April
25 first, two thousand fourteen through March thirty-first, two thousand
26 [seventeen] twenty. Upon any distribution of such funds, the commission-
27 er shall immediately notify the chair and ranking minority member of the
28 senate finance committee, the assembly ways and means committee, the
29 senate committee on health, and the assembly committee on health;

30 § 17. Subparagraph (iv) of paragraph (c) of subdivision 1 of section
31 2807-1 of the public health law, as amended by section 7 of part B of
32 chapter 60 of the laws of 2014, is amended to read as follows:

33 (iv) distributions by the commissioner related to poison control
34 centers pursuant to subdivision seven of section twenty-five hundred-d
35 of this chapter, up to five million dollars for the period January
36 first, nineteen hundred ninety-seven through December thirty-first,
37 nineteen hundred ninety-seven, up to three million dollars on an annual-
38 ized basis for the periods during the period January first, nineteen
39 hundred ninety-eight through December thirty-first, nineteen hundred
40 ninety-nine, up to five million dollars annually for the periods January
41 first, two thousand through December thirty-first, two thousand two, up
42 to four million six hundred thousand dollars annually for the periods
43 January first, two thousand three through December thirty-first, two
44 thousand four, up to five million one hundred thousand dollars for the
45 period January first, two thousand five through December thirty-first,
46 two thousand six annually, up to five million one hundred thousand
47 dollars annually for the period January first, two thousand seven
48 through December thirty-first, two thousand nine, up to three million
49 six hundred thousand dollars for the period January first, two thousand
50 ten through December thirty-first, two thousand ten, up to seven hundred
51 seventy-five thousand dollars for the period January first, two thousand
52 eleven through March thirty-first, two thousand eleven, up to two
53 million five hundred thousand dollars each state fiscal year for the
54 period April first, two thousand eleven through March thirty-first, two
55 thousand fourteen, and up to three million dollars each state fiscal

1 year for the period April first, two thousand fourteen through March
2 thirty-first, two thousand [seventeen] twenty; and

3 § 18. Subparagraph (i) of paragraph (d) of subdivision 1 of section
4 2807-1 of the public health law, as amended by section 7 of part B of
5 chapter 60 of the laws of 2014, is amended to read as follows:

6 (i) An amount of up to twenty million dollars annually for the period
7 January first, two thousand through December thirty-first, two thousand
8 six, up to ten million dollars for the period January first, two thou-
9 sand seven through June thirtieth, two thousand seven, up to twenty
10 million dollars annually for the period January first, two thousand
11 eight through December thirty-first, two thousand ten, up to five
12 million dollars for the period January first, two thousand eleven
13 through March thirty-first, two thousand eleven, up to nineteen million
14 six hundred thousand dollars each state fiscal year for the period April
15 first, two thousand eleven through March thirty-first, two thousand
16 fourteen, and up to nineteen million six hundred thousand dollars each
17 state fiscal year for the period April first, two thousand fourteen
18 through March thirty-first, two thousand [seventeen] twenty, shall be
19 transferred to the health facility restructuring pool established pursu-
20 ant to section twenty-eight hundred fifteen of this article;

21 § 19. Paragraph (e) of subdivision 1 of section 2807-1 of the public
22 health law, as amended by section 7 of part B of chapter 60 of the laws
23 of 2014, is amended to read as follows:

24 (e) Funds shall be reserved and accumulated from year to year and
25 shall be available, including income from invested funds, for purposes
26 of distributions to organizations to support the health workforce
27 retraining program established pursuant to section twenty-eight hundred
28 seven-g of this article from the respective health care initiatives
29 pools established for the following periods in the following amounts
30 from the pools or the health care reform act (HCRA) resources fund,
31 whichever is applicable, during the period January first, nineteen
32 hundred ninety-seven through December thirty-first, nineteen hundred
33 ninety-nine, up to fifty million dollars on an annualized basis, up to
34 thirty million dollars for the period January first, two thousand
35 through December thirty-first, two thousand, up to forty million dollars
36 for the period January first, two thousand one through December thirty-
37 first, two thousand one, up to fifty million dollars for the period
38 January first, two thousand two through December thirty-first, two thou-
39 sand two, up to forty-one million one hundred fifty thousand dollars for
40 the period January first, two thousand three through December thirty-
41 first, two thousand three, up to forty-one million one hundred fifty
42 thousand dollars for the period January first, two thousand four through
43 December thirty-first, two thousand four, up to fifty-eight million
44 three hundred sixty thousand dollars for the period January first, two
45 thousand five through December thirty-first, two thousand five, up to
46 fifty-two million three hundred sixty thousand dollars for the period
47 January first, two thousand six through December thirty-first, two thou-
48 sand six, up to thirty-five million four hundred thousand dollars annu-
49 ally for the period January first, two thousand seven through December
50 thirty-first, two thousand ten, up to eight million eight hundred fifty
51 thousand dollars for the period January first, two thousand eleven
52 through March thirty-first, two thousand eleven, up to twenty-eight
53 million four hundred thousand dollars each state fiscal year for the
54 period April first, two thousand eleven through March thirty-first, two
55 thousand fourteen, and up to twenty-six million eight hundred seventeen
56 thousand dollars each state fiscal year for the period April first, two

1 thousand fourteen through March thirty-first, two thousand [seventeen]
2 twenty, less the amount of funds available for allocations for rate
3 adjustments for workforce training programs for payments by state
4 governmental agencies for inpatient hospital services.

5 § 20. Subparagraph (v) of paragraph (i) of subdivision 1 of section
6 2807-1 of the public health law, as amended by section 7 of part B of
7 chapter 60 of the laws of 2014, is amended to read as follows:

8 (v) from the pool or the health care reform act (HCRA) resources fund,
9 whichever is applicable, for the period January first, two thousand four
10 through December thirty-first, two thousand four, up to fifteen million
11 eight hundred fifty thousand dollars, for the period January first, two
12 thousand five through December thirty-first, two thousand five, up to
13 nineteen million two hundred thousand dollars, for the period January
14 first, two thousand six through December thirty-first, two thousand six,
15 up to nineteen million two hundred thousand dollars, for the period
16 January first, two thousand seven through December thirty-first, two
17 thousand ten, up to eighteen million one hundred fifty thousand dollars
18 annually, for the period January first, two thousand eleven through
19 March thirty-first, two thousand eleven, up to four million five hundred
20 thirty-eight thousand dollars, for each state fiscal year for the period
21 April first, two thousand eleven through March thirty-first, two thou-
22 sand fourteen, up to sixteen million two hundred thousand dollars, and
23 up to sixteen million two hundred thousand dollars each state fiscal
24 year for the period April first, two thousand fourteen through March
25 thirty-first, two thousand [seventeen] twenty.

26 § 21. Clause (A) of subparagraph (v) of paragraph (k) of subdivision 1
27 of section 2807-1 of the public health law, as amended by section 7 of
28 part B of chapter 60 of the laws of 2014, is amended to read as follows:

29 (A) from the pool or the health care reform act (HCRA) resources fund,
30 whichever is applicable, for the period July first, two thousand three
31 through December thirty-first, two thousand three, up to six million
32 dollars, for the period January first, two thousand four through Decem-
33 ber thirty-first, two thousand six, up to twelve million dollars annual-
34 ly, for the period January first, two thousand seven through December
35 thirty-first, two thousand thirteen, up to forty-eight million dollars
36 annually, for the period January first, two thousand fourteen through
37 March thirty-first, two thousand fourteen, up to twelve million dollars
38 and for the period April first, two thousand fourteen through March
39 thirty-first, two thousand [seventeen] twenty, up to forty-eight million
40 dollars annually;

41 § 22. Subparagraph (v) of paragraph (l) of subdivision 1 of section
42 2807-1 of the public health law, as amended by section 7 of part B of
43 chapter 60 of the laws of 2014, is amended to read as follows:

44 (v) from the pool or the health care reform act (HCRA) resources fund,
45 whichever is applicable, for the periods January first, two thousand
46 four through December thirty-first, two thousand four, up to fifty-six
47 million dollars, for the period January first, two thousand five through
48 December thirty-first, two thousand six, up to sixty million dollars
49 annually, for the period January first, two thousand seven through
50 December thirty-first, two thousand ten, up to sixty million dollars
51 annually, for the period January first, two thousand eleven through
52 March thirty-first, two thousand eleven, up to fifteen million dollars,
53 each state fiscal year for the period April first, two thousand eleven
54 through March thirty-first, two thousand fourteen, up to forty-two
55 million three hundred thousand dollars and up to forty-one million fifty
56 thousand dollars each state fiscal year for the period April first, two

1 thousand fourteen through March thirty-first, two thousand [seventeen]
2 twenty.

3 § 23. Paragraph (b) of subdivision 1 of section 2807-v of the public
4 health law, as amended by section 8 of part B of chapter 60 of the laws
5 of 2014, is amended to read as follows:

6 (b) Funds shall be reserved and accumulated from year to year and
7 shall be available, including income from invested funds, for purposes
8 of payment of audits or audit contracts necessary to determine payor and
9 provider compliance with requirements set forth in sections twenty-eight
10 hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred
11 seven-t of this article from the tobacco control and insurance initi-
12 atives pool established for the following periods in the following
13 amounts: five million six hundred thousand dollars annually for the
14 periods January first, two thousand through December thirty-first, two
15 thousand two, up to five million dollars for the period January first,
16 two thousand three through December thirty-first, two thousand three, up
17 to five million dollars for the period January first, two thousand four
18 through December thirty-first, two thousand four, up to five million
19 dollars for the period January first, two thousand five through December
20 thirty first, two thousand five, up to five million dollars for the
21 period January first, two thousand six through December thirty-first,
22 two thousand six, up to seven million eight hundred thousand dollars for
23 the period January first, two thousand seven through December thirty-
24 first, two thousand seven, and up to eight million three hundred twen-
25 ty-five thousand dollars for the period January first, two thousand
26 eight through December thirty-first, two thousand eight, up to eight
27 million five hundred thousand dollars for the period January first, two
28 thousand nine through December thirty-first, two thousand nine, up to
29 eight million five hundred thousand dollars for the period January
30 first, two thousand ten through December thirty-first, two thousand ten,
31 up to two million one hundred twenty-five thousand dollars for the peri-
32 od January first, two thousand eleven through March thirty-first, two
33 thousand eleven, up to fourteen million seven hundred thousand dollars
34 each state fiscal year for the period April first, two thousand eleven
35 through March thirty-first, two thousand fourteen, and up to eleven
36 million one hundred thousand dollars each state fiscal year for the
37 period April first, two thousand fourteen through March thirty-first,
38 two thousand [seventeen] twenty.

39 § 24. Subparagraph (xiv) of paragraph (j) of subdivision 1 of section
40 2807-v of the public health law, as amended by section 8 of part B of
41 chapter 60 of the laws of 2014, is amended to read as follows:

42 (xiv) up to six million dollars each state fiscal year for the period
43 April first, two thousand fourteen through March thirty-first, two thou-
44 sand [seventeen] twenty.

45 § 25. Subparagraph (xvi) of paragraph (n) of subdivision 1 of section
46 2807-v of the public health law, as amended by section 8 of part B of
47 chapter 60 of the laws of 2014, is amended to read as follows:

48 (xvi) one hundred twenty-seven million four hundred sixteen thousand
49 dollars each state fiscal year for the period April first, two thousand
50 fourteen through March thirty-first, two thousand [seventeen] twenty.

51 § 26. Subparagraph (xiv) of paragraph (o) of subdivision 1 of section
52 2807-v of the public health law, as amended by section 8 of part B of
53 chapter 60 of the laws of 2014, is amended to read as follows:

54 (xiv) up to ninety-six million six hundred thousand dollars each state
55 fiscal year for the period April first, two thousand fourteen through
56 March thirty-first, two thousand [seventeen] twenty.

1 § 27. Subparagraph (xii) of paragraph (q) of subdivision 1 of section
2 2807-v of the public health law, as amended by section 8 of part B of
3 chapter 60 of the laws of 2014, is amended to read as follows:

4 (xii) up to five million two hundred eighty-eight thousand dollars
5 each state fiscal year for the period April first, two thousand fourteen
6 through March thirty-first, two thousand [seventeen] twenty.

7 § 28. Subparagraph (xii) of paragraph (w) of subdivision 1 of section
8 2807-v of the public health law, as amended by section 8 of part B of
9 chapter 60 of the laws of 2014, is amended to read as follows:

10 (xii) up to two million one hundred thousand dollars each state fiscal
11 year for the period April first, two thousand fourteen through March
12 thirty-first, two thousand [seventeen] twenty.

13 § 29. Clause (L) of subparagraph (i) of paragraph (bb) of subdivision
14 1 of section 2807-v of the public health law, as amended by section 8 of
15 part B of chapter 60 of the laws of 2014, is amended to read as follows:

16 (L) up to one hundred thirty-six million dollars each state fiscal
17 year for the period March thirty-first, two thousand fourteen through
18 April first, two thousand [seventeen] twenty.

19 § 30. Clause (L) of subparagraph (ii) of paragraph (bb) of subdivision
20 1 of section 2807-v of the public health law, as amended by section 8 of
21 part B of chapter 60 of the laws of 2014, is amended to read as follows:

22 (L) for each state fiscal year within the period April first, two
23 thousand fourteen through March thirty-first, two thousand [seventeen]
24 twenty, three hundred forty million dollars.

25 § 31. Subparagraph (xii) of paragraph (cc) of subdivision 1 of section
26 2807-v of the public health law, as amended by section 8 of part B of
27 chapter 60 of the laws of 2014, is amended to read as follows:

28 (xii) up to eleven million two hundred thousand dollars each state
29 fiscal year for the period April first, two thousand fourteen through
30 March thirty-first, two thousand [seventeen] twenty.

31 § 32. Subparagraph (xii) of paragraph (ff) of subdivision 1 of section
32 2807-v of the public health law, as amended by section 8 of part B of
33 chapter 60 of the laws of 2014, is amended to read as follows:

34 (xii) fifteen million dollars each state fiscal year for the period
35 April first, two thousand fourteen through March thirty-first, two thou-
36 sand [seventeen] twenty.

37 § 33. Subparagraph (xii) of paragraph (ii) of subdivision 1 of section
38 2807-v of the public health law, as amended by section 8 of part B of
39 chapter 60 of the laws of 2014, is amended to read as follows:

40 (xii) eight million five hundred thousand dollars each state fiscal
41 year for the period April first, two thousand fourteen through March
42 thirty-first, two thousand [seventeen] twenty.

43 § 34. Paragraph (aaa) of subdivision 1 of section 2807-v of the public
44 health law, as amended by section 8 of part B of chapter 60 of the laws
45 of 2014, is amended to read as follows:

46 (aaa) Funds shall be reserved and accumulated from year to year and
47 shall be available, including income from invested funds, for services
48 and expenses related to school based health centers, in an amount up to
49 three million five hundred thousand dollars for the period April first,
50 two thousand six through March thirty-first, two thousand seven, up to
51 three million five hundred thousand dollars for the period April first,
52 two thousand seven through March thirty-first, two thousand eight, up to
53 three million five hundred thousand dollars for the period April first,
54 two thousand eight through March thirty-first, two thousand nine, up to
55 three million five hundred thousand dollars for the period April first,
56 two thousand nine through March thirty-first, two thousand ten, up to

1 three million five hundred thousand dollars for the period April first,
2 two thousand ten through March thirty-first, two thousand eleven, up to
3 two million eight hundred thousand dollars each state fiscal year for
4 the period April first, two thousand eleven through March thirty-first,
5 two thousand fourteen, and up to two million six hundred forty-four
6 thousand dollars each state fiscal year for the period April first, two
7 thousand fourteen through March thirty-first, two thousand [seventeen]
8 twenty. The total amount of funds provided herein shall be distributed
9 as grants based on the ratio of each provider's total enrollment for all
10 sites to the total enrollment of all providers. This formula shall be
11 applied to the total amount provided herein.

12 § 35. Subparagraph (viii) of paragraph (ccc) of subdivision 1 of
13 section 2807-v of the public health law, as amended by section 8 of part
14 B of chapter 60 of the laws of 2014, is amended to read as follows:

15 (viii) up to fifty million dollars each state fiscal year for the
16 period April first, two thousand fourteen through March thirty-first,
17 two thousand [seventeen] twenty.

18 § 36. This act shall take effect immediately; provided, however, that:

19 (a) the amendments made to sections 2807-s and 2807-j of the public
20 health law made by sections three, four and five of this act shall not
21 affect the expiration of such sections and shall expire therewith; and

22 (b) the amendments to subdivision 6 of section 2807-t of the public
23 health law made by section eight of this act shall not affect the expi-
24 ration of such section and shall be deemed to expire therewith.

25

PART I

26 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the
27 public health law relating to authorizing bad debt and charity care
28 allowances for certified home health agencies, as amended by section 1
29 of part D of chapter 57 of the laws of 2015, is amended to read as
30 follows:

31 § 11. This act shall take effect immediately and:

32 (a) sections one and three shall expire on December 31, 1996,

33 (b) sections four through ten shall expire on June 30, [2017] 2020,
34 and

35 (c) provided that the amendment to section 2807-b of the public health
36 law by section two of this act shall not affect the expiration of such
37 section 2807-b as otherwise provided by law and shall be deemed to
38 expire therewith.

39 § 2. Subdivision 4-a of section 71 of part C of chapter 60 of the laws
40 of 2014 amending the social services law relating to eliminating pres-
41 criber prevails for brand name drugs with generic equivalent, as amended
42 by section 6 of part D of chapter 59 of the laws of 2016, is amended to
43 read as follows:

44 4-a. section twenty-two of this act shall take effect April 1, 2014,
45 and shall be deemed expired January 1, [2018] 2020;

46 § 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
47 2807-d of the public health law, as amended by section 3 of part D of
48 chapter 57 of the laws of 2015, is amended to read as follows:

49 (vi) Notwithstanding any contrary provision of this paragraph or any
50 other provision of law or regulation to the contrary, for residential
51 health care facilities the assessment shall be six percent of each resi-
52 dential health care facility's gross receipts received from all patient
53 care services and other operating income on a cash basis for the period
54 April first, two thousand two through March thirty-first, two thousand

1 three for hospital or health-related services, including adult day
2 services; provided, however, that residential health care facilities'
3 gross receipts attributable to payments received pursuant to title XVIII
4 of the federal social security act (medicare) shall be excluded from the
5 assessment; provided, however, that for all such gross receipts received
6 on or after April first, two thousand three through March thirty-first,
7 two thousand five, such assessment shall be five percent, and further
8 provided that for all such gross receipts received on or after April
9 first, two thousand five through March thirty-first, two thousand nine,
10 and on or after April first, two thousand nine through March thirty-
11 first, two thousand eleven such assessment shall be six percent, and
12 further provided that for all such gross receipts received on or after
13 April first, two thousand eleven through March thirty-first, two thou-
14 sand thirteen such assessment shall be six percent, and further provided
15 that for all such gross receipts received on or after April first, two
16 thousand thirteen through March thirty-first, two thousand fifteen such
17 assessment shall be six percent, and further provided that for all such
18 gross receipts received on or after April first, two thousand fifteen
19 through March thirty-first, two thousand seventeen such assessment shall
20 be six percent, and further provided that for all such gross receipts
21 received on or after April first, two thousand seventeen through March
22 thirty-first, two thousand twenty such assessment shall be six percent.

23 § 4. Subdivision 1 of section 194 of chapter 474 of the laws of 1996,
24 amending the education law and other laws relating to rates for residen-
25 tial health care facilities, as amended by section 5 of part D of chap-
26 ter 57 of the laws of 2015, is amended to read as follows:

27 1. Notwithstanding any inconsistent provision of law or regulation,
28 the trend factors used to project reimbursable operating costs to the
29 rate period for purposes of determining rates of payment pursuant to
30 article 28 of the public health law for residential health care facili-
31 ties for reimbursement of inpatient services provided to patients eligi-
32 ble for payments made by state governmental agencies on and after April
33 1, 1996 through March 31, 1999 and for payments made on and after July
34 1, 1999 through March 31, 2000 and on and after April 1, 2000 through
35 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
36 on and after April 1, 2007 through March 31, 2009 and on and after April
37 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
38 March 31, 2013 and on and after April 1, 2013 through March 31, 2015,
39 and on and after April 1, 2015 through March 31, 2017, and on and after
40 April 1, 2017 through March 31, 2020 shall reflect no trend factor
41 projections or adjustments for the period April 1, 1996, through March
42 31, 1997.

