

**2015-16 NEW YORK STATE EXECUTIVE BUDGET**

**HEALTH AND MENTAL HYGIENE  
ARTICLE VII LEGISLATION**

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### HEALTH AND MENTAL HYGIENE ARTICLE VII LEGISLATION

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Legislative Bill Drafting Commission  
12571-01-5

S.               -----  
                  Senate  
                  -----

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*PUBHEALA\***

(Enacts into law major components of  
legislation necessary to implement  
the state health and mental hygiene  
budget for the 2015-2016 state  
fiscal year)

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Pub Heal. misconduct proceedings

**AN ACT**

to amend the public health law, in  
relation to program pamphlets devel-  
oped and distributed by the depart-  
ment of health and the disposition  
of results of professional miscon-  
duct proceedings; to repeal section  
2995-a of the public health law  
relating to the physician profile  
website; to repeal subdivision 11 of  
section 6524 of the education law,  
relating to physician license quali-

**IN SENATE**

**Senate introducer's signature**

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s56 Robach	s08 Venditto
s31 Espaillat	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

**IN ASSEMBLY**

**Assembly introducer's signature**

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimel
a092 Abinanti	a053 Davila	a077 Joyner	a133 Nojay	a140 Schimminger
a084 Arroyo	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a035 Aubry	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a120 Barclay	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a106 Barrett	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a060 Barron	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a082 Benedetto	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a042 Bichotte	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a079 Blake	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufis
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol	Stokes	a114 Stec
a098 Brabenec	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a119 Brindisi	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a138 Bronson	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a046 Brook-Krasny	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a093 Buchwald	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a118 Butler	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a103 Cahill	a150 Goodell	a030 Markey	a078 Rivera	a146 Walter
a043 Camara	a075 Gottfried	a090 Mayer	a128 Roberts	a041 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a056 Robinson	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a068 Rodriguez	a113 Woerner
a047 Colton	a139 Hawley	a017 McKevitt	a067 Rosenthal	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a025 Rozic	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a116 Russell	a096 Zebrowski
a085 Crespo	a048 Hikind	a015 Montesano	a149 Ryan	
a122 Crouch	a018 Hooper	a136 Morelle	a009 Saladino	
a021 Curran	a097 Jaffee	a057 Mosley	a111 Santabarbara	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a029 Scarborough	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

fication requirements; to repeal subdivision 9 of section 2803 of the public health law relating to reports to the commissioner of health by general hospitals regarding working conditions and limits on working hours for certain members of the hospital's staff; and to repeal section 461-s of the social services law, relating to enhancing the quality of adult living program for adult care facilities (Part A); to amend the social services law, in relation to statewide supplemental rebates; to amend the social services law, in relation to pharmacy dispensing fees; to amend the public health law, in relation to the clinical drug review program; to amend the public health law, in relation to the prescriber prevails provision; to amend the social services law, in relation to outpatient prescription drugs; to amend the social services law, in relation to the codification of the global cap; to amend the public health law, in relation to hospital quality contributions; to amend the public health law, in relation to hospital payments; to amend parts A and B of chapter 1 of the laws of 2002, relating to the health care reform act of 2000, in relation to upper payment limits; to amend the public health law, in relation to noticing of hospitals; to amend the social services law, in relation to health homes; to amend the public health law, in relation to family planning; to amend part B of chapter 59 of the laws of 2011, amending the public health law relating to rates of payment and medical assistance, in relation to managed care supplemental payments; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to general hospital inpatient reimbursement for annual rates, in relation to supplemental Medicaid managed care payments; to amend the social services law, in relation to spousal support; to amend the social services law, in relation to payments for Medicare