43 § 5. Subdivision 1 of section 89-a of part C of chapter 58 of the laws
44 of 2007, amending the social services law and other laws relating to
45 enacting the major components of legislation necessary to implement the
46 health and mental hygiene budget for the 2007-2008 state fiscal year, as
47 amended by section 6 of part D of chapter 57 of the laws of 2015, is
48 amended to read as follows:

49 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
50 of the public health law and section 21 of chapter 1 of the laws of
51 1999, as amended, and any other inconsistent provision of law or regu-
52 lation to the contrary, in determining rates of payments by state
53 governmental agencies effective for services provided beginning April 1,
54 2006, through March 31, 2009, and on and after April 1, 2009 through
55 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
56 and on and after April 1, 2013 through March 31, 2015, and on and after

1 April 1, 2015 through March 31, 2017, and on and after April 1, 2017
2 through March 31, 2020 for inpatient and outpatient services provided by
3 general hospitals and for inpatient services and outpatient adult day
4 health care services provided by residential health care facilities
5 pursuant to article 28 of the public health law, the commissioner of
6 health shall apply a trend factor projection of two and twenty-five
7 hundredths percent attributable to the period January 1, 2006 through
8 December 31, 2006, and on and after January 1, 2007, provided, however,
9 that on reconciliation of such trend factor for the period January 1,
10 2006 through December 31, 2006 pursuant to paragraph (c) of subdivision
11 10 of section 2807-c of the public health law, such trend factor shall
12 be the final US Consumer Price Index (CPI) for all urban consumers, as
13 published by the US Department of Labor, Bureau of Labor Statistics less
14 twenty-five hundredths of a percentage point.

15 § 6. Subdivision 5-a of section 246 of chapter 81 of the laws of 1995,
16 amending the public health law and other laws relating to medical
17 reimbursement and welfare reform, as amended by section 11 of part D of
18 chapter 57 of the laws of 2015, is amended to read as follows:

19 5-a. Section sixty-four-a of this act shall be deemed to have been in
20 full force and effect on and after April 1, 1995 through March 31, 1999
21 and on and after July 1, 1999 through March 31, 2000 and on and after
22 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
23 through March 31, 2007, and on and after April 1, 2007 through March 31,
24 2009, and on and after April 1, 2009 through March 31, 2011, and on and
25 after April 1, 2011 through March 31, 2013, and on and after April 1,
26 2013 through March 31, 2015, and on and after April 1, 2015 through
27 March 31, 2017 and on and after April 1, 2017 through March 31, 2020;

28 § 7. Section 64-b of chapter 81 of the laws of 1995, amending the
29 public health law and other laws relating to medical reimbursement and
30 welfare reform, as amended by section 12 of part D of chapter 57 of the
31 laws of 2015, is amended to read as follows:

32 § 64-b. Notwithstanding any inconsistent provision of law, the
33 provisions of subdivision 7 of section 3614 of the public health law, as
34 amended, shall remain and be in full force and effect on April 1, 1995
35 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
36 and after April 1, 2000 through March 31, 2003 and on and after April 1,
37 2003 through March 31, 2007, and on and after April 1, 2007 through
38 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
39 and on and after April 1, 2011 through March 31, 2013, and on and after
40 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
41 through March 31, 2017 and on and after April 1, 2017 through March 31,
42 2020.

43 § 8. Subdivision (a) of section 40 of part B of chapter 109 of the
44 laws of 2010, amending the social services law relating to transporta-
45 tion costs, as amended by section 23 of part D of chapter 57 of the laws
46 of 2015, is amended to read as follows:

47 (a) sections two, three, three-a, three-b, three-c, three-d, three-e
48 and twenty-one of this act shall take effect July 1, 2010; sections
49 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall
50 take effect January 1, 2011; and provided further that section twenty of
51 this act shall be deemed repealed [six] nine years after the date the
52 contract entered into pursuant to section 365-h of the social services
53 law, as amended by section twenty of this act, is executed; provided
54 that the commissioner of health shall notify the legislative bill draft-
55 ing commission upon the execution of the contract entered into pursuant
56 to section 367-h of the social services law in order that the commission

1 may maintain an accurate and timely effective data base of the official
2 text of the laws of the state of New York in furtherance of effectuating
3 the provisions of section 44 of the legislative law and section 70-b of
4 the public officers law;

5 § 9. Section 4-a of part A of chapter 56 of the laws of 2013 amending
6 chapter 59 of the laws of 2011 amending the public health law and other
7 laws relating to general hospital reimbursement for annual rates relat-
8 ing to the cap on local Medicaid expenditures, as amended by section 29
9 of part D of chapter 57 of the laws of 2015, is amended to read as
10 follows:

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

41 § 10. Subdivisions 3 and 5 of section 47 of chapter 2 of the laws of
42 1998, amending the public health law and other laws relating to expand-
43 ing the child health insurance plan, as amended by section 61 of part C
44 of chapter 60 of the laws of 2014, are amended to read as follows:

45 3. section six of this act shall take effect January 1, 1999;
46 provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
47 sion 9 of section 2510 of the public health law, as added by this act,
48 shall expire on July 1, [2017] 2020;

49 5. section twelve of this act shall take effect January 1, 1999;
50 provided, however, paragraphs (g) and (h) of subdivision 2 of section
51 2511 of the public health law, as added by such section, shall expire on
52 July 1, [2017] 2020;

53 § 11. Section 4 of chapter 19 of the laws of 1998, amending the social
54 services law relating to limiting the method of payment for prescription
55 drugs under the medical assistance program, as amended by section 65 of
56 part C of chapter 60 of the laws of 2014, is amended to read as follows:

1 § 4. This act shall take effect 120 days after it shall have become a
2 law and shall expire and be deemed repealed March 31, [2017] 2020.

3 § 12. Paragraph (e-1) of subdivision 12 of section 2808 of the public
4 health law, as amended by section 66 of part C of chapter 60 of the laws
5 of 2014, is amended to read as follows:

6 (e-1) Notwithstanding any inconsistent provision of law or regulation,
7 the commissioner shall provide, in addition to payments established
8 pursuant to this article prior to application of this section, addi-
9 tional payments under the medical assistance program pursuant to title
10 eleven of article five of the social services law for non-state operated
11 public residential health care facilities, including public residential
12 health care facilities located in the county of Nassau, the county of
13 Westchester and the county of Erie, but excluding public residential
14 health care facilities operated by a town or city within a county, in
15 aggregate annual amounts of up to one hundred fifty million dollars in
16 additional payments for the state fiscal year beginning April first, two
17 thousand six and for the state fiscal year beginning April first, two
18 thousand seven and for the state fiscal year beginning April first, two
19 thousand eight and of up to three hundred million dollars in such aggre-
20 gate annual additional payments for the state fiscal year beginning
21 April first, two thousand nine, and for the state fiscal year beginning
22 April first, two thousand ten and for the state fiscal year beginning
23 April first, two thousand eleven, and for the state fiscal years begin-
24 ning April first, two thousand twelve and April first, two thousand
25 thirteen, and of up to five hundred million dollars in such aggregate
26 annual additional payments for the state fiscal years beginning April
27 first, two thousand fourteen, April first, two thousand fifteen and
28 April first, two thousand sixteen and of up to five hundred million
29 dollars in such aggregate annual additional payments for the state
30 fiscal years beginning April first, two thousand seventeen, April first,
31 two thousand eighteen, and April first, two thousand nineteen. The
32 amount allocated to each eligible public residential health care facili-
33 ty for this period shall be computed in accordance with the provisions
34 of paragraph (f) of this subdivision, provided, however, that patient
35 days shall be utilized for such computation reflecting actual reported
36 data for two thousand three and each representative succeeding year as
37 applicable, and provided further, however, that, in consultation with
38 impacted providers, of the funds allocated for distribution in the state
39 fiscal year beginning April first, two thousand thirteen, up to thirty-
40 two million dollars may be allocated in accordance with paragraph (f-1)
41 of this subdivision.

42 § 13. Section 18 of chapter 904 of the laws of 1984, amending the
43 public health law and the social services law relating to encouraging
44 comprehensive health services, as amended by section 67-c of part C of
45 chapter 60 of the laws of 2014, is amended to read as follows:

46 § 18. This act shall take effect immediately, except that sections
47 six, nine, ten and eleven of this act shall take effect on the sixtieth
48 day after it shall have become a law, sections two, three, four and nine
49 of this act shall expire and be of no further force or effect on or
50 after March 31, [2017] 2020, section two of this act shall take effect
51 on April 1, 1985 or seventy-five days following the submission of the
52 report required by section one of this act, whichever is later, and
53 sections eleven and thirteen of this act shall expire and be of no
54 further force or effect on or after March 31, 1988.

55 § 14. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
56 the public health law relating to allowing for the use of funds of the

1 office of professional medical conduct for activities of the patient
2 health information and quality improvement act of 2000, as amended by
3 section 4-b of part A of chapter 57 of the laws of 2015, is amended to
4 read as follows:

5 § 4. This act shall take effect immediately; provided that the
6 provisions of section one of this act shall be deemed to have been in
7 full force and effect on and after April 1, 2003, and shall expire March
8 31, [2017] 2020 when upon such date the provisions of such section shall
9 be deemed repealed.

10 § 15. Subdivision (o) of section 111 of part H of chapter 59 of the
11 laws of 2011, amending the public health law relating to the statewide
12 health information network of New York and the statewide planning and
13 research cooperative system and general powers and duties, as amended by
14 section 28 of part D of chapter 57 of the laws of 2015, is amended to
15 read as follows:

16 (o) sections thirty-eight and thirty-eight-a of this act shall expire
17 and be deemed repealed March 31, [2017] 2020;

18 § 16. Section 32 of part A of chapter 58 of the laws of 2008, amending
19 the elder law and other laws relating to reimbursement to participating
20 provider pharmacies and prescription drug coverage, as amended by
21 section 13 of part A of chapter 57 of the laws of 2015, is amended to
22 read as follows:

23 § 32. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2008; provided
25 however, that sections one, six-a, nineteen, twenty, twenty-four, and
26 twenty-five of this act shall take effect July 1, 2008; provided however
27 that sections sixteen, seventeen and eighteen of this act shall expire
28 April 1, [2017] 2020; provided, however, that the amendments made by
29 section twenty-eight of this act shall take effect on the same date as
30 section 1 of chapter 281 of the laws of 2007 takes effect; provided
31 further, that sections twenty-nine, thirty, and thirty-one of this act
32 shall take effect October 1, 2008; provided further, that section twen-
33 ty-seven of this act shall take effect January 1, 2009; and provided
34 further, that section twenty-seven of this act shall expire and be
35 deemed repealed March 31, [2017] 2020; and provided, further, however,
36 that the amendments to subdivision 1 of section 241 of the education law
37 made by section twenty-nine of this act shall not affect the expiration
38 of such subdivision and shall be deemed to expire therewith and provided
39 that the amendments to section 272 of the public health law made by
40 section thirty of this act shall not affect the repeal of such section
41 and shall be deemed repealed therewith.

42 § 17. Subdivision 3 of section 2999-p of the public health law, as
43 amended by chapter 461 of the laws of 2012, is amended to read as
44 follows:

45 3. The commissioner may issue a certificate of authority to an entity
46 that meets conditions for ACO certification as set forth in regulations
47 made by the commissioner pursuant to section twenty-nine hundred nine-
48 ty-nine-q of this article. The commissioner shall not issue any new
49 certificate under this article after December thirty-first, two thousand
50 [sixteen] twenty.

51 § 18. This act shall take effect immediately and shall be deemed to
52 have been in full force and effect on and after April 1, 2017.

1 Section 1. The insurance law is amended by adding a new article 29 to
2 read as follows:

3 ARTICLE 29

4 PHARMACY BENEFIT MANAGERS

5 Section 2901. Definitions.

6 2902. Acting without a registration.

7 2903. Registration requirements for pharmacy benefit managers.

8 2904. Reporting requirements for pharmacy benefit managers.

9 2905. Acting without a license.

10 2906. Licensing of a pharmacy benefit manager.

11 2907. Revocation or suspension of a registration or license of a
12 pharmacy benefit manager.

13 2908. Penalties for violations.

14 2909. Stay or suspension of superintendent's determination.

15 2910. Revoked registrations.

16 2911. Change of address.

17 2912. Assessment.

18 2913. Applicability of other laws.

19 § 2901. Definitions. For purposes of this article:

20 (a) "Controlling person" is any person or other entity who or which
21 directly or indirectly has the power to direct or cause to be directed
22 the management, control or activities of a pharmacy benefit manager.

23 (b) "Health insurer" means an insurance company authorized in this
24 state to write accident and health insurance, a company organized pursu-
25 ant to article forty-three of this chapter, a municipal cooperative
26 health benefit plan established pursuant to article forty-seven of this
27 chapter, a health maintenance organization certified pursuant to article
28 forty-four of the public health law, an institution of higher education
29 certified pursuant to section one thousand one hundred twenty-four of
30 this chapter, the state public health plan as defined in section two
31 hundred seventy of the public health law, child health plus established
32 pursuant to title one-a of article twenty-five of the public health law,
33 the New York state health insurance plan established under article elev-
34 en of the civil service law, or any other health plan or provider as
35 defined in paragraph (a) of subdivision one of section two hundred
36 eighty-a of the public health law.

37 (c) "Pharmacy benefit management services" means pharmacy benefit
38 management services defined by section two hundred eighty-a of the
39 public health law.

40 (d) "Pharmacy benefit manager" means a person, firm, association,
41 corporation or other entity that, pursuant to a contract with a health
42 insurer, provides pharmacy benefit management services, except that term
43 shall not include:

44 (1) an officer or employee of a registered or licensed pharmacy bene-
45 fit manager; or

46 (2) a health insurer, or any manager thereof, individual or corporate,
47 or any officer, director or regular salaried employee thereof, providing
48 pharmacy benefit management services under a policy or contract issued
49 by the health insurer.

50 § 2902. Acting without a registration. (a) No person, firm, associ-
51 ation, corporation or other entity may act as a pharmacy benefits manag-
52 er on or after the effective date of this section without having a valid
53 registration as a pharmacy benefit manager filed with the superintendent
54 in accordance with this article and the regulations promulgated there-
55 under.

1 (b) Following the effective date of this section, no health insurer
2 may pay any fee or other compensation to any person, firm, association,
3 corporation or other entity for performing pharmacy benefit management
4 services unless the person, firm, association, corporation or other
5 entity is registered as a pharmacy benefit manager in accordance with
6 this article.

7 (c) Any person, firm, association, corporation or other entity that
8 violates this section shall, in addition to any other penalty provided
9 by law, be subject to a civil penalty of the greater of: (1) one thou-
10 sand dollars for the first violation and two thousand five hundred
11 dollars for each subsequent violation; or (2) the aggregate gross
12 receipts attributable to all violations.

13 § 2903. Registration requirements for pharmacy benefit managers. (a)
14 Every pharmacy benefit manager that performs pharmacy benefit management
15 services prior to January first, two thousand nineteen shall register
16 with the superintendent in accordance with this article, in a manner
17 acceptable to the superintendent, and shall pay a fee of one thousand
18 dollars for each year in which the registration shall be valid. Every
19 registration will expire on December thirty-first, two thousand eighteen
20 regardless of when registration was first made.

21 (b) Every pharmacy benefit manager that performs pharmacy benefit
22 management services at any time between January first, two thousand
23 seventeen and June first, two thousand seventeen, shall register and
24 make the registration fee payment required by subsection (a) of this
25 section on or before June first, two thousand seventeen.

26 (c) Every pharmacy benefit manager not subject to subsection (b) of
27 this section shall make the registration and fee payment required by
28 subsection (a) of this section prior to performing pharmacy benefit
29 management services.

30 (d) Each registered pharmacy benefit manager shall renew its registra-
31 tion and make the required fee payment by February first, two thousand
32 eighteen for the two thousand eighteen calendar year.

33 § 2904. Reporting requirements for pharmacy benefit managers. (a) (1)
34 On or before July first of each year, beginning in two thousand seven-
35 teen, every pharmacy benefit manager shall report to the superintendent,
36 in a statement subscribed and affirmed as true under penalties of perju-
37 ry, information requested by the superintendent to enable him or her to
38 carry out his or her duties under this article. Such information may
39 include, without limitation, disclosure of any financial incentive or
40 benefit for promoting the use of certain drugs and other financial
41 arrangements affecting health insurers or their policyholders or
42 insureds.

43 (2) The superintendent also may address to any pharmacy benefit manag-
44 er or its officers any inquiry in relation to its provision of pharmacy
45 benefit management services or any matter connected therewith. Every
46 pharmacy benefit manager or person so addressed shall reply in writing
47 to such inquiry promptly and truthfully, and such reply shall be, if
48 required by the superintendent, subscribed by such individual, or by
49 such officer or officers of the pharmacy benefit manager as the super-
50 intendent shall designate, and affirmed by them as true under the penal-
51 ties of perjury.

52 (3) In addition to the other reports required by this subsection, the
53 superintendent also may require the filing of quarterly or other state-
54 ments, which shall be in such form and shall contain such matters
55 concerning this article as the superintendent shall prescribe.

1 (b) In the event any pharmacy benefit manager or person does not
2 submit the report required by paragraph one or three of subsection (a)
3 of this section or does not provide a good faith response to an inquiry
4 from the superintendent pursuant to paragraph two of subsection (a) of
5 this section within a time period specified by the superintendent of not
6 less than fifteen business days, the superintendent is authorized to
7 levy a civil penalty, after notice and hearing, against such pharmacy
8 benefit manager or person not to exceed five hundred dollars per day for
9 each day beyond the date the report is due or such date specified by the
10 superintendent for response to the inquiry.

11 § 2905. Acting without a license. (a) No person, firm, association,
12 corporation or other entity may act as a pharmacy benefit manager on or
13 after January first, two thousand nineteen without having authority to
14 do so by virtue of a license issued in force pursuant to the provisions
15 of this chapter.

16 (b) No health insurer may pay any fee or other compensation to any
17 person, firm, association, corporation or other entity for performing
18 pharmacy benefit management services unless the person, firm, associ-
19 ation, corporation or other entity is licensed as a pharmacy benefit
20 manager in accordance with this article.

21 (c) Any person, firm, association, corporation or other entity that
22 violates this section shall, in addition to any other penalty provided
23 by law, be subject to a civil penalty of the greater of: (1) one thou-
24 sand dollars for the first violation and two thousand five hundred
25 dollars for each subsequent violation; or (2) the aggregate gross
26 receipts attributable to all violations.

27 § 2906. Licensing of a pharmacy benefit manager. (a) The superinten-
28 dent may issue a pharmacy benefit manager's license to any person, firm,
29 association or corporation who or that has complied with the require-
30 ments of this chapter, including regulations promulgated by the super-
31 intendent consistent with applicable law. The superintendent may estab-
32 lish, by regulation, minimum standards for the issuance of a license to
33 a pharmacy benefit manager.

34 (b) The superintendent may establish, by regulation, minimum standards
35 for the delivery of pharmacy benefit management services. The minimum
36 standards established under this subsection may address:

37 (1) the elimination of conflicts of interest between pharmacy benefit
38 managers and health insurers;

39 (2) the elimination of deceptive practices in connection with the
40 performance of pharmacy benefit management services;

41 (3) the elimination of anti-competitive practices in connection with
42 the performance of pharmacy benefit management services; and

43 (4) the elimination of unfair claims practices in connection with the
44 performance of pharmacy benefit management services.

45 (c)(1) Any such license issued to a firm or association shall author-
46 ize all of the members of the firm or association and any designated
47 employees to act as pharmacy benefit managers under the license, and all
48 such persons shall be named in the application and supplements thereto.