beneficiaries; to amend the social services law, in relation to personal care; to authorize a mobility management contractor; to amend the public health law, in relation to energy efficiency; to amend the public health law, in relation to recruitment and retention; to amend the civil service law, in relation to term appointments in health insurance program-related positions; to amend the social services law, in relation to working disabled eligibility; to amend the social services law, in relation to family planning benefits; to amend the social services law, in relation to foster care; to amend the public health law, in relation to certified home health agencies; to amend the public health law, in relation to value based payments; to amend the social services law, in relation to the basic health plan program; to repeal certain provisions of the public health law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend part A of chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011 amending the public health law and other laws to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to rates of payment paid to certain providers by the Child Health Plus Program; 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 rates of payment paid to certain providers by the Child Health Plus Program (Part C); 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 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 the public health law, in relation to hospital assessments; to amend chapter 659 of the laws of 1997, constituting the long term care integration and finance act of 1997, in relation to the effectiveness thereof; 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 part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to delay of certain administrative costs; 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 reimbursements and the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to the effectiveness thereof; to amend the public health law, in relation to rates of payment for long term home health care programs and making such provisions permanent; to amend chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the

effectiveness thereof; to amend the public authorities law, in relation to the transfer of certain funds; to repeal subdivision (i) of section III of part H of chapter 59 of the laws of 2011, relating to enacting into law major components of legislation necessary to implement the health and mental hygiene budget for the 2011-2012 state fiscal plan, relating to the effectiveness of program oversight and administration of managed long term care plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to the effectiveness thereof; to amend the public health law, in relation to residential health care facility, and certified home health agency services payments; to amend part B of chapter 109 of the laws of 2010, amending the social services law relating to transportation costs; to amend the social services law, in relation to contracting for transportation services; to amend chapter 21 of the laws of 2011 amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to extending the provisions of such chapter; to amend chapter 459 of the laws of 1996 amending the public health law relating to recertification of persons providing emergency medical care, in relation to making such provisions permanent; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to making such provisions permanent; and to repeal subdivision (o) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law relating to state wide planning and research cooperative system and general powers and duties, in relation to the effectiveness of certain provisions (Part D); to amend the public health law, in



relation to the payment of certain funds for uncompensated care (Part E); to amend the public health law, in relation to the establishment of value based payments within the delivery system reform incentive payment program (Part F); to amend the financial services law, in relation to the financial assessment that offsets the operational costs of the health insurance exchange; and to amend the public health law, in relation to health care reform act pool administration (Part G); to amend the public health law, in relation to the establishment and operation of limited services clinics, standardizing urgent care centers and enhanced oversight of office-based surgery; and to repeal subdivision 4 of section 2951 and section 2956 of such law relating to the statutory authority of upgraded diagnostic and treatment centers (Part H); to amend the criminal procedure law, in relation to the admissibility of condoms as trial evidence of prosecution; to amend the penal law, in relation to criminal possession of a controlled substance; to amend the general business law, in relation to the definition of drug related paraphernalia; to amend the public health law, in relation to the sale and furnishing of hypodermic needles and syringes; to amend the public health law in relation to simplifying consent for HIV testing; and to repeal subdivision 2-a of section 2781 of the public health law, relating to certain informed consent for HIV related testing (Part I); to amend the education law and the public health law, in relation to establishing a program for home health aides authorizing them to perform advanced tasks (Part J); to amend the public health law, in relation to streamlining the certificate of need process for hospitals and diagnostic and treatment clinics providing primary care; and to amend the public health law, in relation to public health and health planning council reviews (Part K); to amend

the public health law, in relation to the enhanced oversight of office-based surgery (Part L); to amend the public health law, in relation to requiring notice and submission of a plan prior to discontinuing fluoridation of a public water supply (Part M); relating to conducting a study to develop a report addressing the feasibility of creating an office of community living for older adults and individuals of all ages with disabilities (Part N); to amend chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part O); to amend the education law, in relation to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health; and to amend part M of chapter 56 of the laws of 2012 amending the education law, relating to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health, in relation to the effectiveness thereof (Part P); to amend the public health law and the public authorities law, in relation to establishing a private equity pilot program (Part Q); to amend part A of chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part R); and to amend the social services law, the executive law and the mental hygiene law, in relation to providing professional services to individuals with developmental disabilities in non-certified settings; in relation to the exemption of the nurse practice act for direct care

staff in non-certified settings funded, authorized or approved by the office for people with developmental disabilities; and to repeal certain provisions of the mental hygiene law relating thereto (Part S)

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 2015-2016  
3     state fiscal year. Each component is wholly contained within a Part  
4     identified as Parts A through S. 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. Section 2995-a of the public health law is REPEALED.

14    § 2. Section 2997-b of the public health law, as added by chapter 477  
15    of the laws of 2008, is amended to read as follows:

16    § 2997-b. Pamphlet of department programs. The commissioner shall  
17    develop and transmit to physicians in the state a pamphlet describing a  
18    variety of department programs and initiatives, including but not limit-  
19    ed to smoking cessation programs, public health insurance programs,  
20    health and quality improvement information, and the patient safety  
21    center [and physician profiles]. Each physician practicing in the state  
22    shall make the pamphlet available in his or her practice reception area  
23    so that it is accessible to patients.

24    § 3. Subparagraph (i) of paragraph (h) of subdivision 10 of section  
25    230 of the public health law, as amended by chapter 477 of the laws of  
26    2008, is amended to read as follows:

1 (i) The findings, conclusions, determination and the reasons for the  
2 determination of the committee shall be served upon the licensee, the  
3 department, [and any hospitals, primary practice settings or health care  
4 plans required to be identified in publicly disseminated physician data  
5 pursuant to paragraph (j), (n), or (q) of subdivision one of section  
6 twenty-nine hundred ninety-five-a of this chapter] any hospitals where  
7 the licensee has practice privileges, the primary practice setting of  
8 the licensee, the licensed physicians with whom the licensee shares a  
9 group practice, and any health care plans with which the licensee has  
10 contracts, employment or other affiliations, within sixty days of the  
11 last day of hearing. Service shall be either by certified mail upon the  
12 licensee at the licensee's last known address and such service shall be  
13 effective upon receipt or seven days after mailing by certified mail  
14 whichever is earlier or by personal service and such service shall be  
15 effective upon receipt. The licensee shall deliver to the board the  
16 license which has been revoked, annulled, suspended or surrendered,  
17 together with the registration certificate, within five days after  
18 receipt of the order. If the license or registration certificate is  
19 lost, misplaced or its whereabouts is otherwise unknown, the licensee  
20 shall submit an affidavit to that effect and shall deliver such license  
21 or certificate to the board when located. The director of the office  
22 shall promptly transmit a copy of the order to the division of profes-  
23 sional licensing services of the state education department and to each  
24 hospital at which the licensee has privileges.

25 § 4. Subdivision 11 of section 6524 of the education law is REPEALED.

26 § 5. Subdivision 9 of section 2803 of the public health law is  
27 REPEALED.

28 § 6. Section 461-s of the social services law is REPEALED.



1 used by the department, less [seventeen] twenty-four percent thereof or  
2 the wholesale acquisition cost of a prescription drug based upon package  
3 size dispensed from, as reported by the prescription drug pricing  
4 service used by the department, minus [zero and forty-one hundredths]  
5 nine percent thereof, and updated monthly by the department. For multi-  
6 ple source generic drugs, estimated acquisition cost means the lower of  
7 the average wholesale price of a prescription drug based on the package  
8 size dispensed from, as reported by the prescription drug pricing  
9 service used by the department, less twenty-five percent thereof, or the  
10 maximum acquisition cost, if any, established pursuant to paragraph (e)  
11 of this subdivision, provided that the methodology used by the depart-  
12 ment to establish a maximum acquisition cost shall not include average  
13 acquisition cost as determined by department surveys.

14 § 3. Subparagraph (ii) of paragraph (d) of subdivision 9 of section  
15 367-a of the social services law, as amended by section 48 of part C of  
16 chapter 58 of the laws of 2009, is amended to read as follows:

17 (ii) for prescription drugs categorized as brand-name prescription  
18 drugs by the prescription drug pricing service used by the department,  
19 [three] eight dollars [and fifty cents] per prescription[, provided,  
20 however, that for brand name prescription drugs reimbursed pursuant to  
21 subparagraph (ii) of paragraph (a-1) of subdivision four of section  
22 three hundred sixty-five-a of this title, the dispensing fee shall be  
23 four dollars and fifty cents per prescription].

24 § 4. Section 274 of the public health law is amended by adding a new  
25 subdivision 15 to read as follows:

26 15. Notwithstanding any inconsistent provision of this section, the  
27 commissioner may require prior authorization for any drug after evaluat-  
28 ing the factors set forth in subdivision three of this section and prior

1 to obtaining the board's evaluation and recommendation required by  
2 subdivision four of this section. The board may recommend to the commis-  
3 sioner, pursuant to subdivision six of this section, that any such prior  
4 authorization requirement be modified, continued or removed.