49 (2) Any such license issued to a corporation shall authorize all of
50 the officers and any designated employees and directors thereof to act
51 as pharmacy benefit managers on behalf of such corporation, and all such
52 persons shall be named in the application and supplements thereto.

53 (3) For each business entity, the officer or officers and director or
54 directors named in the application shall be designated responsible for
55 the business entity's compliance with the insurance laws, rules and
56 regulations of this state.

1 (d) (1) Before a pharmacy benefit manager's license shall be issued or
2 renewed, the prospective licensee shall properly file in the office of
3 the superintendent a written application therefor in such form or forms
4 and supplements thereto as the superintendent prescribes, and pay a fee
5 of one thousand dollars for each year for which a license shall be
6 valid.

7 (2) Every pharmacy benefit manager's license issued to a business
8 entity pursuant to this section shall expire on the thirtieth day of
9 November of even-numbered years. Every license issued pursuant to this
10 section to an individual pharmacy benefit manager who was born in an
11 odd-numbered year, shall expire on the individual's birthday in each
12 odd-numbered year. Every license issued pursuant to this section to an
13 individual pharmacy benefit manager who was born in an even-numbered
14 year, shall expire on the individual's birthday in each even-numbered
15 year. Every license issued pursuant to this section may be renewed for
16 the ensuing period of twenty-four months upon the filing of an applica-
17 tion in conformity with this subsection.

18 (e) (1) If an application for a renewal license shall have been filed
19 with the superintendent before October first of the year of expiration,
20 then the license sought to be renewed shall continue in full force and
21 effect either until the issuance by the superintendent of the renewal
22 license applied for or until five days after the superintendent shall
23 have refused to issue such renewal license and given notice of such
24 refusal to the applicant.

25 (2) Before refusing to renew any license pursuant to this section, the
26 superintendent shall notify the applicant of the superintendent's inten-
27 tion so to do and the reasons therefor and shall give such applicant a
28 hearing.

29 (f) The superintendent may refuse to issue a pharmacy benefit manag-
30 er's license if, in the superintendent's judgment, the applicant or any
31 member, principal, officer or director of the applicant, is not trust-
32 worthy and competent to act as or in connection with a pharmacy benefit
33 manager, or has given cause for revocation or suspension of such license
34 by violation of this article, or has failed to comply with any prerequi-
35 site for the issuance of such license.

36 (g) The superintendent may promulgate regulations establishing other-
37 wise lawful methods and procedures for facilitating and verifying
38 compliance with the requirements of this section and such other lawful
39 regulations as necessary.

40 (h) The superintendent may issue a replacement for a currently
41 in-force license that has been lost or destroyed. Before the replacement
42 license shall be issued, there shall be on file in the office of the
43 superintendent a written application for the replacement license,
44 affirming under penalty of perjury that the original license has been
45 lost or destroyed, together with a fee of one hundred dollars.

46 § 2907. Revocation or suspension of a registration or license of a
47 pharmacy benefit manager. (a) The superintendent may refuse to renew,
48 revoke or suspend, for an appropriate period the superintendent deter-
49 mines, the registration or license of any pharmacy benefit manager if,
50 after notice and hearing, there has been a determination that the regis-
51 trant or licensee or any member, principal, officer, director, or
52 controlling person of the registrant or licensee, has:

53 (1) in a material respect, violated any insurance law or regulation,
54 subpoena, or order of the superintendent or of another state's insurance
55 commissioner or any law including but not limited to section two hundred

1 eighty-a of the public health law, in the course of his or her dealings
2 in such capacity;

3 (2) provided materially incorrect, materially misleading, materially
4 incomplete or materially untrue information in the registration or
5 license application;

6 (3) obtained or attempted to obtain a registration or license through
7 fraud or intentional misrepresentation;

8 (4) (A) used fraudulent, coercive or dishonest practices;

9 (B) demonstrated incompetence;

10 (C) demonstrated untrustworthiness; or

11 (D) demonstrated financial irresponsibility in the conduct of business
12 in this state or elsewhere;

13 (5) improperly withheld, misappropriated or converted any monies or
14 properties received in the course of business in this state or else-
15 where;

16 (6) intentionally misrepresented the terms of an actual or proposed
17 insurance contract;

18 (7) admitted or been found to have committed any insurance unfair
19 trade practice or fraud;

20 (8) had a pharmacy benefit manager registration or license, or its
21 equivalent, denied, suspended or revoked in any other state, province,
22 district or territory;

23 (9) failed to pay state income tax or comply with any administrative
24 or court order directing payment of state income tax; or

25 (10) ceased to meet the requirements for registration or licensure
26 under this article.

27 (b) Before revoking or suspending the registration or license of any
28 pharmacy benefit manager pursuant to the provisions of this article, the
29 superintendent shall give notice to the registrant or licensee and to
30 every sub-licensee and shall hold a hearing not less than ten days after
31 the giving of such notice except that a reasonable request for delay of
32 a revocation hearing by a suspended registrant or licensee shall be
33 granted.

34 (c) If a registration or license pursuant to the provisions of this
35 article is revoked or suspended by the superintendent, then the super-
36 intendent shall forthwith give notice to the registrant or licensee.

37 (d) The revocation or suspension of any registration or license pursu-
38 ant to the provisions of this article shall terminate forthwith such
39 registration or license and the authority conferred thereby upon all
40 sub-licensees.

41 (e) (1) No individual, corporation, firm or association whose registra-
42 tion or license as a pharmacy benefit manager subject to subsection (a)
43 of this section has been revoked, and no firm or association of which
44 such individual is a member, and no corporation of which such individual
45 is an officer or director, and no controlling person of the registrant
46 or licensee shall be entitled to obtain any registration or license
47 under the provisions of this chapter for a period of one year after such
48 revocation. In the event that such revocation be judicially reviewed,
49 the one year suspension shall be in effect following a final determi-
50 nation thereof affirming the action of the superintendent in revoking
51 such license and shall include any interim period of suspension.

52 (2) If any such registration or license held by a firm, association or
53 corporation be revoked, no member of such firm or association and no
54 officer or director of such corporation or any controlling person of the
55 registrant or licensee shall be entitled to obtain any registration or
56 license, or to be named as a sub-licensee in any such license, under

1 this chapter for the same period of time, unless the superintendent
2 determines, after notice and hearing which shall be held promptly upon
3 such request, that such member, officer or director was not directly
4 involved in the matter on account of which such registration or license
5 was revoked.

6 (f) If any person aggrieved shall file with the superintendent a veri-
7 fied complaint setting forth facts tending to show sufficient ground for
8 the revocation or suspension of any pharmacy benefit manager's registra-
9 tion or license, then the superintendent shall, after notice and a hear-
10 ing, determine whether such registration or license shall be suspended
11 or revoked.

12 (g) The superintendent shall retain the authority to enforce the
13 provisions of and impose any penalty or remedy authorized by this chap-
14 ter against any person or entity who is in violation of this chapter,
15 even if the person's or entity's registration or license has been
16 surrendered, has expired or has lapsed by operation of law.

17 (h) A registrant or licensee subject to this article shall report to
18 the superintendent any administrative action taken against the regis-
19 trant or licensee in another jurisdiction or by another governmental
20 agency in this state within thirty days of the final disposition of the
21 matter. This report shall include a copy of the order, consent to order
22 or other relevant legal documents documenting such final determination.

23 (i) Within thirty days of the initial pretrial hearing date, a regis-
24 trant or licensee subject to this article shall report to the super-
25 intendent any criminal prosecution of the registrant or licensee taken
26 in any jurisdiction. The report shall include a copy of the initial
27 complaint filed, the order resulting from the hearing and any other
28 relevant legal documents documenting the disposition of the matter.

29 § 2908. Penalties for violations. (a) The superintendent, in lieu of
30 revoking or suspending the registration or license of a registrant or
31 licensee in accordance with the provisions of this article, may in any
32 one proceeding by order, require the registrant or licensee to pay to
33 the people of this state a civil penalty in a sum not exceeding the
34 greater of: (1) one thousand dollars for each offense, not exceeding
35 twenty-five hundred dollars in the aggregate for all offenses; or (2)
36 the aggregate gross receipts attributable to all offenses.

37 (b) Upon the failure of such a registrant or licensee to pay the
38 penalty ordered pursuant to subsection (a) of this section within twenty
39 days after the mailing of the order, postage prepaid, registered, and
40 addressed to the last known place of business of the licensee, unless
41 the order is stayed by the superintendent or an order of a court of
42 competent jurisdiction, the superintendent may revoke the registration
43 or license of the registrant or licensee or may suspend the same for
44 such period as the superintendent determines.

45 § 2909. Stay or suspension of superintendent's determination. The
46 commencement of a proceeding under article seventy-eight of the civil
47 practice law and rules, to review the action of the superintendent in
48 suspending or revoking or refusing to renew any certificate under this
49 article, shall stay such action of the superintendent for a period of
50 thirty days. Such stay may be extended for a longer period by the court,
51 pending the final determination or further order of the court, in
52 accordance with the relevant provisions of the civil practice law and
53 rules.

54 § 2910. Revoked registrations. (a)(1) No person, firm, association,
55 corporation or other entity subject to the provisions of this article
56 whose registration or license under this article has been revoked, or

1 whose registration or license to engage in the business of pharmacy
2 benefit management in any capacity has been revoked by any other state
3 or territory of the United States, shall become employed or appointed by
4 a pharmacy benefit manager as an officer, director, manager, controlling
5 person without the prior written approval of the superintendent, unless
6 such services are for maintenance or are clerical or ministerial in
7 nature.

8 (2) No person, firm, association, corporation or other entity subject
9 to the provisions of this article shall knowingly employ or appoint any
10 person or entity whose registration or license issued under this article
11 has been revoked, or whose registration or license to engage in the
12 business of pharmacy benefit management in any capacity has been revoked
13 by any other state or territory of the United States, as an officer,
14 director, manager or controlling person, without the prior written
15 approval of the superintendent, unless such services are for maintenance
16 or are clerical or ministerial in nature.

17 (3) No corporation or partnership subject to the provisions of this
18 article shall knowingly permit any person whose registration or license
19 issued under this article has been revoked, or whose registration or
20 license to engage in the business of pharmacy benefit management has
21 been revoked by any other state, or territory of the United States, to
22 be a shareholder or have an interest in such corporation or partnership,
23 nor shall any such person become a shareholder or partner in such corpo-
24 ration or partnership, without the prior written approval of the super-
25 intendent.

26 (b) The superintendent may approve the employment, appointment or
27 participation of any such person whose registration or license has been
28 revoked:

29 (1) if the superintendent determines that the duties and responsibil-
30 ities of such person are subject to appropriate supervision and that
31 such duties and responsibilities will not have an adverse effect upon
32 the public, other registrants and licensees, and the registrant or
33 licensee proposing employment or appointment of such person; or

34 (2) if such person has filed an application for reregistration or
35 relicensing pursuant to this article and the application for reregistra-
36 tion or relicensing has not been approved or denied within one hundred
37 twenty days following the filing thereof, unless the superintendent
38 determines within the said time that employment or appointment of such
39 person by a registrant or licensee in the conduct of a pharmacy benefit
40 management business would not be in the public interest.

41 (c) The provisions of this section shall not apply to the ownership of
42 shares of any corporation registered or licensed pursuant to this arti-
43 cle if such shares of such corporation are publicly held and traded in
44 the over-the-counter market or upon any national or regional securities
45 exchange.

46 § 2911. Change of address. A registrant or licensee under this arti-
47 cle shall inform the superintendent by a reasonable means acceptable to
48 the superintendent of a change of address within thirty days of the
49 change.

50 § 2912. Assessment. Pharmacy benefit managers that maintain a regis-
51 tration with the department or are licensed by the department shall be
52 assessed by the superintendent for the operating expenses of the depart-
53 ment that are solely attributable to regulating such pharmacy benefit
54 managers in such proportions as the superintendent shall deem just and
55 reasonable.

1 § 2913. Applicability of other laws. Nothing in this article shall be
2 construed to exempt a pharmacy benefit manager from complying with the
3 provisions of articles twenty-one and forty-nine of this chapter, and
4 section two hundred eighty-a and article forty-nine of the public health
5 law or any other provision of this chapter or the financial services
6 law.

7 § 2. Subsection (b) of section 2402 of the insurance law, as amended
8 by section 71 of part A of chapter 62 of the laws of 2011, is amended to
9 read as follows:

10 (b) "Defined violation" means the commission by a person of an act
11 prohibited by: subsection (a) of section one thousand one hundred two,
12 section one thousand two hundred fourteen, one thousand two hundred
13 seventeen, one thousand two hundred twenty, one thousand three hundred
14 thirteen, subparagraph (B) of paragraph two of subsection (i) of section
15 one thousand three hundred twenty-two, subparagraph (B) of paragraph two
16 of subsection (i) of section one thousand three hundred twenty-four, two
17 thousand one hundred two, two thousand one hundred seventeen, two thou-
18 sand one hundred twenty-two, two thousand one hundred twenty-three,
19 subsection (p) of section two thousand three hundred thirteen, section
20 two thousand three hundred twenty-four, two thousand five hundred two,
21 two thousand five hundred three, two thousand five hundred four, two
22 thousand six hundred one, two thousand six hundred two, two thousand six
23 hundred three, two thousand six hundred four, two thousand six hundred
24 six, two thousand seven hundred three, two thousand nine hundred two,
25 two thousand nine hundred five, three thousand one hundred nine, three
26 thousand two hundred twenty-four-a, three thousand four hundred twenty-
27 nine, three thousand four hundred thirty-three, paragraph seven of
28 subsection (e) of section three thousand four hundred twenty-six, four
29 thousand two hundred twenty-four, four thousand two hundred twenty-five,
30 four thousand two hundred twenty-six, seven thousand eight hundred nine,
31 seven thousand eight hundred ten, seven thousand eight hundred eleven,
32 seven thousand eight hundred thirteen, seven thousand eight hundred
33 fourteen and seven thousand eight hundred fifteen of this chapter; or
34 section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one
35 hundred five of the penal law.

36 § 3. Paragraph 28 of subsection (i) of section 3216 of the insurance
37 law, as amended by chapter 11 of the laws of 2012, is amended to read as
38 follows:

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

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

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

52 (B) Any policy that provides coverage for prescription drugs shall
53 permit each insured to fill any covered prescription that may be
54 obtained at a network participating mail order or other non-retail phar-
55 macy, at the insured's option, at a network participating non-mail order
56 retail pharmacy provided that the network participating non-mail order

1 retail pharmacy agrees [in advance, through a contractual network agree-
2 ment,] to the same reimbursement amount[, as well as the same applicable
3 terms and conditions,] that the insurer has established for the network
4 participating mail order or other non-retail pharmacy. In such a case,
5 the policy shall not impose a co-payment fee or other condition on any
6 insured who elects to purchase prescription drugs from a network partic-
7 ipating non-mail order retail pharmacy which is not also imposed on
8 insureds electing to purchase drugs from a network participating mail
9 order or other non-retail pharmacy.

10 § 4. Paragraph 18 of subsection (l) of section 3221 of the insurance
11 law, as amended by chapter 11 of the laws of 2012, is amended to read as
12 follows:

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

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

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

26 (B) Any insurer delivering a group or blanket policy or issuing a
27 group or blanket policy for delivery in this state that provides cover-
28 age for prescription drugs shall permit each insured to fill any covered
29 prescription that may be obtained at a network participating mail order
30 or other non-retail pharmacy, at the insured's option, at a network
31 participating non-mail order retail pharmacy provided that the network
32 participating non-mail order retail pharmacy agrees [in advance, through
33 a contractual network agreement,] to the same reimbursement amount[, as
34 well as the same applicable terms and conditions,] that the insurer has
35 established for the network participating mail order or other non-retail
36 pharmacy. In such a case, the policy shall not impose a co-payment fee
37 or other condition on any insured who elects to purchase drugs from a
38 network participating non-mail order retail pharmacy which is not also
39 imposed on insureds electing to purchase drugs from a network partic-
40 ipating mail order or other non-retail pharmacy; provided, however, that
41 the provisions of this section shall not supersede the terms of a
42 collective bargaining agreement or apply to a policy that is the result
43 of a collective bargaining agreement between an employer and a recog-
44 nized or certified employee organization.

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

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

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

55 (B) "Mail order pharmacy" means a pharmacy whose primary business is
56 to receive prescriptions by mail, telefax or through electronic

1 submissions and to dispense medication to patients through the use of
2 the United States mail or other common or contract carrier services and
3 provides any consultation with patients electronically rather than face-
4 to-face.

5 (2) Any contract issued by a medical expense indemnity corporation, a
6 hospital service corporation or a health services corporation that
7 provides coverage for prescription drugs shall permit each covered
8 person to fill any covered prescription that may be obtained at a
9 network participating mail order or other non-retail pharmacy, at the
10 covered person's option, at a network participating non-mail order
11 retail pharmacy provided that the network participating non-mail order
12 retail pharmacy agrees [in advance, through a contractual network agree-
13 ment,] to the same reimbursement amount[, as well as the same applicable
14 terms and conditions,] that the corporation has established for the
15 network participating mail order or other non-retail pharmacy. In such
16 a case, the contract shall not impose a copayment fee or other condition
17 on any covered person who elects to purchase drugs from a network
18 participating non-mail order retail pharmacy which is not also imposed
19 on covered persons electing to purchase drugs from a network participat-
20 ing mail order or other non-retail pharmacy; provided, however, that the
21 provisions of this section shall not supersede the terms of a collective
22 bargaining agreement or apply to a contract that is the result of a
23 collective bargaining agreement between an employer and a recognized or
24 certified employee organization.

25 § 6. Section 280-a of the public health law is REPEALED and a new
26 section 280-a is added to read as follows:

27 § 280-a. Pharmacy benefit managers. 1. Definitions. As used in this
28 section, the following terms shall have the following meanings:

29 (a) "Health plan or provider" means an entity for which a pharmacy
30 benefit manager provides pharmacy benefit management services including,
31 but not limited to:

32 (i) a health benefit plan or other entity that approves, provides,
33 arranges for, or pays for health care items or services, under which
34 prescription drugs for beneficiaries of the entity are purchased or
35 which provides or arranges reimbursement in whole or in part for the
36 purchase of prescription drugs; or

37 (ii) a health care provider or professional, including a state or
38 local government entity, that acquires prescription drugs to use or
39 dispense in providing health care to patients.

40 (b) "Pharmacy benefit management" means the service provided to a
41 health plan or provider, directly or through another entity, including
42 the procurement of prescription drugs to be dispensed to patients, or
43 the administration or management of prescription drug benefits, includ-
44 ing but not limited to, any of the following:

45 (i) mail service pharmacy;

46 (ii) claims processing, retail network management, or payment of
47 claims to pharmacies for dispensing prescription drugs;

48 (iii) clinical or other formulary or preferred drug list development
49 or management;

50 (iv) negotiation or administration of rebates, discounts, payment
51 differentials, or other incentives, for the inclusion of particular
52 prescription drugs in a particular category or to promote the purchase
53 of particular prescription drugs;

54 (v) patient compliance, therapeutic intervention, or generic substi-
55 tution programs;

56 (vi) disease management;

1 (vii) drug utilization review or prior authorization;
2 (viii) adjudication of appeals or grievances related to prescription
3 drug coverage;

4 (ix) controlling the cost of covered prescription drugs; and

5 (x) contracting with network pharmacies.

6 (c) "Pharmacy benefit manager" means any entity that: (i) performs
7 pharmacy benefit management services for a health plan or provider; or
8 (ii) is registered or licensed as a pharmacy benefit manager under
9 article twenty-nine of the insurance law.

10 (d) "Maximum allowable cost price" means a maximum reimbursement
11 amount set by the pharmacy benefit manager for therapeutically equiv-
12 alent multiple source generic drugs.

13 2. Application of section. This section applies to the providing of
14 pharmacy benefit management services by a pharmacy benefit manager to a
15 particular health plan or provider.

16 3. Duty, accountability and transparency. (a) The pharmacy benefit
17 manager shall have a fiduciary relationship with and obligation to the
18 health plan or provider, and shall perform pharmacy benefit management
19 with care, skill, prudence, diligence, and professionalism.

20 (b) All funds received by the pharmacy benefit manager in relation to
21 providing pharmacy benefit management services shall be received by the
22 pharmacy benefit manager in trust for the health plan or provider and
23 shall be used or distributed only pursuant to the pharmacy benefit
24 manager's contract with the health plan or provider or applicable law;
25 except for any fee or payment expressly provided for in the contract
26 between the pharmacy benefit manager and the health plan or provider to
27 compensate the pharmacy benefit manager for its services.

28 (c) The pharmacy benefit manager shall periodically account to the
29 health plan or provider for all funds received by the pharmacy benefit
30 manager. The health plan or provider shall have access to all financial
31 and utilization information of the pharmacy benefit manager in relation
32 to pharmacy benefit management services provided to the health plan or
33 provider.

34 (d) The pharmacy benefit manager shall disclose in writing to the
35 health plan or provider the terms and conditions of any contract or
36 arrangement between the pharmacy benefit manager and any party relating
37 to pharmacy benefit management services provided to the health plan or
38 provider.

39 (e) The pharmacy benefit manager shall disclose in writing to the
40 health plan or provider any activity, policy, practice, contract or
41 arrangement of the pharmacy benefit manager that directly or indirectly
42 presents any conflict of interest with the pharmacy benefit manager's
43 relationship with or obligation to the health plan or provider.

44 (f) Any information required to be disclosed by a pharmacy benefit
45 manager to a health plan or provider under this section that is reason-
46 ably designated by the pharmacy benefit manager as proprietary or trade
47 secret information shall be kept confidential by the health plan or
48 provider, except as required or permitted by law, including disclosure
49 necessary to prosecute or defend any legitimate legal claim or cause of
50 action.

51 4. Prescriptions. A pharmacy benefit manager may not substitute or
52 cause the substituting of one prescription drug for another in dispens-
53 ing a prescription, or alter or cause the altering of the terms of a
54 prescription, except with the approval of the prescriber or as explicit-
55 ly required or permitted by law.



1 5. A pharmacy benefit manager shall, with respect to contracts between
2 a pharmacy benefit manager and a pharmacy or, alternatively, a pharmacy
3 benefit manager and a pharmacy's contracting agent, such as a pharmacy
4 services administrative organization, include a reasonable process to
5 appeal, investigate and resolve disputes regarding multi-source generic
6 drug pricing. The appeals process shall include the following
7 provisions:

8 (a) the right to appeal by the pharmacy and/or the pharmacy's
9 contracting agent shall be limited to thirty days following the initial
10 claim submitted for payment;

11 (b) a telephone number through which a network pharmacy may contact
12 the pharmacy benefit manager for the purpose of filing an appeal and an
13 electronic mail address of the individual who is responsible for proc-
14 essing appeals;

15 (c) the pharmacy benefit manager shall send an electronic mail message
16 acknowledging receipt of the appeal. The pharmacy benefit manager shall
17 respond in an electronic message to the pharmacy and/or the pharmacy's
18 contracting agent filing the appeal within seven business days indicat-
19 ing its determination. If the appeal is determined to be valid, the
20 maximum allowable cost for the drug shall be adjusted for the appealing
21 pharmacy effective as of the date of the original claim for payment. The
22 pharmacy benefit manager shall require the appealing pharmacy to reverse
23 and rebill the claim in question in order to obtain the corrected
24 reimbursement;

25 (d) if an update to the maximum allowable cost is warranted, the phar-
26 macy benefit manager or covered entity shall adjust the maximum allow-
27 able cost of the drug effective for all similarly situated pharmacies in
28 its network in the state on the date the appeal was determined to be
29 valid; and

30 (e) if an appeal is denied, the pharmacy benefit manager shall identi-
31 fy the national drug code of a therapeutically equivalent drug, as
32 determined by the federal Food and Drug Administration, that is avail-
33 able for purchase by pharmacies in this state from wholesalers regis-
34 tered pursuant to subdivision four of section sixty-eight hundred eight
35 of the education law at a price which is equal to or less than the maxi-
36 mum allowable cost for that drug as determined by the pharmacy benefit
37 manager.

38 § 7. This act shall take effect on the one hundred eightieth day after
39 it shall have become a law; provided, however, that effective immediate-
40 ly, the superintendent of financial services shall repeal, amend, or
41 promulgate any rules and regulations necessary for the implementation of
42 the provisions of this act on its effective date.

43

PART K

44 Section 1. The public health law is amended by adding a new section
45 2825-e to read as follows:

46 § 2825-e. Health care facility transformation program: statewide II.

47 1. A statewide health care facility transformation program is hereby
48 established under the joint administration of the commissioner and the
49 president of the dormitory authority of the state of New York for the
50 purpose of strengthening and protecting continued access to health care
51 services in communities. The program shall provide funding in support of
52 capital projects, debt retirement, working capital or other non-capital
53 projects that facilitate health care transformation activities includ-
54 ing, but not limited to, merger, consolidation, acquisition or other



1 activities intended to create financially sustainable systems of care or
2 preserve or expand essential health care services. Grants shall not be
3 available to support general operating expenses. The issuance of any
4 bonds or notes hereunder shall be subject to section sixteen hundred
5 eighty-r of the public authorities law and the approval of the director
6 of the division of the budget, and any projects funded through the issu-
7 ance of bonds or notes hereunder shall be approved by the New York state
8 public authorities control board, as required under section fifty-one of
9 the public authorities law.

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

30 3. Notwithstanding section one hundred sixty-three of the state
31 finance law or any inconsistent provision of law to the contrary, up to
32 seven hundred million dollars of the funds appropriated for this program
33 shall be awarded without a competitive bid or request for proposal proc-
34 ess for grants to health care providers (hereafter "applicants").
35 Provided, however, that a minimum of one hundred twenty-five million
36 dollars of total awarded funds shall be made to community-based health
37 care providers, which for purposes of this section shall be defined as a
38 diagnostic and treatment center licensed or granted an operating certif-
39 icate under this article; a mental health clinic licensed or granted an
40 operating certificate under article thirty-one of the mental hygiene
41 law; an alcohol and substance abuse treatment clinic licensed or granted
42 an operating certificate under article thirty-two of the mental hygiene
43 law; a primary care provider or a home care provider certified or
44 licensed pursuant to article thirty-six of this chapter. Eligible appli-
45 cants shall be those deemed by the commissioner to be a provider that
46 fulfills or will fulfill a health care need for acute inpatient, outpa-
47 tient, primary, home care or residential health care services in a
48 community.

49 4. In determining awards for eligible applicants under this section,
50 the commissioner shall consider criteria including, but not limited to:

51 (a) The extent to which the proposed project will contribute to the
52 integration of health care services or the long term sustainability of
53 the applicant or preservation of essential health services in the commu-
54 nity or communities served by the applicant;

1 (b) The extent to which the proposed project or purpose is aligned
 2 with delivery system reform incentive payment ("DSRIP") program goals
 3 and objectives;

4 (c) Consideration of geographic distribution of funds;

5 (d) The relationship between the proposed project and identified
 6 community need;

7 (e) The extent to which the applicant has access to alternative
 8 financing;

9 (f) The extent that the proposed project furthers the development of
 10 primary care and other outpatient services;

11 (g) The extent to which the proposed project benefits Medicaid enrol-
 12 lees and uninsured individuals;

13 (h) The extent to which the applicant has engaged the community
 14 affected by the proposed project and the manner in which community
 15 engagement has shaped such project; and

16 (i) The extent to which the proposed project addresses potential risk
 17 to patient safety and welfare.

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

25 6. The department shall provide a report on a quarterly basis to the
 26 chairs of the senate finance, assembly ways and means, and senate health
 27 and assembly health committees. Such reports shall be submitted no later
 28 than sixty days after the close of the quarter, and shall include, for
 29 each award, the name of the applicant, a description of the project or
 30 purpose, the amount of the award, disbursement date, and status of
 31 achievement of process and performance metrics and milestones pursuant
 32 to subdivision five of this section.

33 § 2. This act shall take effect immediately and shall be deemed to
 34 have been in full force and effect on and after April 1, 2017.

35 PART L

36 Intentionally Omitted

37 PART M

38 Section 1. This act shall be known and may be cited as the "Emerging
 39 Contaminant Monitoring Act."

40 § 2. The public health law is amended by adding a new section 1112 to
 41 read as follows:

42 § 1112. Emerging contaminant monitoring. 1. Industry and modern tech-
 43 nology have created thousands of new chemicals that would not otherwise
 44 exist in nature. Although some of these chemicals have proven benefits,
 45 the effect of many such chemicals on human health is unknown or not
 46 fully understood. Furthermore, with the advance of science and technolo-
 47 gy, public health scientists and experts are able to identify naturally
 48 occurring contaminants that pose previously unknown hazards to human
 49 health. Where these chemicals or contaminants, collectively referred to
 50 as "emerging contaminants," enter drinking water supplies, they can
 51 present unknown but potentially serious risks to public health. New
 52 Yorkers served by public water supplies have the right to know when



1 potentially hazardous substances contaminate their drinking water and
2 the department must be equipped to monitor and protect the public from
3 these emerging contaminants.

4 2. a. "Emerging contaminants" shall mean any physical, chemical,
5 microbiological or radiological substance listed as an emerging contam-
6 inant pursuant to subdivision three of this section.

7 b. "Notification level" shall mean the concentration level of an
8 emerging contaminant in drinking water that the commissioner has deter-
9 mined, based on available scientific information, to be linked to
10 adverse health outcomes including both physical and behavioral health,
11 and warrants public notification pursuant to this section.

12 c. "Covered public water system" shall mean: (i) a public water
13 system that serves at least five service connections used by year-round
14 residents or regularly serves at least twenty-five year-round residents;
15 (ii) a public water system that regularly serves at least twenty-five of
16 the same people, four hours or more per day, for four or more days per
17 week, for twenty-six or more weeks per year; or (iii) any other substan-
18 tially similar water system as determined by the commissioner.

19 3. The commissioner shall promulgate regulations to identify and list
20 substances as emerging contaminants. In determining what substances
21 shall be identified as emerging contaminants the commissioner shall, at
22 a minimum, examine substances that require regulation or monitoring when
23 present in drinking water in other jurisdictions outside the state of
24 New York; the United States environmental protection agency's human
25 health benchmarks for pesticides; and, substances found at sites in
26 remedial programs located inside and outside the state of New York,
27 including but not limited to inactive hazardous waste sites. The commis-
28 sioner shall, at a minimum, include the following chemicals to be iden-
29 tified as emerging contaminants: 1,4-dioxane; vanadium; strontium; chro-
30 mium-6; chlorate; perfluorooctanesulfonic acid; and perfluorooctanoic
31 acid. Additional substances to be identified as emerging contaminants
32 shall meet the following criteria:

33 a. are not subject to any other substance-specific drinking water
34 regulation of the department that establishes a maximum contaminant
35 level, or other legally established threshold concentration used by the
36 department that requires public notification or remedial action;

37 b. are known or anticipated to occur in public water systems; and

38 c. because of their quantity, concentration, or physical, chemical or
39 infectious characteristics, may cause physical injury or illness, or
40 otherwise pose a potential hazard to human health when present in drink-
41 ing water.

42 4. Every covered public water system shall test drinking water for the
43 presence of emerging contaminants in the state and unregulated contam-
44 inants monitored under the federal Safe Drinking Water Act as amended
45 from time to time, at least once every three years in a manner and time-
46 frame established by the department through regulation.

47 5. Every test conducted in accordance with this section shall be
48 conducted by a laboratory certified by the department pursuant to
49 section five hundred two of this chapter. Laboratories shall submit such
50 results to the department, any other health department that the covered
51 public water system is located in, and to the covered public water
52 system electronically in the manner prescribed by the commissioner.

53 6. The commissioner shall promulgate regulations establishing notifi-
54 cation levels for any emerging contaminant listed pursuant to subdivi-
55 sion three of this section. Any notification level established pursuant
56 to this subdivision shall be equal to or lower than any federally estab-



1 lished concentration level that would require public notification, or
2 remedial action for that substance.

3 7. Whenever one or more emerging contaminants is present in drinking
4 water at concentrations at or above a notification level established
5 pursuant to this section the covered public water system shall notify
6 all owners of real property served by the covered public water system in
7 a time and manner to be prescribed by the department. Such public
8 notification shall occur within thirty days. The covered public water
9 system shall consult with the department within twenty-four hours of
10 being notified of the presence of an emerging contaminant. The depart-
11 ment may reduce the timeframe for public notification from thirty days
12 if it is determined that the public's interest would be best served by
13 such reduction. The commissioner may directly notify such owners of real
14 property if it is determined that the public's interest would be best
15 served by such notification, or if the commissioner determines that the
16 covered public water system is not acting, or cannot act in a timely
17 manner.

18 8. The commissioner may require that the covered public water system
19 take such actions as may be appropriate to reduce exposure to emerging
20 contaminants. The commissioner shall work in consultation with the
21 commissioner of the department of environmental conservation to develop
22 educational materials, which shall be made available to the covered
23 public water system and the general public, relating to methodologies
24 for reducing exposure to emerging contaminants and potential actions
25 that may be taken to remediate emerging contaminants. The commissioner
26 shall also provide the covered public water system with information
27 relating to potential funding sources provided by the state and federal
28 government for remedial activities, and to reduce the exposure to emerg-
29 ing contaminants. Whenever the commissioner of health has required a
30 public water system to take action to reduce exposure to emerging
31 contaminants, the department shall undertake all reasonable and neces-
32 sary measures to ensure that safe drinking water is expeditiously made
33 available to all people in any area of the state in which emerging
34 contaminants are known to be present. Such area shall include, at a
35 minimum, all properties served by the covered public water system and
36 any land and any surface or underground water sources identified by the
37 department or department of environmental conservation as causing or
38 contributing to the contamination. The department's measures may include
39 installation of onsite water supplies, or the provision of alternative
40 water supply sources.

41 9. Any owner of real property, including any owner's agent, to whom a
42 covered public water system or the department has provided notification
43 of the exceedance of a notification level established pursuant to subdi-
44 vision six of this section, shall take all reasonable and necessary
45 steps to provide, within ten days, any tenants with copies of the
46 notification provided by the covered public water system, or the commis-
47 sioner.

48 10. The commissioner shall promulgate regulations pursuant to which
49 the department may provide financial assistance for compliance with the
50 testing requirements of this section, to any covered public water system
51 upon a showing that the costs associated with testing drinking water in
52 compliance with this section would impose an unreasonable financial
53 hardship.

54 11. The commissioner of health shall review substances that have been
55 identified as emerging contaminants pursuant to this section and deter-
56 mine if the department should establish a maximum contaminant level for

1 the substance. Such a review shall occur, at a minimum, once every three
2 years.

3 § 3. Section 502 of the public health law is amended by adding a new
4 subdivision 10 to read as follows:

5 10. The department may require an environmental laboratory to report
6 laboratory test results to the department, or to any other health
7 department in an electronic manner prescribed by the department.

8 § 4. This act shall take effect immediately.

9

PART N

10 Section 1. This act shall be known and may be cited as the "residen-
11 tial well testing act".

12 § 2. The public health law is amended by adding a new section 1111 to
13 read as follows:

14 § 1111. Testing of individual onsite water supply systems. 1. The
15 commissioner shall promulgate regulations establishing standards for the
16 testing of new or existing individual onsite water supply systems that
17 provide potable water for humans. Such regulations shall specify the
18 manner of testing and the amount of time such results shall be valid.
19 Individual onsite water supplies shall be tested for character and
20 contaminants commonly found in such water supplies, including but not
21 limited to: bacteria (total coliform); sodium; nitrites; nitrates;
22 iron; manganese; iron plus manganese; pH; lead; 1,4-dioxane; vanadium;
23 strontium; chromium-6; chlorate; perfluorooctanesulfonic acid; perfluo-
24 rooctanoic acid; and other emerging contaminants as such term is defined
25 in section one thousand one hundred twelve of this title. Such regu-
26 lations may require additional testing, limit testing or exclude from
27 testing a characteristic or contaminant on a county, regional or local
28 basis if the commissioner determines that such characteristic or contam-
29 inant is significant or not significant in that area.

30 2. a. For the purposes of this section residential real property shall
31 include real property used or occupied, or intended to be used or occu-
32 pied, wholly or partly, as the home or residence of one or more persons,
33 but shall not refer to unimproved real property upon which such dwell-
34 ings are to be constructed, condominium units or cooperative apartments,
35 or property in a homeowners' association that is not owned in fee simple
36 by the seller. Any real estate purchase contract for the sale of resi-
37 dential real property, which is served by an individual onsite water
38 supply system, shall include a provision requiring, prior to and as a
39 condition of sale, the testing of such individual onsite water supply
40 system in a manner that meets or exceeds the standards prescribed pursu-
41 ant to this section. This section shall not apply to covered public
42 water systems, as defined by section one thousand one hundred twelve of
43 this title.

44 b. Within one year after the effective date of this section, and at
45 least once every five years thereafter, the lessor of any residential
46 real property which is served by an individual onsite water supply
47 system shall test such water supply in accordance with this section for
48 at least the characteristics and contaminants required pursuant to this
49 section. Within thirty days after the receipt of validated test results,
50 the lessor shall provide a written copy thereof to each current tenant
51 of a rental unit on the property. The lessor shall also provide a writ-
52 ten copy of the most recent validated test results to a prospective
53 tenant prior to the signing of the lease or entering into an agreement
54 for the rental of a residential unit on the property, or to any former

1 tenant upon request. The department or the department's designee shall
2 have the authority to request and receive such test results from the
3 lessor.

4 3. Every test conducted in accordance with this section shall be
5 conducted by a laboratory certified by the department pursuant to
6 section five hundred two of this chapter. Any test results provided by
7 the laboratory, pursuant to this section, shall include the maximum
8 contaminant levels or other threshold concentrations, if any, prescribed
9 by the department for each characteristic or contaminant tested. Labora-
10 tories shall submit such results to the department electronically in the
11 manner prescribed pursuant to section five hundred two of this chapter.

12 4. The commissioner shall promulgate regulations pursuant to which the
13 department may provide financial assistance to owners of residential
14 property served by an individual onsite water supply system, upon a
15 showing that the costs associated with testing drinking water in compli-
16 ance with this section would impose an unreasonable financial hardship.

17 5. Nothing contained in this section shall prohibit or limit the test-
18 ing of individual onsite water supply systems pursuant to any other
19 statutory or regulatory authority.

20 § 3. Section 502 of the public health law is amended by adding a new
21 subdivision 10 to read as follows:

22 10. The department may require an environmental laboratory to report
23 laboratory test results to the department, or to any other health
24 department in an electronic manner prescribed by the department.

25 § 4. The real property law is amended by adding a new section 468 to
26 read as follows:

27 § 468. Individual onsite water supply testing requirements. 1. Every
28 real estate purchase contract for the sale of residential real property,
29 as defined by section one thousand one hundred eleven of the public
30 health law, which is served by an individual onsite water supply system,
31 shall include a provision requiring as a condition of sale, the testing
32 of such water supply for at least the standards prescribed pursuant to
33 section eleven hundred eleven of the public health law. This section
34 shall not apply to property that is served by a public water system, as
35 defined in regulations promulgated by the commissioner.

36 2. Closing of title on the sale of such real property shall not occur
37 unless both the buyer and the seller have received and reviewed a copy
38 of the water test results. At closing, the buyer and seller both shall
39 certify in writing that they have received and reviewed the water test
40 results.

41 3. The requirements of this section may not be waived.