5 § 5. Subdivision 11 of section 272 of the public health law is amended  
6 by adding a new paragraph (a-1) to read as follows:

7 (a-1) The commissioner may require a pharmaceutical manufacturer to  
8 provide a minimum supplemental rebate for drugs that are eligible for  
9 state public health plan reimbursement, including such drugs as set  
10 forth in paragraph (g-1) of subdivision two of section three hundred  
11 sixty-five-a of the social services law. If such a minimum supplemental  
12 rebate is not provided by the manufacturer, prior authorization may be  
13 required by the commissioner.

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

17 (b) In the event that the patient does not meet the criteria in para-  
18 graph (a) of this subdivision, the prescriber may provide additional  
19 information to the program to justify the use of a prescription drug  
20 that is not on the preferred drug list. The program shall provide a  
21 reasonable opportunity for a prescriber to reasonably present his or her  
22 justification of prior authorization. [If, after consultation with the  
23 program, the prescriber, in his or her reasonable professional judgment,  
24 determines that the use of a prescription drug that is not on the  
25 preferred drug list is warranted, the prescriber's determination shall  
26 be final.] The program will consider the additional information and the  
27 justification presented by the prescriber to determine whether the use  
28 of a prescription drug that is not on the preferred drug list is



1 warranted. Nothing herein shall be construed as limiting the right of a  
2 Medicaid recipient to appeal the denial of a request for prior authori-  
3 zation of a prescription drug that is not on the preferred drug list.

4 § 7. Section 364-j of the social services law is amended by adding a  
5 new subdivision 24-a to read as follows:

6 24-a. Claims for payment of outpatient prescription drugs submitted to  
7 a managed care provider by a covered entity pursuant to section 340B of  
8 the federal public health service act (42 USCA § 256b) or by such  
9 covered entity's authorized contract pharmacy shall be at such covered  
10 entity's or contract pharmacy's actual acquisition cost for the drug.  
11 For purposes of this subdivision, "actual acquisition cost" means the  
12 invoice price for the drug to the covered entity or the covered entity's  
13 authorized contract pharmacy minus the amount of all discounts and other  
14 cost-reductions attributable to the drug.

15 § 8. The social services law is amended by adding a new section 368-g  
16 to read as follows:

17 § 368-g. Limitation on growth of medical assistance expenditures. 1.  
18 Cap established. (a) Notwithstanding section ninety-one of part H of  
19 chapter fifty-nine of the laws of two thousand eleven, as amended, or  
20 any other contrary provision of law and subject to federal approvals,  
21 the year to year rate of growth of department state funds medical  
22 assistance spending shall not exceed the ten year rolling average of the  
23 medical component of the consumer price index as published by the United  
24 States department of labor, bureau of labor statistics, for the preced-  
25 ing ten years; provided, however, that for state fiscal year two thou-  
26 sand thirteen-two thousand fourteen or any fiscal year thereafter, the  
27 maximum allowable annual increase in the amount of the department state  
28 funds medical assistance spending shall be calculated by multiplying the

1 department state funds medical assistance spending for the previous  
2 year, less the amount of any department state operations spending  
3 included therein, by such ten year rolling average.

4 (b) Except as provided in paragraph (c) of this subdivision, for state  
5 fiscal year two thousand thirteen-two thousand fourteen or any fiscal  
6 year thereafter, the spending limit calculated pursuant to paragraph (a)  
7 of this subdivision shall be increased by an amount equal to the differ-  
8 ence between the total social services district medical assistance  
9 expenditure amounts calculated for such period in conformance with  
10 subdivisions (b), (c), (c-1), and (d) of section one of part C of chap-  
11 ter fifty-eight of the laws of two thousand five and the total social  
12 services district medical expenditure amounts that would have resulted  
13 if the provisions of subdivision (c-1) of such section had not been  
14 applied.