42 § 5. Subdivision 3 of section 15-1525 of the environmental conserva-
43 tion law, as amended by section 2 of part F of chapter 59 of the laws of
44 2006, is amended to read as follows:

45 3. The certificate of registration shall require that, before the
46 commencement of drilling of any well or wells, the water well driller
47 shall file a preliminary notice with the department; it shall also
48 provide that upon the completion of the drilling of any water well or
49 water wells, a completion report be filed with the department, giving
50 the log of the well, the size and depth thereof, the capacity of the
51 pump or pumps attached or to be attached thereto, the laboratory results
52 of the water sample tested in accordance with section eleven hundred
53 eleven of the public health law, and such other information pertaining
54 to the withdrawal of water and operation of such water well or water
55 wells as the department by its rules and regulations may require. The
56 water well driller shall provide a copy of such completion report to the

1 water well owner and the department of health and department of environ-
2 mental conservation. The number of the certificate of registration must
3 be displayed on the well drilling machinery of the registrant. The
4 certificate of registration shall also contain a notice to the certif-
5 icate holder that the business activities authorized by such certificate
6 are subject to the provisions of article thirty-six-A of the general
7 business law. The fee for such certificate of registration shall be ten
8 dollars annually. The commissioner shall promulgate a water well
9 completion report form which shall be utilized by all water well drill-
10 lers in satisfying the requirements of this section and any other
11 provision of state or local law which requires the submission of a water
12 well completion report or water well log.

13 § 5-a. Subdivision 1 of section 3-0315 of the environmental conserva-
14 tion law, as added by section 1 of part C of chapter 1 of the laws of
15 2003, is amended to read as follows:

16 1. The department shall create or modify an existing geographic infor-
17 mation system, and maintain such system for purposes including, but not
18 limited to, incorporating information from remedial programs under its
19 jurisdiction, and shall also incorporate information from the source
20 water assessment program collected by the department of health, informa-
21 tion collected pursuant to section eleven hundred eleven of the public
22 health law, data from annual water supply statements prepared pursuant
23 to section eleven hundred fifty-one of the public health law, informa-
24 tion from the database pursuant to title fourteen of article twenty-sev-
25 en of this chapter, and any other existing data regarding soil and
26 groundwater contamination currently gathered by the department, as well
27 as data on contamination that is readily available from the United
28 States geological survey and other sources determined appropriate by the
29 department.

30 § 6. This act shall take effect on the one hundred eightieth day after
31 it shall have become a law; provided, however, that effective immediate-
32 ly, the commissioner of health and commissioner of environmental conser-
33 vation shall be authorized to promulgate any and all rules and regu-
34 lations necessary to implement the provisions of this act on its
35 effective date.

36 PART O

37 Intentionally Omitted

38 PART P

39 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
40 amending chapter 59 of the laws of 2011 amending the public health law
41 and other laws relating to general hospital reimbursement for annual
42 rates relating to the cap on local Medicaid expenditures, as amended by
43 section 29 of part B of chapter 59 of the laws of 2016, is amended to
44 read as follows:

45 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
46 sioners of the office of alcoholism and substance abuse services and the
47 office of mental health are authorized, subject to the approval of the
48 director of the budget, to transfer to the commissioner of health state
49 funds to be utilized as the state share for the purpose of increasing
50 payments under the medicaid program to managed care organizations
51 licensed under article 44 of the public health law or under article 43
52 of the insurance law. Such managed care organizations shall utilize such

1 funds for the purpose of reimbursing providers licensed pursuant to
2 article 28 of the public health law or article 31 or 32 of the mental
3 hygiene law for ambulatory behavioral health services, as determined by
4 the commissioner of health, in consultation with the commissioner of
5 alcoholism and substance abuse services and the commissioner of the
6 office of mental health, provided to medicaid [eligible] enrolled outpa-
7 tients and for all other behavioral health services except inpatient
8 included in New York state's Medicaid redesign waiver approved by the
9 centers for Medicare and Medicaid services (CMS). Such reimbursement
10 shall be in the form of fees for such services which are equivalent to
11 the payments established for such services under the ambulatory patient
12 group (APG) rate-setting methodology as utilized by the department of
13 health, the office of alcoholism and substance abuse services, or the
14 office of mental health for rate-setting purposes or any such other fees
15 pursuant to the Medicaid state plan or otherwise approved by CMS in the
16 Medicaid redesign waiver; provided, however, that the increase to such
17 fees that shall result from the provisions of this section shall not, in
18 the aggregate and as determined by the commissioner of health, in
19 consultation with the commissioner of alcoholism and substance abuse
20 services and the commissioner of the office of mental health, be greater
21 than the increased funds made available pursuant to this section. The
22 increase of such ambulatory behavioral health fees to providers avail-
23 able under this section shall be for all rate periods on and after the
24 effective date of section [1] 29 of part [C] B of chapter [57] 59 of the
25 laws of [2015] 2016 through March 31, [2018] 2021 for patients in the
26 city of New York, for all rate periods on and after the effective date
27 of section [1] 29 of part [C] B of chapter [57] 59 of the laws of [2015]
28 2016 through [June 30, 2018] March 31, 2021 for patients outside the
29 city of New York, and for all rate periods on and after the effective
30 date of such chapter through [June 30, 2018] March 31, 2021 for all
31 services provided to persons under the age of twenty-one; provided,
32 however, [eligible providers may work with managed care plans to achieve
33 quality and efficiency objectives and engage in shared savings] the
34 commissioner of health, in consultation with the commissioner of alco-
35 holism and substance abuse services and the commissioner of mental
36 health, may require, as a condition of approval of such ambulatory
37 behavioral health fees, that aggregate managed care expenditures to
38 eligible providers meet the following value based payment metrics for
39 the following periods: (i) for the period from April 1, 2018 through
40 March 31, 2019, at least ten percent of such managed care expenditures
41 are paid through level one value based payment arrangements, pursuant to
42 the terms and conditions of the delivery system reform incentive payment
43 program waiver approved by the centers for Medicare and Medicaid
44 services (ii) for the period April 1, 2019 through March 31, 2020, at
45 least fifty percent of such managed care expenditures are paid through
46 level one value based payment arrangements and at least fifteen percent
47 are paid through level two value based payment arrangements, pursuant to
48 the terms and conditions of the delivery system reform incentive payment
49 program waiver approved by the centers for Medicare and Medicaid
50 services and (iii) for the period April 1, 2020 through March 31, 2021,
51 at least eighty percent of such managed care expenditures are paid
52 through level one value based payment arrangements and at least thirty-
53 five percent are paid through level two value based payment arrange-
54 ments, pursuant to the terms and conditions of the delivery system
55 reform incentive payment program waiver approved by the centers for
56 Medicare and Medicaid services. The commissioner of health shall, in



1 consultation with the commissioner of alcoholism and substance abuse
2 services and the commissioner of the office of mental health, waive such
3 conditions if a sufficient number of providers, as determined by the
4 commissioner, suffer a financial hardship as a consequence of such value
5 based payment arrangements, or if he or she shall determine that such
6 value based payment arrangements significantly threaten individuals'
7 access to ambulatory behavioral health services. Such waiver may be
8 applied on a provider specific or industry wide basis. Nothing in this
9 section shall prohibit managed care organizations and providers from
10 negotiating different rates and methods of payment during such periods
11 described above, subject to the approval of the department of health.
12 The department of health shall consult with the office of alcoholism and
13 substance abuse services and the office of mental health in determining
14 whether such alternative rates shall be approved. The commissioner of
15 health may, in consultation with the commissioner of alcoholism and
16 substance abuse services and the commissioner of the office of mental
17 health, promulgate regulations, including emergency regulations promul-
18 gated prior to October 1, 2015 to establish rates for ambulatory behav-
19 ioral health services, as are necessary to implement the provisions of
20 this section. Rates promulgated under this section shall be included in
21 the report required under section 45-c of part A of this chapter.

22 2. Notwithstanding any contrary provision of law, the fees paid by
23 managed care organizations licensed under article 44 of the public
24 health law or under article 43 of the insurance law, to providers
25 licensed pursuant to article 28 of the public health law or article 31
26 or 32 of the mental hygiene law, for ambulatory behavioral health
27 services provided to patients enrolled in the child health insurance
28 program pursuant to title one-A of article 25 of the public health law,
29 shall be in the form of fees for such services which are equivalent to
30 the payments established for such services under the ambulatory patient
31 group (APG) rate-setting methodology or any such other fees established
32 pursuant to the Medicaid state plan. The commissioner of health shall
33 consult with the commissioner of alcoholism and substance abuse services
34 and the commissioner of the office of mental health in determining such
35 services and establishing such fees. Such ambulatory behavioral health
36 fees to providers available under this section shall be for all rate
37 periods on and after the effective date of this chapter through [June
38 30, 2018] March 31, 2021, provided, however, that managed care organiza-
39 tions and providers may negotiate different rates and methods of payment
40 during such periods described above, subject to the approval of the
41 department of health. The department of health shall consult with the
42 office of alcoholism and substance abuse services and the office of
43 mental health in determining whether such alternative rates shall be
44 approved. The report required under section 16-a of part C of chapter
45 60 of the laws of 2014 shall also include the population of patients
46 enrolled in the child health insurance program pursuant to title one-A
47 of article 25 of the public health law in its examination on the transi-
48 tion of behavioral health services into managed care.

49 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
50 to increasing Medicaid payments to providers through managed care organ-
51 izations and providing equivalent fees through an ambulatory patient
52 group methodology, as amended by section 30 of part B of chapter 59 of
53 the laws of 2016, is amended to read as follows:

54 Section 1. a. Notwithstanding any contrary provision of law, the
55 commissioners of mental health and alcoholism and substance abuse
56 services are authorized, subject to the approval of the director of the

1 budget, to transfer to the commissioner of health state funds to be
2 utilized as the state share for the purpose of increasing payments under
3 the medicaid program to managed care organizations licensed under arti-
4 cle 44 of the public health law or under article 43 of the insurance
5 law. Such managed care organizations shall utilize such funds for the
6 purpose of reimbursing providers licensed pursuant to article 28 of the
7 public health law, or pursuant to article 31 or article 32 of the mental
8 hygiene law for ambulatory behavioral health services, as determined by
9 the commissioner of health in consultation with the commissioner of
10 mental health and commissioner of alcoholism and substance abuse
11 services, provided to medicaid [eligible] enrolled outpatients and for
12 all other behavioral health services except inpatient included in New
13 York state's Medicaid redesign waiver approved by the centers for Medi-
14 care and Medicaid services (CMS). Such reimbursement shall be in the
15 form of fees for such services which are equivalent to the payments
16 established for such services under the ambulatory patient group (APG)
17 rate-setting methodology as utilized by the department of health or by
18 the office of mental health or office of alcoholism and substance abuse
19 services for rate-setting purposes or any such other fees pursuant to
20 the Medicaid state plan or otherwise approved by CMS in the Medicaid
21 redesign waiver; provided, however, that the increase to such fees that
22 shall result from the provisions of this section shall not, in the
23 aggregate and as determined by the commissioner of health in consulta-
24 tion with the commissioners of mental health and alcoholism and
25 substance abuse services, be greater than the increased funds made
26 available pursuant to this section. The increase of such behavioral
27 health fees to providers available under this section shall be for all
28 rate periods on and after the effective date of section [2] 30 of part
29 [C] B of chapter [57] 59 of the laws of [2015] 2016 through March 31,
30 [2018] 2021 for patients in the city of New York, for all rate periods
31 on and after the effective date of section [2] 30 of part [C] B of chap-
32 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
33 2021 for patients outside the city of New York, and for all rate periods
34 on and after the effective date of section [2] 30 of part [C] B of chap-
35 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
36 2021 for all services provided to persons under the age of twenty-one;
37 provided, however, [eligible providers may work with managed care plans
38 to achieve quality and efficiency objectives and engage in shared
39 savings] the commissioner of health, in consultation with the commis-
40 sioner of alcoholism and substance abuse services and the commissioner
41 of mental health, may require, as a condition of approval of such ambu-
42 latory behavioral health fees, that aggregate managed care expenditures
43 to eligible providers meet the following value based payment metrics for
44 the following periods: (i) for the period from April 1, 2018 through
45 March 31, 2019, at least ten percent of such managed care expenditures
46 are paid through level one value based payment arrangements, pursuant to
47 the terms and conditions of the delivery system reform incentive payment
48 program waiver approved by the centers for Medicare and Medicaid
49 services (ii) for the period April 1, 2019 through March 31, 2020, at
50 least fifty percent of such managed care expenditures are paid through
51 level one value based payment arrangements and at least fifteen percent
52 are paid through level two value based payment arrangements, pursuant to
53 the terms and conditions of the delivery system reform incentive payment
54 program waiver approved by the centers for Medicare and Medicaid
55 services (iii) for the period April 1, 2020 through March 31, 2021, at
56 least eighty percent of such managed care expenditures are paid through



1 level one value based payment arrangements and at least thirty-five
2 percent are paid through level two value based payment arrangements,
3 pursuant to the terms and conditions of the delivery system reform
4 incentive payment program waiver approved by the centers for Medicare
5 and Medicaid services. The commissioner of health shall, in consultation
6 with the commissioner of alcoholism and substance abuse services and the
7 commissioner of the office of mental health, waive such conditions if a
8 sufficient number of providers, as determined by the commissioner,
9 suffer a financial hardship as a consequence of such value based payment
10 arrangements, or if he or she shall determine that such value based
11 payment arrangements significantly threaten individuals' access to ambu-
12 latory behavioral health services. Such waiver may be applied on a
13 provider specific or industry wide basis. Nothing in this section shall
14 prohibit managed care organizations and providers from negotiating
15 different rates and methods of payment during such periods described,
16 subject to the approval of the department of health. The department of
17 health shall consult with the office of alcoholism and substance abuse
18 services and the office of mental health in determining whether such
19 alternative rates shall be approved. The commissioner of health may, in
20 consultation with the commissioners of mental health and alcoholism and
21 substance abuse services, promulgate regulations, including emergency
22 regulations promulgated prior to October 1, 2013 that establish rates
23 for behavioral health services, as are necessary to implement the
24 provisions of this section. Rates promulgated under this section shall
25 be included in the report required under section 45-c of part A of chap-
26 ter 56 of the laws of 2013.

27 b. Notwithstanding any contrary provision of law, the fees paid by
28 managed care organizations licensed under article 44 of the public
29 health law or under article 43 of the insurance law, to providers
30 licensed pursuant to article 28 of the public health law or article 31
31 or 32 of the mental hygiene law, for ambulatory behavioral health
32 services provided to patients enrolled in the child health insurance
33 program pursuant to title one-A of article 25 of the public health law,
34 shall be in the form of fees for such services which are equivalent to
35 the payments established for such services under the ambulatory patient
36 group (APG) rate-setting methodology. The commissioner of health shall
37 consult with the commissioner of alcoholism and substance abuse services
38 and the commissioner of the office of mental health in determining such
39 services and establishing such fees. Such ambulatory behavioral health
40 fees to providers available under this section shall be for all rate
41 periods on and after the effective date of this chapter through [June
42 30, 2018] March 31, 2021, provided, however, that managed care organiza-
43 tions and providers may negotiate different rates and methods of payment
44 during such periods described above, subject to the approval of the
45 department of health. The department of health shall consult with the
46 office of alcoholism and substance abuse services and the office of
47 mental health in determining whether such alternative rates shall be
48 approved. The report required under section 16-a of part C of chapter
49 60 of the laws of 2014 shall also include the population of patients
50 enrolled in the child health insurance program pursuant to title one-A
51 of article 25 of the public health law in its examination on the transi-
52 tion of behavioral health services into managed care.

53 § 3. This act shall take effect immediately and shall be deemed to
54 have been in full force and effect on and after April 1, 2017; provided,
55 however, that the amendments to section 48-a of part A of chapter 56 of
56 the laws of 2013 made by section one of this act shall not affect the

1 repeal of such section and shall be deemed repealed therewith; provided
2 further, that the amendments to section 1 of part H of chapter 111 of
3 the laws of 2010 made by section two of this act shall not affect the
4 expiration of such section and shall be deemed to expire therewith.

5

PART Q

6

Intentionally Omitted

7

PART R

8 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
9 of the laws of 1986, amending the civil practice law and rules and other
10 laws relating to malpractice and professional medical conduct, as
11 amended by section 2 of part C of chapter 59 of the laws of 2016, is
12 amended to read as follows:

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

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

52 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
53 amending the civil practice law and rules and other laws relating to
54 malpractice and professional medical conduct, as amended by section 3 of
55 part C of chapter 59 of the laws of 2016, is amended to read as follows:

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

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

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

28 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
29 18 of chapter 266 of the laws of 1986, amending the civil practice law
30 and rules and other laws relating to malpractice and professional
31 medical conduct, as amended by section 4 of part C of chapter 59 of the
32 laws of 2016, are amended to read as follows:

33 (a) To the extent funds available to the hospital excess liability
34 pool pursuant to subdivision 5 of this section as amended, and pursuant
35 to section 6 of part J of chapter 63 of the laws of 2001, as may from
36 time to time be amended, which amended this subdivision, are insuffi-
37 cient to meet the costs of excess insurance coverage or equivalent
38 excess coverage for coverage periods during the period July 1, 1992 to
39 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
40 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
41 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
42 during the period July 1, 1997 to June 30, 1998, during the period July
43 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
44 2000, during the period July 1, 2000 to June 30, 2001, during the period
45 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
46 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
47 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
48 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
49 during the period July 1, 2006 to June 30, 2007, during the period July
50 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
51 2009, during the period July 1, 2009 to June 30, 2010, during the period
52 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
53 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
54 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
55 June 30, 2015, during the period July 1, 2015 and June 30, 2016, [and
56 between] during the period July 1, 2016 and June 30, 2017, and during



1 the period July 1, 2017 and June 30, 2018 allocated or reallocated in
2 accordance with paragraph (a) of subdivision 4-a of this section to
3 rates of payment applicable to state governmental agencies, each physi-
4 cian or dentist for whom a policy for excess insurance coverage or
5 equivalent excess coverage is purchased for such period shall be respon-
6 sible for payment to the provider of excess insurance coverage or equiv-
7 alent excess coverage of an allocable share of such insufficiency, based
8 on the ratio of the total cost of such coverage for such physician to
9 the sum of the total cost of such coverage for all physicians applied to
10 such insufficiency.

11 (b) Each provider of excess insurance coverage or equivalent excess
12 coverage covering the period July 1, 1992 to June 30, 1993, or covering
13 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
14 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
15 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
16 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
17 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
18 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
19 the period July 1, 2001 to October 29, 2001, or covering the period
20 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
21 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
22 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
23 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
24 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
25 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
26 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
27 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
28 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
29 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
30 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
31 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
32 od July 1, 2017 to June 30, 2018 shall notify a covered physician or
33 dentist by mail, mailed to the address shown on the last application for
34 excess insurance coverage or equivalent excess coverage, of the amount
35 due to such provider from such physician or dentist for such coverage
36 period determined in accordance with paragraph (a) of this subdivision.
37 Such amount shall be due from such physician or dentist to such provider
38 of excess insurance coverage or equivalent excess coverage in a time and
39 manner determined by the superintendent of financial services.

40 (c) If a physician or dentist liable for payment of a portion of the
41 costs of excess insurance coverage or equivalent excess coverage cover-
42 ing the period July 1, 1992 to June 30, 1993, or covering the period
43 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
44 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
45 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
46 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
47 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
48 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
49 od July 1, 2001 to October 29, 2001, or covering the period April 1,
50 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
51 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
52 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
53 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
54 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
55 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
56 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,

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

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

45 (e) A provider of excess insurance coverage or equivalent excess
46 coverage shall refund to the hospital excess liability pool any amount
47 allocable to the period July 1, 1992 to June 30, 1993, and to the period
48 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
49 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
50 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
51 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
52 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
53 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
54 and to the period April 1, 2002 to June 30, 2002, and to the period July
55 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
56 2004, and to the period July 1, 2004 to June 30, 2005, and to the period

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

35 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
36 practice law and rules and other laws relating to malpractice and
37 professional medical conduct, as amended by section 5 of part C of chap-
38 ter 59 of the laws of 2016, is amended to read as follows:

39 § 40. The superintendent of financial services shall establish rates
40 for policies providing coverage for physicians and surgeons medical
41 malpractice for the periods commencing July 1, 1985 and ending June 30,
42 [2017] 2018; provided, however, that notwithstanding any other provision
43 of law, the superintendent shall not establish or approve any increase
44 in rates for the period commencing July 1, 2009 and ending June 30,
45 2010. The superintendent shall direct insurers to establish segregated
46 accounts for premiums, payments, reserves and investment income attrib-
47 utable to such premium periods and shall require periodic reports by the
48 insurers regarding claims and expenses attributable to such periods to
49 monitor whether such accounts will be sufficient to meet incurred claims
50 and expenses. On or after July 1, 1989, the superintendent shall impose
51 a surcharge on premiums to satisfy a projected deficiency that is
52 attributable to the premium levels established pursuant to this section
53 for such periods; provided, however, that such annual surcharge shall
54 not exceed eight percent of the established rate until July 1, [2017]
55 2018, at which time and thereafter such surcharge shall not exceed twen-
56 ty-five percent of the approved adequate rate, and that such annual

1 surcharges shall continue for such period of time as shall be sufficient
2 to satisfy such deficiency. The superintendent shall not impose such
3 surcharge during the period commencing July 1, 2009 and ending June 30,
4 2010. On and after July 1, 1989, the surcharge prescribed by this
5 section shall be retained by insurers to the extent that they insured
6 physicians and surgeons during the July 1, 1985 through June 30, [2017]
7 2018 policy periods; in the event and to the extent physicians and
8 surgeons were insured by another insurer during such periods, all or a
9 pro rata share of the surcharge, as the case may be, shall be remitted
10 to such other insurer in accordance with rules and regulations to be
11 promulgated by the superintendent. Surcharges collected from physicians
12 and surgeons who were not insured during such policy periods shall be
13 apportioned among all insurers in proportion to the premium written by
14 each insurer during such policy periods; if a physician or surgeon was
15 insured by an insurer subject to rates established by the superintendent
16 during such policy periods, and at any time thereafter a hospital,
17 health maintenance organization, employer or institution is responsible
18 for responding in damages for liability arising out of such physician's
19 or surgeon's practice of medicine, such responsible entity shall also
20 remit to such prior insurer the equivalent amount that would then be
21 collected as a surcharge if the physician or surgeon had continued to
22 remain insured by such prior insurer. In the event any insurer that
23 provided coverage during such policy periods is in liquidation, the
24 property/casualty insurance security fund shall receive the portion of
25 surcharges to which the insurer in liquidation would have been entitled.
26 The surcharges authorized herein shall be deemed to be income earned for
27 the purposes of section 2303 of the insurance law. The superintendent,
28 in establishing adequate rates and in determining any projected defi-
29 ciency pursuant to the requirements of this section and the insurance
30 law, shall give substantial weight, determined in his discretion and
31 judgment, to the prospective anticipated effect of any regulations
32 promulgated and laws enacted and the public benefit of stabilizing
33 malpractice rates and minimizing rate level fluctuation during the peri-
34 od of time necessary for the development of more reliable statistical
35 experience as to the efficacy of such laws and regulations affecting
36 medical, dental or podiatric malpractice enacted or promulgated in 1985,
37 1986, by this act and at any other time. Notwithstanding any provision
38 of the insurance law, rates already established and to be established by
39 the superintendent pursuant to this section are deemed adequate if such
40 rates would be adequate when taken together with the maximum authorized
41 annual surcharges to be imposed for a reasonable period of time whether
42 or not any such annual surcharge has been actually imposed as of the
43 establishment of such rates.

44 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
45 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
46 1986, amending the civil practice law and rules and other laws relating
47 to malpractice and professional medical conduct, as amended by section 6
48 of part C of chapter 59 of the laws of 2016, are amended to read as
49 follows:

50 § 5. The superintendent of financial services and the commissioner of
51 health shall determine, no later than June 15, 2002, June 15, 2003, June
52 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
53 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
54 2013, June 15, 2014, June 15, 2015, June 15, 2016, [and] June 15, 2017,
55 and June 15, 2018 the amount of funds available in the hospital excess
56 liability pool, created pursuant to section 18 of chapter 266 of the

1 laws of 1986, and whether such funds are sufficient for purposes of
2 purchasing excess insurance coverage for eligible participating physi-
3 cians and dentists during the period July 1, 2001 to June 30, 2002, or
4 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July
5 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,
6 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008
7 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to
8 June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June
9 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
10 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,
11 2017, or to July 1, 2017 to June 30, 2018 as applicable.

12 (a) This section shall be effective only upon a determination, pursu-
13 ant to section five of this act, by the superintendent of financial
14 services and the commissioner of health, and a certification of such
15 determination to the state director of the budget, the chair of the
16 senate committee on finance and the chair of the assembly committee on
17 ways and means, that the amount of funds in the hospital excess liabil-
18 ity pool, created pursuant to section 18 of chapter 266 of the laws of
19 1986, is insufficient for purposes of purchasing excess insurance cover-
20 age for eligible participating physicians and dentists during the period
21 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
22 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
23 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
24 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
25 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
26 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
27 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
28 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018
29 as applicable.

30 (e) The commissioner of health shall transfer for deposit to the
31 hospital excess liability pool created pursuant to section 18 of chapter
32 266 of the laws of 1986 such amounts as directed by the superintendent
33 of financial services for the purchase of excess liability insurance
34 coverage for eligible participating physicians and dentists for the
35 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
36 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
37 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
38 2007, as applicable, and the cost of administering the hospital excess
39 liability pool for such applicable policy year, pursuant to the program
40 established in chapter 266 of the laws of 1986, as amended, no later
41 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
42 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
43 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
44 2015, June 15, 2016, [and] June 15, 2017, and June 15, 2018 as applica-
45 ble.

46 § 6. Notwithstanding any law, rule or regulation to the contrary, only
47 physicians or dentists who were eligible, and for whom the superinten-
48 dent of financial services and the commissioner of health, or their
49 designee, purchased, with funds available in the hospital excess liabil-
50 ity pool, a full or partial policy for excess coverage or equivalent
51 excess coverage for the coverage period ending the thirtieth of June,
52 two thousand seventeen, shall be eligible to apply for such coverage for
53 the coverage period beginning the first of July, two thousand seventeen;
54 provided, however, if the total number of physicians or dentists for
55 whom such excess coverage or equivalent excess coverage was purchased
56 for the policy year ending the thirtieth of June, two thousand seventeen

1 exceeds the total number of physicians or dentists certified as eligible
2 for the coverage period beginning the first of July, two thousand seven-
3 teen, then the general hospitals may certify additional eligible physi-
4 cians or dentists in a number equal to such general hospital's propor-
5 tional share of the total number of physicians or dentists for whom
6 excess coverage or equivalent excess coverage was purchased with funds
7 available in the hospital excess liability pool as of the thirtieth of
8 June, two thousand seventeen, as applied to the difference between the
9 number of eligible physicians or dentists for whom a policy for excess
10 coverage or equivalent excess coverage was purchased for the coverage
11 period ending the thirtieth of June, two thousand seventeen and the
12 number of such eligible physicians or dentists who have applied for
13 excess coverage or equivalent excess coverage for the coverage period
14 beginning the first of July, two thousand seventeen.

15 § 7. Intentionally omitted.

16 § 8. This act shall take effect immediately.

17

PART S

18 Section 1. On or before October 1, 2017, the commissioner of the
19 office for people with developmental disabilities shall issue a report
20 to the temporary president of the senate and the speaker of the assembly
21 to include the following:

22 (a) progress the office has made in meeting the housing needs of indi-
23 viduals with developmental disabilities, including through:

24 (1) its ongoing review of the residential registration list, including
25 information regarding services currently provided to individuals on the
26 list and any available information on residential support categories and
27 housing needs for such individuals;

28 (2) recommendations and information provided by the regional stake-
29 holder advisory groups;

30 (3) increasing access to rental housing, supportive housing, and other
31 independent living options;

32 (4) building understanding and awareness of housing options for inde-
33 pendent living among people with developmental disabilities, families,
34 public and private organizations, developers and direct support profes-
35 sionals; and

36 (5) assisting with the creation of a sustainable living environment
37 through funding for home modifications, down payment assistance and home
38 repairs; and

39 (b) an update on the implementation of the report and recommendations
40 of the transformation panel, including implementation of the panel's
41 recommendations to:

42 (1) increase and support access to self-directed models of care;

43 (2) enhance opportunities for individuals to access community inte-
44 grated housing;

45 (3) increase integrated employment opportunities; and

46 (4) examine the program design and fiscal model for managed care to
47 appropriately address the needs of individuals with developmental disa-
48 bilities.

49 § 2. This act shall take effect immediately; provided, however, that
50 this at shall be subject to appropriations made specifically available
51 for this purpose and shall expire and be deemed repealed April 1, 2018.

52

PART T

1 Section 1. The opening paragraph of section 220.03 of the penal law,
2 as amended by section 4 of part I of chapter 57 of the laws of 2015, is
3 amended to read as follows:

4 A person is guilty of criminal possession of a controlled substance in
5 the seventh degree when he or she knowingly and unlawfully possesses a
6 controlled substance; provided, however, that it shall not be a
7 violation of this section when a person possesses a residual amount of a
8 controlled substance and that residual amount is in or on a hypodermic
9 syringe or hypodermic needle [obtained and possessed pursuant to section
10 thirty-three hundred eighty-one of the public health law, which includes
11 the state's syringe exchange and pharmacy and medical provider-based
12 expanded syringe access programs]; nor shall it be a violation of this
13 section when a person's unlawful possession of a controlled substance is
14 discovered as a result of seeking immediate health care as defined in
15 paragraph (b) of subdivision three of section 220.78 of [the penal law]
16 this article, for either another person or him or herself because such
17 person is experiencing a drug or alcohol overdose or other life threat-
18 ening medical emergency as defined in paragraph (a) of subdivision three
19 of section 220.78 of [the penal law] this article.

20 § 2. Section 220.45 of the penal law is REPEALED.

21 § 3. Subdivision 2 of section 850 of the general business law, as
22 amended by chapter 812 of the laws of 1980, is amended to read as
23 follows:

24 2. (a) "Drug-related paraphernalia" consists of the following objects
25 used for the following purposes:

26 [(a)] (i) Kits, used or designed for the purpose of planting, propa-
27 gating, cultivating, growing or harvesting of any species of plant which
28 is a controlled substance or from which a controlled substance can be
29 derived;

30 [(b)] (ii) Kits, used or designed for the purpose of manufacturing,
31 compounding, converting, producing, or preparing controlled substances;

32 [(c)] (iii) Isomerization devices, used or designed for the purpose of
33 increasing the potency of any species of plant which is a controlled
34 substance;

35 [(d)] (iv) Scales and balances, used or designed for the purpose of
36 weighing or measuring controlled substances;

37 [(e)] (v) Diluents and adulterants, including but not limited to
38 quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or
39 designed for the purpose of cutting controlled substances;

40 [(f)] (vi) Separation gins, used or designed for the purpose of remov-
41 ing twigs and seeds in order to clean or refine marihuana;

42 [(g)] Hypodermic syringes, needles and other objects, used or designed
43 for the purpose of parenterally injecting controlled substances into the
44 human body;

45 (h) and

46 (vii) Objects, used or designed for the purpose of ingesting, inhal-
47 ing, or otherwise introducing marihuana, cocaine, hashish, or hashish
48 oil into the human body.

49 (b) "Drug-related paraphernalia" shall not include hypodermic needles,
50 hypodermic syringes and other objects used for the purpose of parenter-
51 ally injecting controlled substances into the human body.

52 § 4. Section 3381 of the public health law, as amended by section 9-a
53 of part B of chapter 58 of the laws of 2007, subdivisions 1, 2 and 3 as
54 amended by chapter 178 of the laws of 2010, paragraphs (e), (f) and (g)
55 of subdivision 5 as amended by section 2 of part D of chapter 71 of the
56 laws of 2016, is amended to read as follows:

1 § 3381. Sale and possession of hypodermic syringes and hypodermic
2 needles. 1. It shall be unlawful for any person to sell or furnish to
3 another person or persons, a hypodermic syringe or hypodermic needle
4 except:

5 (a) pursuant to a prescription of a practitioner, which for the
6 purposes of this section shall include a patient specific prescription
7 form as provided for in the education law; or

8 (b) to persons who have been authorized by the commissioner to obtain
9 and possess such instruments; or

10 (c) by a pharmacy licensed under article one hundred thirty-seven of
11 the education law, health care facility licensed under article twenty-
12 eight of this chapter or a health care practitioner who is otherwise
13 authorized to prescribe the use of hypodermic needles or syringes within
14 his or her scope of practice; provided, however, that such sale or
15 furnishing: (i) shall only be to a person eighteen years of age or
16 older; and (ii) [shall be limited to a quantity of ten or less hypoderm-
17 ic needles or syringes; and (iii)] shall be in accordance with subdivi-
18 sion [five] four of this section[.] ; or

19 (d) under subdivision three of this section.

20 2. [It shall be unlawful for any person to obtain or possess a hypo-
21 dermic syringe or hypodermic needle unless such possession has been
22 authorized by the commissioner or is pursuant to a prescription, or is
23 pursuant to subdivision five of this section.

24 3.] Any person selling or furnishing a hypodermic syringe or hypoderm-
25 ic needle pursuant to a prescription shall record upon the prescription,
26 his or her signature or electronic signature, and the date of the sale
27 or furnishing of the hypodermic syringe or hypodermic needle. Such
28 prescription shall be retained on file for a period of five years and be
29 readily accessible for inspection by any public officer or employee
30 engaged in the enforcement of this section. Such prescription may be
31 refilled not more than the number of times specifically authorized by
32 the prescriber upon the prescription, provided however no such authori-
33 zation shall be effective for a period greater than two years from the
34 date the prescription is signed.

35 [4] 3. The commissioner shall, subject to subdivision [five] four of
36 this section, designate persons, or by regulation, classes of persons
37 who may obtain hypodermic syringes and hypodermic needles without
38 prescription and the manner in which such transactions may take place
39 and the records thereof which shall be maintained.

40 [5] 4. (a) A person eighteen years of age or older may obtain and
41 possess a hypodermic syringe or hypodermic needle pursuant to paragraph
42 (c) of subdivision one of this section.

43 (b) Subject to regulations of the commissioner, a pharmacy licensed
44 under article one hundred thirty-seven of the education law, a health
45 care facility licensed under article twenty-eight of this chapter or a
46 health care practitioner who is otherwise authorized to prescribe the
47 use of hypodermic needles or syringes within his or her scope of prac-
48 tice, may obtain and possess hypodermic needles or syringes for the
49 purpose of selling or furnishing them pursuant to paragraph (c) of
50 subdivision one of this section or for the purpose of disposing of
51 them[, provided that such pharmacy, health care facility or health care
52 practitioner has registered with the department].

53 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to
54 direct consumers pursuant to this subdivision by a pharmacy, health care
55 facility, or health care practitioner shall be accompanied by a safety
56 insert. Such safety insert shall be developed or approved by the commis-

1 sioner and shall include, but not be limited to, (i) information on the
2 proper use of hypodermic syringes and hypodermic needles; (ii) the risk
3 of blood borne diseases that may result from the use of hypodermic
4 syringes and hypodermic needles; (iii) methods for preventing the trans-
5 mission or contraction of blood borne diseases; (iv) proper hypodermic
6 syringe and hypodermic needle disposal practices; (v) information on the
7 dangers of injection drug use, and how to access drug treatment; (vi) a
8 toll-free phone number for information on the human immunodeficiency
9 virus; and (vii) information on the safe disposal of hypodermic syringes
10 and hypodermic needles including the relevant provisions of the environ-
11 mental conservation law relating to the unlawful release of regulated
12 medical waste. The safety insert shall be attached to or included in the
13 hypodermic syringe and hypodermic needle packaging, or shall be given to
14 the purchaser at the point of sale or furnishing in brochure form.

15 (d) In addition to the requirements of paragraph (c) of subdivision
16 one of this section, a pharmacy licensed under article one hundred thir-
17 ty-seven of the education law may sell or furnish hypodermic needles or
18 syringes only if such pharmacy[: (i) does not advertise to the public
19 the availability for retail sale or furnishing of hypodermic needles or
20 syringes without a prescription; and (ii) at any location where hypo-
21 dermic needles or syringes are kept for retail sale or furnishing,]
22 stores such needles and syringes in a manner that makes them available
23 only to authorized personnel and not openly available to customers.

24 (e) A pharmacy registered under article one hundred thirty-seven of
25 the education law may offer counseling and referral services to custom-
26 ers purchasing hypodermic syringes for the purpose of: preventing
27 injection drug abuse; the provision of drug treatment; preventing and
28 treating hepatitis C; preventing drug overdose; testing for the human
29 immunodeficiency virus; and providing pre-exposure prophylaxis and non-
30 occupational post-exposure prophylaxis. The content of such counseling
31 and referral shall be at the professional discretion of the pharmacist.

32 (f) The commissioner shall promulgate rules and regulations necessary
33 to implement the provisions of this subdivision which shall include: (i)
34 standards for advertising to the public the availability for retail sale
35 or furnishing of hypodermic syringes or needles; and (ii) a requirement
36 that such pharmacies, health care facilities and health care practition-
37 ers cooperate in a safe disposal of used hypodermic needles or syringes.

38 (g) The commissioner may, upon the finding of a violation of this
39 section, suspend for a determinate period of time the sale or furnishing
40 of syringes by a specific entity.

41 [6] 5. The provisions of this section shall not apply to farmers
42 engaged in livestock production or to those persons supplying farmers
43 engaged in livestock production, provided that:

44 (a) Hypodermic syringes and needles shall be stored in a secure,
45 locked storage container.

46 (b) At any time the department may request a document outlining:

47 (i) the number of hypodermic needles and syringes purchased over the
48 past calendar year;

49 (ii) a record of all hypodermic needles used over the past calendar
50 year; and

51 (iii) a record of all hypodermic needles and syringes destroyed over
52 the past calendar year.

53 (c) Hypodermic needles and syringes shall be destroyed in a manner
54 consistent with the provisions set forth in section thirty-three hundred
55 eighty-one-a of this article.

56 § 5. This act shall take effect immediately.

1

PART U

2 Section 1. Notwithstanding any other inconsistent provision of law,
3 the Western New York Children's Psychiatric Center shall be maintained
4 as a distinct entity, both organizationally and physically, within the
5 office of mental health, and such facility shall not be collocated or
6 merged with any adult facility. Such facility shall have no less than
7 forty-six beds that only serve children or adolescents, and the office
8 of mental health shall not take any steps to limit clinically appropri-
9 ate admissions or transfers to such facility.

10 § 2. This act shall take effect immediately.

11

PART V

12 Section 1. Subdivision 1 of section 364-j of the social services law
13 is amended by adding two new paragraphs (w) and (w-1) to read as
14 follows:

15 (w) "School-based health center." A clinic licensed under article
16 twenty-eight of the public health law or sponsored by a facility
17 licensed under article twenty-eight of the public health law, which
18 provides primary and preventative care which may include but is not
19 limited to health maintenance, well-child care, diagnosis and treatment
20 of injury and acute illness, diagnosis and management of chronic
21 disease, behavioral health services directly or by referral, vision
22 care, dental care, and nutritional or other enhanced services to chil-
23 dren and adolescents, within an elementary, secondary or prekindergarten
24 public school setting.

25 (w-1) "Sponsoring organization." A facility licensed under article
26 twenty-eight of the public health law which acts as the sponsor for a
27 school-based health center.

28 § 2. Subdivision 3 of section 364-j of the social services law is
29 amended by adding a new paragraph (d-3) to read as follows:

30 (d-3) Services provided by school-based health centers shall not be
31 provided to medical assistance recipients through managed care programs
32 established pursuant to this section, and shall continue to be provided
33 outside of managed care programs in accordance with applicable
34 reimbursement methodologies. Applicable reimbursement methodologies
35 shall mean:

36 (i) for school-based health centers sponsored by a federally qualified
37 health center, rates of reimbursement and requirements in accordance
38 with those mandated by 42 U.S.C. Secs. 1396a(bb), 1396b(m)(2)(A)(ix) and
39 1396a(a)(13)(C); and

40 (ii) for school-based health centers sponsored by an entity licensed
41 pursuant to article twenty-eight of the public health law that is not a
42 federally qualified health center, rates of reimbursement at the fee for
43 service rate for such services in effect prior to the enactment of this
44 paragraph for the ambulatory patient group rate for the applicable
45 service.