15 (c) With respect to a social services district that rescinds the exer-  
16 cise of the option provided in paragraph (i) of subdivision (b) of  
17 section two of part C of chapter fifty-eight of the laws of two thousand  
18 five, for state fiscal year two thousand thirteen-two thousand fourteen  
19 or any fiscal year thereafter, the spending limit calculated pursuant to  
20 subdivision one of this section shall be reduced by the amount of the  
21 medical assistance expenditure amount calculated for such district for  
22 such period.

23 2. Savings Allocation Plan. Notwithstanding section ninety-two of part  
24 H of chapter fifty-nine of the laws of two thousand eleven, as amended,  
25 and any other contrary provision of law and subject to the availability  
26 of federal financial participation, for state fiscal years on and after  
27 two thousand eleven-two thousand twelve, the director of the budget, in  
28 consultation with the commissioner, shall assess on a monthly basis, as

1 reflected in monthly reports issued pursuant to subdivision five of this  
2 section, known and projected department state funds medical assistance  
3 expenditures by category of service and by geographic regions, as  
4 defined by the commissioner, and if the director of the budget deter-  
5 mines that such expenditures are expected to cause medical assistance  
6 disbursements for such period to exceed the projected department medical  
7 assistance state funds disbursements in the enacted budget financial  
8 plan pursuant to subdivision three of section twenty-three of the state  
9 finance law, the commissioner, in consultation with the director of the  
10 budget, shall develop a medical assistance savings allocation plan to  
11 limit such spending to the aggregate limit level specified in the  
12 enacted budget financial plan, provided, however, such projections may  
13 be adjusted by the director of the budget to account for any changes in  
14 the New York state federal medical assistance percentage amount estab-  
15 lished pursuant to the federal social security act, changes in provider  
16 revenues, reductions to local social services district medical assist-  
17 ance administration, and beginning April first, two thousand twelve, the  
18 operational costs of the New York state medical indemnity fund, and  
19 state costs or savings from the basic health plan. Such projections may  
20 be adjusted by the director of the budget to account for increased or  
21 expedited department of health state funds medical assistance expendi-  
22 tures as a result of a natural or other type of disaster, including a  
23 governmental declaration of emergency. Such medical assistance savings  
24 allocation plan shall be designed to reduce the department state funds  
25 medical assistance disbursements authorized by appropriations in compli-  
26 ance with the following guidelines:

27 (a) reductions shall be made in compliance with applicable federal  
28 law, including the provisions of the Patient Protection and Affordable

1 Care Act (P.L. 111-148), as amended by the Health Care and Education  
2 Reconciliation Act of 2010 (P.L. 111-152) (collectively "Affordable Care  
3 Act") and any subsequent amendments thereto or regulations promulgated  
4 thereunder;

5 (b) reductions shall be made in a manner that complies with the state  
6 medical assistance plan approved by the federal centers for medicare and  
7 medicaid services, provided, however, that the commissioner is author-  
8 ized to submit any state plan amendment or seek other federal approval,  
9 including waiver authority, to implement the provisions of the medical  
10 assistance savings allocation plan that meets the other criteria set  
11 forth herein;

12 (c) reductions shall be made in a manner that maximizes federal finan-  
13 cial participation, to the extent practicable, including any federal  
14 financial participation that is available or is reasonably expected to  
15 become available, in the discretion of the commissioner, under the  
16 Affordable Care Act;

17 (d) reductions shall be made uniformly among categories of services  
18 and geographic regions of the state, to the extent practicable, and  
19 shall be made uniformly within a category of service, to the extent  
20 practicable, except where the commissioner determines that there are  
21 sufficient grounds for non-uniformity, including, but not limited to:  
22 (i) the extent to which specific categories of services contributed to  
23 department medical assistance state funds spending in excess of the  
24 limits specified herein; (ii) the need to maintain safety net services  
25 in underserved communities; or (iii) the potential benefits of pursuing  
26 innovative payment models contemplated by the Affordable Care Act, in  
27 which case such grounds shall be set forth in the medical assistance  
28 savings allocation plan;

1 (e) reductions shall be made in a manner that does not unnecessarily  
2 create administrative burdens for medical assistance applicants and  
3 recipients or for providers;