46 § 3. This act shall take effect immediately provided, however, that
47 the amendments to subdivisions 1 and 3 of section 364-j of the social
48 services law made by sections one and two of this act shall not affect
49 the repeal of such section and shall be deemed repealed therewith.

50

PART W



1 Section 1. Section 365-f of the social services law is amended by
2 adding two new subdivisions 4-a and 4-b to read as follows:

3 4-a. Fiscal intermediary services. (a) For the purposes of this
4 section:

5 (i) "Fiscal intermediary" means an entity that provides fiscal inter-
6 mediary services and has a contract for providing such services with:

7 (A) a local department of social services;

8 (B) an organization licensed under article forty-four of the public
9 health law; or

10 (C) an accountable care organization certified under article twenty-
11 nine-E of the public health law or an integrated delivery system
12 composed primarily of health care providers recognized by the department
13 as a performing provider system under the delivery system reform incen-
14 tive payment program.

15 (ii) Fiscal intermediary services shall include the following
16 services, performed on behalf of the consumer to facilitate his or her
17 role as the employer:

18 (A) wage and benefit processing for consumer directed personal assist-
19 ants;

20 (B) processing all income tax and other required wage withholdings;

21 (C) complying with workers' compensation, disability and unemployment
22 requirements;

23 (D) maintaining personnel records for each consumer directed personal
24 assistant, including time sheets and other documentation needed for
25 wages and benefit processing and a copy of the medical documentation
26 required pursuant to regulations established by the commissioner;

27 (E) ensuring that the health status of each consumer directed personal
28 assistant is assessed prior to service delivery pursuant to regulations
29 issued by the commissioner;

30 (F) maintaining records of authorizations or reauthorizations of
31 services;

32 (G) monitoring the consumer's or, if applicable, the designated repre-
33 sentative's continuing ability to fulfill the consumer's responsibil-
34 ities under the program and promptly notifying the authorizing entity of
35 any circumstance that may affect the consumer's or, if applicable, the
36 designated representative's ability to fulfill such responsibilities;

37 (H) complying with regulations established by the commissioner speci-
38 fying the responsibilities of providers providing services under this
39 title; and

40 (I) entering into a department approved memorandum of understanding
41 with the consumer that describes the parties' responsibilities under
42 this program.

43 (iii) Fiscal intermediaries are not responsible for, and fiscal inter-
44 mediary services shall not include, fulfillment of the responsibilities
45 of the consumer or, if applicable, the consumer's designated represen-
46 tative as established by the commissioner. A fiscal intermediary's
47 responsibilities shall not include, and a fiscal intermediary shall not
48 engage in: managing the plan of care including recruiting and hiring a
49 sufficient number of individuals who meet the definition of consumer
50 directed personal assistant, as such term is defined by the commission-
51 er, to provide authorized services that are included on the consumer's
52 plan of care; training, supervising and scheduling each consumer
53 directed personal assistant; terminating the consumer directed personal
54 assistant's employment; or assuring that each consumer directed personal
55 assistant competently and safely performs the personal care services,
56 home health aide services and skilled nursing tasks that are included on

1 the consumer's plan of care. A fiscal intermediary shall exercise
2 reasonable care in properly carrying out its responsibilities under the
3 program.

4 (b) No entity shall provide, directly or through contract, fiscal
5 intermediary services without a certification as a fiscal intermediary
6 issued by the commissioner in accordance with this subdivision.

7 (c) An application for certification as a fiscal intermediary shall be
8 filed with the commissioner, together with such other forms and informa-
9 tion as shall be prescribed by, or acceptable to the commissioner. Such
10 information shall include, but not be limited to:

11 (i) the name, employer identification number, and Medicaid provider
12 identification number of the organization, including any subsidiary
13 corporations, if applicable, and any name under which the entity does
14 business;

15 (ii) all addresses at which the organization operates;

16 (iii) the names, titles and contact information of all officers and
17 directors in a not-for-profit company or business, or managers in a
18 limited liability company, as well as the name and employment history of
19 the individual ultimately accountable for operation of the fiscal inter-
20 mediary; and for a not-for-profit entity, the number of director posi-
21 tions set by the company's by-laws, and how many are currently filled;

22 (iv) a history of the organization, along with an overview of the
23 organization and all services it offers, including any relationships
24 with outside agencies that may influence in any way the ability of the
25 organization to provide fiscal intermediary services consistent with the
26 manner described in its application;

27 (v) all policies and procedures of the fiscal intermediary, including
28 any contracts or other documents used in communications with consumers;

29 (vi) plans to solicit and consider input from the fiscal interme-
30 diary's consumers, staff, personal assistants and other interested
31 parties which may be charged with roles including, but not limited to,
32 quality assurance review, referral, program monitoring or development or
33 establishing and responding to community needs; such input may be in the
34 form of a board of directors, committee, survey, or other mechanism,
35 provided that the majority of input obtained as part of this process
36 must be from individual consumers and consumer advocates of the fiscal
37 intermediary;

38 (vii) the organization's plan to address the needs of consumers and
39 their personal assistants in a timely manner, regardless of where they
40 live, including, but not limited to, input from consumers, obtaining
41 physicals and other health information from personal assistants, obtain-
42 ing time records for payroll, and timely processing of payroll; and

43 (viii) a written sworn statement by an officer of the entity disclos-
44 ing any pending litigation, unsatisfied judgments or penalties,
45 convictions for fraud or sanctions imposed by government authorities.

46 (d) The entity shall reasonably promptly notify the department of any
47 change in the information submitted to the department for certification
48 under this subdivision.

49 (e) The commissioner shall not approve an application for certif-
50 ication unless he or she is satisfied as to the character, competence
51 and standing in the community of the applicant's incorporators, direc-
52 tors, sponsors, stockholders or operators and finds that the personnel,
53 rules, consumer contracts or agreements, and fiscal intermediary
54 services are fit and adequate, and that the fiscal intermediary services
55 will be provided in the manner required by this subdivision and the

1 rules and regulations hereunder, in a manner determined by the commis-
2 sioner.

3 (f) The commissioner may contract with an entity with appropriate
4 knowledge, expertise and experience possessing extensive knowledge of
5 consumer directed personal assistance fiscal intermediary services and
6 which has a history of providing similar services in relation to a self-
7 directed program to develop and to assist the commissioner in evaluating
8 applicants for certifications or readiness reviews to be a fiscal inter-
9 mediary.

10 (g) Neither public need, tax status nor profit-making status shall be
11 a criterion for certification under this subdivision. Status as a
12 licensed home care services agency or other health provider shall not
13 positively or negatively affect an application for certification under
14 this subdivision. An organization authorized pursuant to article
15 forty-four of the public health law shall not be a fiscal intermediary.

16 (h) A certification under this subdivision shall last for a period of
17 five years. Upon application for a renewal, the fiscal intermediary
18 shall submit up to date information to the commissioner.

19 (i) The commissioner shall charge applicants for the certification an
20 application fee of one thousand dollars.

21 4-b. Proceedings involving the certification of a fiscal intermediary.

22 (a) A certification of a fiscal intermediary may be revoked, suspended,
23 limited or annulled by the commissioner on proof that it has failed to
24 comply with the provisions of this subdivision or regulations promulgat-
25 ed hereunder.

26 (b) No such certification shall be revoked, suspended, limited,
27 annulled or denied without a hearing. However, a certification may be
28 temporarily suspended or limited without a hearing for a period not in
29 excess of thirty days upon written notice to the fiscal intermediary
30 following a finding by the department that the public health or safety
31 is in imminent danger. Such period may be renewed upon written notice
32 and a continued finding under this paragraph.

33 (c) The commissioner shall fix a time and place for the hearing. A
34 copy of the charges, together with the notice of the time and place of
35 the hearing, shall be served in person or mailed by registered or certi-
36 fied mail to the fiscal intermediary at least twenty-one days before the
37 date fixed for the hearing. The fiscal intermediary shall file with the
38 department not less than eight days prior to the hearing, a written
39 answer to the charges.

40 (d) All orders or determinations under this subdivision shall be
41 subject to review as provided in article seventy-eight of the civil
42 practice law and rules.

43 § 2. Section 365-a of the social services law is amended by adding a
44 new subdivision 10 to read as follows:

45 10. For any determination of the amount, nature and manner of provid-
46 ing long term care assistance under this article for which an assessment
47 tool is used, the department, in consultation with the independent actu-
48 ary, representatives of medical assistance recipients, representatives
49 of the managed care programs, representatives of long term care provid-
50 ers and other interested parties, shall evaluate existing assessment
51 tools and develop additional professionally and statistically valid
52 assessment tools to be used to assist in determining the amount, nature
53 and manner of services and care needs of individuals which shall involve
54 consideration of variables including but not limited to physical and
55 behavioral functioning; activities of daily living and instrumental
56 activities of daily living; family, social or geographic determinants of

1 health; primary or secondary diagnoses of cognitive impairment or mental
2 illness; and other appropriate conditions or factors.

3 § 3. Paragraphs (c) of subdivision 18 of section 364-j of the social
4 services law, as added by sections 40-c and 55 of part B of chapter 57
5 of the laws of 2015, are amended to read as follows:

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

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

21 (iii) In fulfilling the requirements of this paragraph, the department
22 shall establish separate rate cells to reflect the costs of care for
23 specific high-need enrollees in managed care providers. The commissioner
24 shall make any necessary amendments to the state plan for medical
25 assistance under section three hundred sixty-three-a of this title, and
26 submit any applications for waivers of the federal social security act,
27 as may be necessary to ensure federal financial participation. As used
28 in this subparagraph and subparagraph (iv) of this paragraph, "managed
29 care provider" shall mean a managed care provider operating on a full
30 capitation basis or a managed long term care plan operating under
31 section forty-four hundred three-f of the public health law; and "long
32 term care entity" shall mean a residential health care facility under
33 article twenty-eight of the public health law, home care services agency
34 under article thirty-six of the public health law, a fiscal intermediary
35 in the consumer directed personal assistance program, other long term
36 care provider authorized under a home and community based waiver admin-
37 istered by the department or the office for people with developmental
38 disabilities. The high-need rate cells established in accordance with
39 this subparagraph shall be consistent with subdivision ten of section
40 three hundred sixty-five-a of this title and include, but shall not be
41 limited to:

42 (A) individuals who are in a residential health care facility;

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

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

52 (iv) Any contract for services under this title by a managed care
53 provider with a long term care entity shall ensure that resources made
54 available by the payer under such contract will support the recruitment,
55 hiring, training and retention of a qualified workforce capable of
56 providing quality care, including compliance with all applicable federal

1 and state laws and regulations, including, but not limited to, those
2 relating to wages and labor. A managed care provider with a long term
3 care entity shall report its method of compliance with this subdivision
4 to the department as a component of cost reports required under section
5 forty-four hundred three-f of the public health law.

6 (v) A long term care entity that contracts with a managed care provid-
7 er shall annually submit written certification to the department as a
8 component of cost reports required under sections twenty-eight hundred
9 eight and thirty-six hundred twelve of the public health law and section
10 three hundred sixty-seven-q of this title, as applicable, as to how it
11 applied the amounts paid in compliance with this subdivision to support
12 the recruitment, hiring, training and retention of a qualified workforce
13 capable of providing quality care and consistent with section three
14 hundred sixty-five-a of this title.

15 § 4. Subparagraph (ii) of paragraph (a) and paragraph (g) of subdivi-
16 sion 7 and subdivision 8 of section 4403-f of the public health law,
17 subparagraph (ii) of paragraph (a) of subdivision 7 as amended by
18 section 43 of part C of chapter 60 of the laws of 2014, paragraph (g) of
19 subdivision 7 as amended by section 41-b of part H of chapter 59 of the
20 laws of 2011, subparagraph (iii) of paragraph (g) of subdivision 7 as
21 amended by section 54 of part A of chapter 56 of the laws of 2013 and
22 subdivision 8 as amended by section 21 of part B of chapter 59 of the
23 laws of 2016, are amended to read as follows:

24 (ii) Notwithstanding any inconsistent provision of the social services
25 law to the contrary, the commissioner shall, pursuant to regulation,
26 determine whether and the extent to which the applicable provisions of
27 the social services law or regulations relating to approvals and author-
28 izations of, and utilization limitations on, health and long term care
29 services reimbursed pursuant to title XIX of the federal social security
30 act, including, but not limited to, fiscal assessment requirements, are
31 inconsistent with the flexibility necessary for the efficient adminis-
32 tration of managed long term care plans and such regulations shall
33 provide that such provisions shall not be applicable to enrollees or
34 managed long term care plans, provided that such determinations are
35 consistent with applicable federal law and regulation, and subject to
36 the provisions of [subdivision] subdivisions eight and ten of section
37 three hundred sixty-five-a and paragraph (c) of subdivision eighteen of
38 section three hundred sixty-four-j of the social services law.

39 (g) (i) Managed long term care plans and demonstrations may enroll
40 eligible persons in the plan or demonstration upon the completion of a
41 comprehensive assessment [that shall include, but not be limited to, an
42 evaluation of the medical, social and environmental needs] of each
43 prospective enrollee in such program consistent with section three
44 hundred sixty-five-a of the social services law. This assessment shall
45 also serve as the basis for the development and provision of an appro-
46 priate plan of care for the enrollee. Upon approval of federal waivers
47 pursuant to paragraph (b) of this subdivision which require medical
48 assistance recipients who require community-based long term care
49 services to enroll in a plan, and upon approval of the commissioner, a
50 plan may enroll an applicant who is currently receiving home and commu-
51 nity-based services and complete the comprehensive assessment within
52 thirty days of enrollment provided that the plan continues to cover
53 transitional care until such time as the assessment is completed.

54 (ii) The assessment shall be completed by a representative of the
55 managed long term care plan or demonstration, in consultation with the
56 prospective enrollee's health care practitioner as necessary. The

1 commissioner shall prescribe the forms on which the assessment shall be
2 made.

3 (iii) The enrollment application shall be submitted by the managed
4 long term care plan or demonstration to the entity designated by the
5 department prior to the commencement of services under the managed long
6 term care plan or demonstration. Enrollments conducted by a plan or
7 demonstration shall be subject to review and audit by the department or
8 a contractor selected pursuant to paragraph (d) of this subdivision.

9 (iv) Continued enrollment in a managed long term care plan or demon-
10 stration paid for by government funds shall be based upon a comprehen-
11 sive assessment [of the medical, social and environmental needs] of the
12 recipient of the services consistent with section three hundred sixty-
13 five-a of this social services law. Such assessment shall be performed
14 at least every six months by the managed long term care plan serving the
15 enrollee. The commissioner shall prescribe the forms on which the
16 assessment will be made.

17 8. Payment rates for managed long term care plan enrollees eligible
18 for medical assistance. The commissioner shall establish payment rates
19 for services provided to enrollees eligible under title XIX of the
20 federal social security act. Such payment rates shall be subject to
21 approval by the director of the division of the budget and shall reflect
22 savings to both state and local governments when compared to costs which
23 would be incurred by such program if enrollees were to receive compara-
24 ble health and long term care services on a fee-for-service basis in the
25 geographic region in which such services are proposed to be provided.
26 Payment rates shall be risk-adjusted to take into account the character-
27 istics of enrollees, or proposed enrollees, including, but not limited
28 to: frailty, disability level, health and functional status, age,
29 gender, the nature of services provided to such enrollees, and other
30 factors as determined by the commissioner. The risk adjusted premiums
31 may also be combined with disincentives or requirements designed to
32 mitigate any incentives to obtain higher payment categories. In setting
33 such payment rates, the commissioner shall consider costs borne by the
34 managed care program to ensure actuarially sound and adequate rates of
35 payment to ensure quality of care [shall comply] and the costs associ-
36 ated with compliance with all applicable laws and regulations, state and
37 federal, including [regulations as to], but not limited to, those relat-
38 ing to wages, labor and actuarial soundness [for medicaid managed care].

39 § 5. Subparagraph (i) of paragraph (g) of subdivision 7 of section
40 4403-f of the public health law, as added by section 65-c of part A of
41 chapter 57 of the laws of 2006 and such paragraph as relettered by
42 section 20 of part C of chapter 58 of the laws of 2007, is amended to
43 read as follows:

44 (i) Managed long term care plans and demonstrations may enroll eligi-
45 ble persons in the plan or demonstration upon the completion of a
46 comprehensive assessment [that shall include, but not be limited to, an
47 evaluation of the medical, social and environmental needs] of each
48 prospective enrollee in such program consistent with section three
49 hundred sixty-five-a of the social services law. This assessment shall
50 also serve as the basis for the development and provision of an appro-
51 priate plan of care for the prospective enrollee.

52 § 6. Section 364-j of the social services law is amended by adding a
53 new subdivision 33 to read as follows:

54 33. For services under this title provided by residential health care
55 facilities under article twenty-eight of the public health law, the
56 commissioner shall direct managed care organizations licensed under

1 article forty-four of the public health law, article forty-three of the
2 insurance law, and this section, to continue to reimburse at a benchmark
3 rate which is to be the fee-for-service rate calculated pursuant to
4 section twenty-eight hundred eight of the public health law. The bench-
5 mark fee-for-service rate shall continue to be paid by such managed care
6 organizations for all services provided by residential healthcare facil-
7 ities from the effective date of this subdivision at least until Decem-
8 ber thirty-first, two thousand twenty-two.

9 § 7. Subdivision 10 of section 3614 of the public health law, as
10 amended by section 5 of part C of chapter 109 of the laws of 2006, para-
11 graph (a) as amended by section 57 of part A of chapter 56 of the laws
12 of 2013, is amended to read as follows:

13 10. (a) Such adjustments to rates of payments shall be allocated
14 proportionally based on each certified home health agency, long term
15 home health care program, AIDS home care and hospice program's home
16 health aide or other direct care services total annual hours of service
17 provided to medicaid patients, as reported in each such agency's most
18 recently available cost report as submitted to the department or for the
19 purpose of the managed long term care program a suitable proxy developed
20 by the department in consultation with the interested parties. Payments
21 made pursuant to this section shall not be subject to subsequent adjust-
22 ment or reconciliation; provided that such adjustments to rates of
23 payments to certified home health agencies shall only be for that
24 portion of services provided to children under eighteen years of age and
25 for services provided to a special needs population of medically complex
26 and fragile children, adolescents and young disabled adults by a CHHA
27 operating under a pilot program approved by the department.

28 (b) Programs which have their rates adjusted pursuant to this subdivi-
29 sion shall use such funds solely for the purposes of recruitment, train-
30 ing and retention of non-supervisory home care services workers or other
31 personnel with direct patient care responsibility. Such purpose shall
32 include the recruitment, training and retention of non-supervisory home
33 care services workers or any worker with direct patient care responsi-
34 bility employed in licensed home care services agencies under contract
35 with such agencies. Such agencies are prohibited from using such fund
36 for any other purpose. For purposes of the long term home health care
37 program, such payment shall be treated as supplemental payments and not
38 effect any current cost cap requirement. For purposes of the managed
39 long term care program, plans shall distribute such funds in their
40 entirety using a reasonable methodology. Such payments shall be supple-
41 mental to reimbursement rates, and plans shall provide written notifica-
42 tion to each contracted agency indicating the amount of funds disbursed
43 for the purpose of recruitment, training and retention of non-superviso-
44 ry home care services workers or any personnel with direct patient care
45 responsibility. Each such agency shall submit, at a time and in a manner
46 determined by the commissioner, a written certification attesting that
47 such funds will be used solely for the purpose of recruitment, training
48 and retention of non-supervisory home health aides or any personnel with
49 direct patient care responsibility. When submitting attestations to the
50 department, managed long term care plans shall include the methodology
51 utilized in the disbursement of funds. The commissioner is authorized to
52 audit each such agency or program to ensure compliance with the written
53 certification required by this subdivision and shall recoup any funds
54 determined to have been used for purposes other than recruitment and
55 retention of non-supervisory home health aides or other personnel with



1 direct patient care responsibility. Such recoupment shall be in addition
2 to any other penalties provided by law.