4 (f) the commissioner shall seek the input of the legislature, as well  
5 as input from organizations representing health care providers, consum-  
6 ers, businesses, workers, health insurers, and others with relevant  
7 expertise, in developing such medical assistance savings allocation plan  
8 to the extent that all or part of such plan is likely, as determined by  
9 the commissioner, to have a material impact on the overall medical  
10 assistance program, or on particular categories of service, or on  
11 particular geographic regions of the state;

12 (g)(i) the commissioner shall post the medical assistance savings  
13 allocation plan on the department's website and shall provide written  
14 copies of such plan to the chairs of the senate finance and the assembly  
15 ways and means committees at least thirty days before the date on which  
16 implementation is expected to begin;

17 (ii) the commissioner may revise the medical assistance savings allo-  
18 cation plan subsequent to the provision of notice and prior to implemen-  
19 tation but is required to provide a new notice pursuant to subparagraph  
20 (i) of this paragraph only if the commissioner determines, in his or her  
21 discretion, that such revisions materially alter the plan;

22 (h) notwithstanding the provisions of paragraphs (f) and (g) of this  
23 subdivision, the commissioner need not seek the input described in para-  
24 graph (f) of this subdivision or provide notice pursuant to paragraph  
25 (g) of this subdivision if, in the discretion of the commissioner, expe-  
26 ditioned development and implementation of a medical assistance savings  
27 allocation plan is necessary due to a public health emergency; for  
28 purposes of this section, a public health emergency is defined as:

1 (i) a disaster, natural or otherwise, that significantly increases the  
2 immediate need for health care personnel in an area of the state;

3 (ii) an event or condition that creates a widespread risk of exposure  
4 to a serious communicable disease, or the potential for such widespread  
5 risk of exposure; or

6 (iii) any other event or condition determined by the commissioner to  
7 constitute an imminent threat to public health; and

8 (i) nothing in this section shall be deemed to prevent all or part of  
9 such medical savings allocation plan from taking effect retroactively,  
10 to the extent permitted by the federal centers for Medicare and Medicaid  
11 services.

12 3. Powers of the commissioner to enact savings allocation plan. In  
13 accordance with the medical assistance savings allocation plan, the  
14 commissioner shall reduce department state funds medical assistance  
15 disbursements by the amount of the projected overspending through,  
16 actions including, but not limited to modifying or suspending reimburse-  
17 ment methods, including but not limited to all fees, premium levels and  
18 rates of payment, notwithstanding any provision of law that sets a  
19 specific amount or methodology for any such payments or rates of  
20 payment; modifying medical assistance program benefits; seeking all  
21 necessary federal approvals, including, but not limited to waivers,  
22 waiver amendments; and suspending time frames for notice, approval or  
23 certification of rate requirements, notwithstanding any provision of  
24 law, rule or regulation to the contrary, including, but not limited to,  
25 sections twenty-eight hundred seven and thirty-six hundred fourteen of  
26 the public health law, section eighteen of chapter two of the laws of  
27 nineteen hundred eighty-eight, and section 505.14(h) of title 18 of the

1 official compilation of codes, rules and regulations of the state of New  
2 York.

3     4. Cap dividend. Notwithstanding any contrary provision of law and  
4 subject to the availability of federal financial participation, for  
5 state fiscal years beginning on and after April first, two thousand  
6 fourteen, the commissioner of health, in consultation with the director  
7 of the budget, shall, prior to January first of each year, determine the  
8 extent of savings that have been achieved as a result of the application  
9 of the provisions of subdivisions one and two of this section, and shall  
10 further determine the availability of such savings for distribution  
11 during the last quarter of such state fiscal year. In determining such  
12 savings the commissioner of health, in consultation with the director of  
13 the budget, may exempt the medical assistance administration program  
14 from distributions under this section. The commissioner of health, in  
15 consultation with the director of the budget, may distribute funds up to  
16 an amount equal to such available savings in accordance with an allo-  
17 cation plan that utilizes a methodology that distributes such funds  
18 proportionately among providers and plans in New York's medical assist-  
19 ance program. In developing such allocation plan the commissioner of  
20 health shall seek the input of the legislature, as well as organizations  
21 representing health care providers, consumers, businesses, workers,  
22 health care insurers and others with relevant expertise. Such allocation  
23 plan shall utilize three years of the most recently available system-  
24 wide expenditure data reflecting both MMIS and managed care encounters.  
25 Distributions to managed care plans shall be based on the administrative  
26 outlays stemming from participation in the medical assistance program.  
27 The commissioner of health may impose minimum threshold amounts in  
28 determining provider eligibility for distributions pursuant to this