3 (c) In the case of services provided by such agencies or programs
4 through contracts with licensed home care services agencies, rate
5 increases received by such agencies or programs pursuant to this subdivi-
6 sion shall be reflected, consistent with the purposes of this subdivi-
7 sion, in either the fees paid or benefits or other supports, including
8 training, provided to non-supervisory home health aides or any other
9 personnel with direct patient care responsibility of such contracted
10 licensed home care services agencies and such fees, benefits or other
11 supports shall be proportionate to the contracted volume of services
12 attributable to each contracted agency. Such agencies or programs shall
13 submit to providers with which they contract written certifications
14 attesting that such funds will be used solely for the purposes of
15 recruitment, training and retention of non-supervisory home health aides
16 or other personnel with direct patient care responsibility and shall
17 maintain in their files expenditure plans specifying how such funds will
18 be used for such purposes. The commissioner is authorized to audit such
19 agencies or programs to ensure compliance with such certifications and
20 expenditure plans and shall recoup any funds determined to have been
21 used for purposes other than those set forth in this subdivision. Such
22 recoupment shall be in addition to any other penalties provided by law.

23 (d) Funds under this subdivision are not intended to supplant support
24 provided by local government.

25 (e) The department shall provide a report to the chairs of the senate
26 finance committee, assembly ways and means committee, and senate health
27 and assembly health committees. Such report shall be submitted on or
28 before January first, two thousand eighteen and shall include the
29 distribution of monies by plan and provider of the funds set forth in
30 this subdivision.

31 § 8. Section 3614-c of the public health law, as amended by chapter 56
32 of the laws of 2016, subparagraph (iv) of paragraph (a) of subdivision 3
33 as amended by section 1 and subparagraph (iv) of paragraph (b) of subdivi-
34 sion 3 as amended by section 2 of part E of chapter 73 of the laws of
35 2016, is amended to read as follows:

36 § 3614-c. Home care worker wage parity. 1. As used in this section,
37 the following terms shall have the following meaning:

38 (a) "Living wage law" means any law enacted by Nassau, Suffolk or
39 Westchester county or a city with a population of one million or more
40 which establishes a minimum wage for some or all employees who perform
41 work on contracts with such county or city.

42 (b) "Total compensation" means all wages and other direct compensation
43 paid to or provided on behalf of the employee including, but not limited
44 to, wages, health, education or pension benefits, supplements in lieu of
45 benefits and compensated time off, except that it does not include
46 employer taxes or employer portion of payments for statutory benefits,
47 including but not limited to FICA, disability insurance, unemployment
48 insurance and workers' compensation.

49 (c) "Prevailing rate of total compensation" means the average hourly
50 amount of total compensation paid to all home care aides covered by
51 whatever collectively bargained agreement covers the greatest number of
52 home care aides in a city with a population of one million or more. For
53 purposes of this definition, any set of collectively bargained agree-
54 ments in such city with substantially the same terms and conditions
55 relating to total compensation shall be considered as a single collec-
56 tively bargained agreement.



1 (d) "Home care aide" means a home health aide, personal care aide,
2 home attendant, personal assistant performing consumer directed personal
3 assistance services pursuant to section three hundred sixty-five-f of
4 the social services law, or other licensed or unlicensed person whose
5 primary responsibility includes the provision of in-home assistance with
6 activities of daily living, instrumental activities of daily living or
7 health-related tasks; provided, however, that home care aide does not
8 include any individual (i) working on a casual basis, or (ii) (except
9 for a person employed under the consumer directed personal care program
10 under section three hundred sixty-five-f of the social services law) who
11 is a relative through blood, marriage or adoption of: (1) the employer;
12 or (2) the person for whom the worker is delivering services, under a
13 program funded or administered by federal, state or local government.

14 (e) "Managed care plan" means any managed care program, organization
15 or demonstration covering personal care or home health aide services,
16 and which receives premiums funded, in whole or in part, by the New York
17 state medical assistance program, including but not limited to all Medi-
18 caid managed care, Medicaid managed long term care, Medicaid advantage,
19 and Medicaid advantage plus plans and all programs of all-inclusive care
20 for the elderly.

21 (f) "Episode of care" means any service unit reimbursed, in whole or
22 in part, by the New York state medical assistance program, whether
23 through direct reimbursement or covered by a premium payment, and which
24 covers, in whole or in part, any service provided by a home care aide,
25 including but not limited to all service units defined as visits, hours,
26 days, months or episodes.

27 (g) "Cash portion of the minimum rate of home care [aid] aide total
28 compensation" means the minimum amount of home care aide total compen-
29 sation that may be paid in cash wages, as determined by the department
30 in consultation with the department of labor.

31 (h) "Benefit portion of the minimum rate of home care aide total
32 compensation" means the portion of home care aide total compensation
33 that may be paid in cash or health, education or pension benefits, wage
34 differentials, supplements in lieu of benefits and compensated time off,
35 as determined by the department in consultation with the department of
36 labor. Cash wages paid pursuant to increases in the state or federal
37 minimum wage cannot be used to satisfy the benefit portion of the mini-
38 mum rate of home care aide total compensation.

39 2. Notwithstanding any inconsistent provision of law, rule or regu-
40 lation, no payments by government agencies shall be made to certified
41 home health agencies, long term home health care programs [or], managed
42 care plans, or the consumer directed personal care program under section
43 three hundred sixty-five-f of the social services law, for any episode
44 of care furnished, in whole or in part, by any home care aide who is
45 compensated at amounts less than the applicable minimum rate of home
46 care aide total compensation established pursuant to this section.

47 3. (a) The minimum rate of home care aide total compensation in a city
48 with a population of one million or more shall be:

49 (i) for the period March first, two thousand twelve through February
50 twenty-eighth, two thousand thirteen, ninety percent of the total
51 compensation mandated by the living wage law of such city;

52 (ii) for the period March first, two thousand thirteen through Febru-
53 ary twenty-eighth, two thousand fourteen, ninety-five percent of the
54 total compensation mandated by the living wage law of such city;

55 (iii) for the period March first, two thousand fourteen through March
56 thirty-first two thousand sixteen, no less than the prevailing rate of

1 total compensation as of January first, two thousand eleven, or the
2 total compensation mandated by the living wage law of such city, which-
3 ever is greater;

4 (iv) for all periods on or after April first, two thousand sixteen,
5 the cash portion of the minimum rate of home care aide total compen-
6 sation shall be ten dollars or the minimum wage as laid out in paragraph
7 (a) of subdivision one of section six hundred fifty-two of the labor
8 law, whichever is higher. The benefit portion of the minimum rate of
9 home care aide total compensation shall be four dollars and nine cents.

10 (b) The minimum rate of home care aide total compensation in the coun-
11 ties of Nassau, Suffolk and Westchester shall be:

12 (i) for the period March first, two thousand thirteen through February
13 twenty-eighth, two thousand fourteen, ninety percent of the total
14 compensation mandated by the living wage law as set on March first, two
15 thousand thirteen of a city with a population of a million or more;

16 (ii) for the period March first, two thousand fourteen through Febru-
17 ary twenty-eighth, two thousand fifteen, ninety-five percent of the
18 total compensation mandated by the living wage law as set on March
19 first, two thousand fourteen of a city with a population of a million or
20 more;

21 (iii) for the period March first, two thousand fifteen, through Febru-
22 ary twenty-eighth, two thousand sixteen, one hundred percent of the
23 total compensation mandated by the living wage law as set on March
24 first, two thousand fifteen of a city with a population of a million or
25 more;

26 (iv) for all periods on or after March first, two thousand sixteen,
27 the cash portion of the minimum rate of home care aide total compen-
28 sation shall be ten dollars or the minimum wage as laid out in paragraph
29 (b) of subdivision one of section six hundred fifty-two of the labor
30 law, whichever is higher. The benefit portion of the minimum rate of
31 home care aide total compensation shall be three dollars and twenty-two
32 cents.

33 4. The terms of this section shall apply equally to services provided
34 by home care aides who work on episodes of care as direct employees of
35 certified home health agencies, long term home health care programs, or
36 managed care plans, or as employees of licensed home care services agen-
37 cies, limited licensed home care services agencies, or the consumer
38 directed personal care program under section three hundred sixty-five-f
39 of the social services law, or under any other arrangement.

40 5. No payments by government agencies shall be made to certified home
41 health agencies, long term home health care programs, [or] managed care
42 plans, or the consumer directed personal care program under section
43 three hundred sixty-five-f of the social services law, for any episode
44 of care without the certified home health agency, long term home health
45 care program, [or] managed care plan or the consumer directed personal
46 care program having delivered prior written certification to the commis-
47 sioner, on forms prepared by the department in consultation with the
48 department of labor, that all services provided under each episode of
49 care are in full compliance with the terms of this section and any regu-
50 lations promulgated pursuant to this section.

51 6. If a certified home health agency or long term home health care
52 program elects to provide home care aide services through contracts with
53 licensed home care services agencies or through other third parties,
54 provided that the episode of care on which the home care aide works is
55 covered under the terms of this section, the certified home health agen-
56 cy, long term home health care program, or managed care plan must obtain

1 a written certification from the licensed home care services agency or
2 other third party, on forms prepared by the department in consultation
3 with the department of labor, which attests to the licensed home care
4 services agency's or other third party's compliance with the terms of
5 this section. Such certifications shall also obligate the certified home
6 health agency, long term home health care program, or managed care plan
7 to obtain, on no less than a quarterly basis, all information from the
8 licensed home care services agency or other third parties necessary to
9 verify compliance with the terms of this section. Such certifications
10 and the information exchanged pursuant to them shall be retained by all
11 certified home health agencies, long term home health care programs, or
12 managed care plans, and all licensed home care services agencies, or
13 other third parties for a period of no less than ten years, and made
14 available to the department upon request.

15 7. The commissioner shall distribute to all certified home health
16 agencies, long term home health care programs, [and] managed care plans,
17 and fiscal intermediaries in the consumer directed personal care program
18 under section three hundred sixty-five-f of the social services law,
19 official notice of the minimum rates of home care aide compensation at
20 least one hundred twenty days prior to the effective date of each mini-
21 mum rate for each social services district covered by the terms of this
22 section.

23 8. The commissioner is authorized to promulgate regulations, and may
24 promulgate emergency regulations, to implement the provisions of this
25 section.

26 9. Nothing in this section should be construed as applicable to any
27 service provided by certified home health agencies, long term home
28 health care programs, [or] managed care plans, or consumer directed
29 personal care program under section three hundred sixty-five-f of the
30 social services law except for all episodes of care reimbursed in whole
31 or in part by the New York Medicaid program.

32 10. No certified home health agency, managed care plan [or], long term
33 home health care program, or fiscal intermediary in the consumer
34 directed personal care program under section three hundred sixty-five-f
35 of the social services law shall be liable for recoupment of payments
36 for services provided through a licensed home care services agency or
37 other third party with which the certified home health agency, long term
38 home health care program, or managed care plan has a contract because
39 the licensed agency or other third party failed to comply with the
40 provisions of this section if the certified home health agency, long
41 term home health care program, [or] managed care plan, or fiscal inter-
42 mediary has reasonably and in good faith collected certifications and
43 all information required pursuant to subdivisions five and six of this
44 section.

45 § 9. This act shall take effect on the first of January after it shall
46 have become a law, provided that prior to that date, the commissioner of
47 health shall make regulations and take other actions reasonably neces-
48 sary to implement this act on that date, and provided further that:

49 a. sections three and four of this act shall take effect April 1,
50 2018;

51 b. the amendments to section 364-j of the social services law made by
52 sections three and six of this act shall not affect the repeal of such
53 section and shall be deemed repealed therewith;

54 c. the amendments to section 4403-f of the public health law made by
55 section four of this act shall not affect the repeal of such section and
56 shall be deemed repealed therewith;

1 d. the amendments to subparagraph (i) of paragraph (g) of subdivision
2 7 of section 4403-f of the public health law made by section four of
3 this act shall not affect the expiration and reversion of such subpara-
4 graph, pursuant to subdivision (i) of section 111 of part H of chapter
5 59 of the laws of 2011, as amended, when upon such date the provisions
6 of section five of this act shall take effect; and

7 e. any entity operating as a fiscal intermediary prior to this act
8 becoming a law may continue to do so for one year after this act takes
9 effect, and may continue to do so after that time only upon obtaining
10 certification under this act.

11 PART X

12 Section 1. Section 364-j of the social services law is amended by
13 adding a new subdivision 33 to read as follows:

14 33. (a) Thirty days prior to implementing or adjusting a rate, premi-
15 um, component of premium, add-on payment, quality pool, or other rate
16 component related to a managed care provider as defined in this section,
17 the commissioner of health shall provide written notice to the chairs of
18 the senate finance committee, the senate health committee, the assembly
19 ways and means committee, and the assembly health committee, with
20 regards to such actions.

21 (b) Such notice shall include, but not be limited to, a detailed
22 description of all components included in the action, the fiscal impact
23 of the action, the policy rationale for implementing the action, the
24 specific service sectors that would be impacted by the action, the meth-
25 odology used to determine the components of such action, the plan
26 specific impacts of the action, the provider specific impacts of the
27 action, any specific project descriptions or requirements related to
28 such action, the multi-year impacts of the action, and the availability
29 of federal matching funds.

30 (c) The commissioner of health shall provide quarterly reports to the
31 chairs on the premiums for a managed care provider as defined in para-
32 graph (b) of subdivision one of this section, including an itemized list
33 of all rates, premiums, component of premiums, add-on payments, quality
34 pools, or other rate components for the previous quarter, including a
35 description of any modifications implemented within such period.

36 § 2. This act shall take effect immediately.

37 PART Y

38 Section 1. Notwithstanding any other provision of law to the contrary,
39 any state agency with 25 percent or more of their workforce accruing
40 overtime in a calendar year, and absent an emergency requiring a tempo-
41 rary increase in overtime hours, shall maintain all full time equivalent
42 positions from the previous year and in the event of any vacancy or
43 vacancies such positions shall be filled as they become available. State
44 agencies shall report the total number of agency workers and the total
45 number of workers accruing overtime from the previous calendar year, to
46 the legislature and the director of the budget by January 15 of each
47 year. In addition, any agency exceeding the overtime threshold as estab-
48 lished herein shall report on the number of full time equivalent posi-
49 tions that have been filled in accordance with this section and all
50 other efforts made to reduce overtime to beneath the threshold stated
51 herein. Each agency shall further report on the number of temporary
52 workers and per diem workers in positions in such agency and the specif-

1 ic number of hours worked by each temporary and per diem worker. Such
2 report shall include the length of time such temporary workers or per
3 diem workers have been employed in each agency.

4 § 2. This act shall take effect immediately.

5

PART Z

6 Section 1. 1. In the event that the commissioner of the office of
7 mental health shall order the transfer of inpatient services from a
8 state operated facility to a facility licensed by article 28 of the
9 public health law, such article 28 facility shall:

10 (a) Demonstrate the ability to seek and increase payment from third
11 party payors including commercial health insurance;

12 (b) Maintain inpatient capacity; and

13 (c) Provide a clinically appropriate level of care for each patient
14 admitted, and effectively link each patient to appropriate after care
15 services.

16 2. In the event that the facility which has accepted the transfer of
17 inpatient services is no longer able to meet the criteria set forth in
18 subdivision one of this section, the office of mental health shall
19 resume the administration of such services.

20 3. Any savings related to the transfer of state operated inpatient
21 services from the office of mental health as set forth in this section
22 shall be reinvested and disbursed in accordance with section 97-dddd of
23 the state finance law.

24 4. In the event that inpatient services are reduced and such service
25 capacity is subsequently eliminated, any savings related thereto shall
26 be reinvested and disbursed in accordance with section 97-dddd of the
27 state finance law.

28 5. There shall be no reduction in any full time equivalent positions
29 due to the transfer of inpatient services from an office of mental
30 health state operated facility to a facility licensed by article 28 of
31 the public health law. Any employees transferred shall be transferred
32 pursuant to section 70 of the civil service law, without further exam-
33 ination or qualification to the same or similar titles and shall remain
34 in the same collective bargaining units and shall retain their respec-
35 tive civil service classifications, status and rights pursuant to their
36 collective bargaining units and collective bargaining agreements.

37 § 2. This act shall take effect immediately.

38

PART AA

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

41 34. Enhanced safety net hospital program. (a) For the purposes of this
42 subdivision, "enhanced safety net hospital" means a hospital which, in
43 any of the previous three calendar years, has met the following crite-
44 ria:

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

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

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

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

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

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

6 (iii) is federally designated as a critical access or sole community
7 hospital.

8 (b) The commissioner shall establish an enhanced safety net hospital
9 program (referred to in this subdivision as "the program") to provide
10 for additional annual medical assistance payments under this section to
11 enhanced safety net hospitals for the purposes of ensuring the continued
12 availability of services by providing additional support for critically
13 needed health care services and to ensure the continued maintenance and
14 operation of such hospitals, to reflect the increased costs associated
15 with being an enhanced safety net hospital. The program shall provide
16 for increased payments by managed care providers to such hospitals in
17 addition to what the managed care providers would ordinarily pay to such
18 hospitals, and increased premium payments by the medical assistance
19 program to the managed care providers to accommodate such increased
20 payments to hospitals.

21 (c) Payments by managed care providers to such hospitals shall be
22 proportional to each such hospital's number of discharges of patients
23 who are enrolled in medical assistance under this title or are unin-
24 sured.

25 (d) Total payments by the medical assistance program to managed care
26 providers under the program shall be as appropriated. The commissioner
27 shall develop a formula for such payments considering the amount appro-
28 priated, each such hospital's number of discharges of patients who are
29 enrolled in medical assistance under this title or are uninsured, and
30 the amount ordinarily paid by the medical assistance program other than
31 under this section for each such hospital's discharges.

32 (e) Payment of the non-federal share of the medical assistance
33 payments made pursuant to this subdivision shall be the responsibility
34 of the state and shall not include a local share.

35 (f) Payments under this subdivision shall be consistent with federal
36 regulations and shall not be at a level that would jeopardize or dimin-
37 ish federal financial participation, and shall not supplant the use of
38 other funds for enhanced safety net hospitals.

39 (g) For payments under this subdivision, the commissioner may estab-
40 lish reasonable terms and conditions, consistent with this subdivision,
41 to ensure continued programs by enhanced safety net hospitals for health
42 care delivery system reform.

43 § 2. Notwithstanding any provision of law to the contrary, for the
44 period April 1, 2017 to March 31, 2018, the commissioner of health shall
45 not take any action with the purpose of reducing payment for general
46 hospital emergency services visits provided to patients eligible for
47 medical assistance pursuant to title eleven of article five of the
48 social services law, including such patients enrolled in organizations
49 operating in accordance with the provisions of article forty-four of the
50 public health law or in health maintenance organizations organized and
51 operating in accordance with article forty-three of the insurance law.

52 § 3. This act shall take effect April 1, 2017 and shall be deemed to
53 have been in full force and effect on and after such date; provided,
54 however, that the amendments to section 364-j of the social services law
55 made by section one of this act shall not affect the repeal of such
56 section and shall be deemed repealed therewith.

1

PART BB

2 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
3 insurance law and the public health law relating to the New York state
4 health insurance continuation assistance demonstration project, as
5 amended by section 1 of part AA of chapter 54 of the laws of 2016, is
6 amended to read as follows:

7 § 4. This act shall take effect on the sixtieth day after it shall
8 have become a law; provided, however, that this act shall remain in
9 effect until July 1, [2017] 2018 when upon such date the provisions of
10 this act shall expire and be deemed repealed; provided, further, that a
11 displaced worker shall be eligible for continuation assistance retroac-
12 tive to July 1, 2004.

13 § 2. This act shall take effect immediately.

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

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