section. No less than fifty percent of the amount available for distribution shall be made available for the purpose of assisting eligible providers utilizing the methodology outlined above. The remainder of the distributions pursuant to this section shall be made available for the purposes of ensuring a minimum level of assistance to financially distressed and critically needed providers as identified by the commissioner. The commissioner of health shall post the medical assistance savings allocation plan on the department of health's website and shall provide written copies of such plan to the chairs of the senate finance and the assembly ways and means committees at least thirty days before the date on which implementation is expected to begin. The commissioner of health is authorized to seek such federal approvals as may be required to effectuate the provisions of this section, including, but not limited to, to permit payment of such distributions as lumps sums and to secure waivers from otherwise applicable federal upper payment limit restrictions on such payments. The provisions of this section are subject to the reporting requirements set forth in subdivision seven of this section.

5. Monthly reports. The commissioner, in consultation with the director of the budget, shall prepare a monthly report that sets forth:

(a) known and projected department medical assistance expenditures as described in subdivision one of this section, and factors that could result in medical assistance disbursements for the relevant state fiscal year to exceed the projected department state funds disbursements in the enacted budget financial plan pursuant to subdivision three of section twenty-three of the state finance law, including spending increases or decreases due to enrollment fluctuations, rate changes, utilization changes, medical assistance redesign team (MRT) investments, a shift of



1 beneficiaries to managed care and variations in offline medical assist-  
2 ance payments;

3 (b) the actions taken to implement any medical assistance savings  
4 allocation plan implemented pursuant to subdivision four of this  
5 section, including information concerning the impact of such actions on  
6 each category of service and each geographic region of the state;

7 (c) as applicable; the price, including, the base rate plus any upcom-  
8 ing rate adjustment; utilization, including current enrollment, project-  
9 ed enrollment changes and acuity; medical assistance redesign team  
10 initiatives; one-time initiatives and other initiatives describing the  
11 proposed budget action impact; and any prior year initiative with  
12 current and future year impacts for the following categories:

13 (i) inpatient;

14 (ii) outpatient;

15 (iii) emergency room;

16 (iv) clinic;

17 (v) nursing homes;

18 (vi) other long term care;

19 (vii) medicaid managed care;

20 (viii) family health plus;

21 (ix) pharmacy;

22 (x) transportation;

23 (xi) dental;

24 (xii) non-institutional and other categories;

25 (xiii) affordable housing;

26 (xiv) vital access provider services;

27 (xv) behavioral health vital access provider services;

28 (xvi) Finger Lakes health services agency;

1     (xvii) audit recoveries and settlements;  
2     (d) information and disbursements of grants to providers, including  
3     but not limited to:  
4     (i) demographic information of targeted recipients;  
5     (ii) number of recipients;  
6     (iii) award amounts and timing of awards; and  
7     (e) any projected medical assistance savings determined by the commis-  
8     sioner pursuant to subdivision six of this section and the proposed  
9     allocation plan with regard to such savings.  
10    (f) The monthly reports required by this subdivision shall be provided  
11    to the governor, the temporary president of the senate, the speaker of  
12    the assembly, the chair of the senate finance committee, the chair of  
13    the assembly ways and means committee, and the chairs of the senate and  
14    assembly health committees. Such reports and related documents provided  
15    to the legislature shall also be posted on the website as maintained by  
16    the department.  
17    6. Executive budget summary. The commissioner, in consultation with  
18    the director of the budget shall, upon submission of the executive budg-  
19    et to the legislature, provide to the legislature a detailed accounting  
20    of:  
21    (a) the state medical assistance state funds expenditures on the close  
22    out of the prior year;  
23    (b) a current year re-estimate;  
24    (c) the prospective two-year estimate; and  
25    (d) any other information deemed necessary and appropriate.  
26    7. Staff availability and training. (a) The commissioner and the  
27    director of the budget shall make appropriate staff available to meet  
28    with the chairs of the health committees of the senate and the assembly,

1 or their designees, upon their request and with reasonable notice, to  
2 review each monthly report, as described in subdivision five of this  
3 section.

4 (b) The commissioner shall make training available to designated  
5 legislative staff with regard to the skills and techniques needed to  
6 effectively access and review relevant medical assistance data bases  
7 under the control of the department, upon their request and with reason-  
8 able notice.

9 § 9. Section 280 of the public health law is REPEALED.

10 § 10. Subdivision 2 of section 2807-d-1 of the public health law, as  
11 added by section 52-c of part H of chapter 59 of the laws of 2011, is  
12 amended to read as follows:

13 2. The annual quality contribution amount referenced in subdivision  
14 one of this section shall be thirty million dollars for the state fiscal  
15 year beginning April first, two thousand eleven, and for each subsequent  
16 state fiscal year thereafter it shall be the amount of the preceding  
17 year as increased by the ten year rolling average of the medical compo-  
18 nent of the consumer price index as published by the United States  
19 department of labor, bureau of labor statistics, for the preceding ten  
20 years. For periods on and after April first, two thousand fifteen, and  
21 for each state fiscal year, the contribution described herein shall be  
22 reduced by fifteen million dollars.

23 § 11. Section 2807 of the public health law is amended by adding a new  
24 subdivision 14 to read as follows:

25 14. Notwithstanding any provision of law to the contrary, and subject  
26 to federal financial participation, the commissioner is authorized to  
27 establish, pursuant to regulations, a general hospital quality pool for  
28 the purpose of incentivizing and facilitating quality improvements in

1 general hospitals. Awards from such pool shall be subject to approval by  
2 the director of budget. If federal financial participation is unavail-  
3 able, then the non-federal share of awards made pursuant to this subdi-  
4 vision may be made as state grants.

5 § 12. Section 2807 of the public health law is amended by adding a new  
6 subdivision 22 to read as follows:

7 22. Notwithstanding any provision of law to the contrary, and subject  
8 to federal financial participation, general hospitals designated as sole  
9 community hospitals in accordance with title XVIII of the federal social  
10 security act shall be eligible for enhanced payments or reimbursement  
11 for inpatient and/or outpatient services of up to twelve million dollars  
12 under a supplemental or revised rate methodology, established by the  
13 commissioner in regulation, for the purpose of promoting access and  
14 improving the quality of care. If federal financial participation is  
15 unavailable, then the non-federal share of such payments pursuant to  
16 this subdivision may be made as state grants.

17 § 13. Subdivision (e) of section 2826 of the public health law, as  
18 added by section 27 of part C of chapter 60 of the laws of 2014, is  
19 amended to read as follows:

20 (e) Notwithstanding any law to the contrary, general hospitals defined  
21 as critical access hospitals pursuant to title XVIII of the federal  
22 social security act shall be allocated no less than [five] seven million  
23 five hundred thousand dollars annually pursuant to this section. The  
24 department of health shall provide a report to the governor and legisla-  
25 ture no later than [December] June first, two thousand [fourteen]  
26 fifteen providing recommendations on how to ensure the financial stabil-  
27 ity of, and preserve patient access to, critical access hospitals,  
28 including an examination of permanent Medicaid rate methodology changes.

1     § 14. Section 2826 of the public health law is amended by adding a new  
2 subdivision (f) to read as follows:

3     (f) Notwithstanding any provision of law to the contrary, and subject  
4 to federal financial participation, no less than ten million dollars  
5 shall be allocated to providers described in this subdivision; provided,  
6 however that if federal financial participation is unavailable for any  
7 eligible provider, or for any potential investment under this subdivi-  
8 sion then the non-federal share of payments pursuant to this subdivision  
9 may be made as state grants.

10    (i) Providers serving rural areas as such term is defined in section  
11 two thousand nine hundred fifty-one of this chapter, including but not  
12 limited to hospitals, residential health care facilities, diagnostic and  
13 treatment centers, ambulatory surgery centers and clinics shall be  
14 eligible for enhanced payments or reimbursement under a supplemental  
15 rate methodology for the purpose of promoting access and improving the  
16 quality of care.

17    (ii) Notwithstanding any provision of law to the contrary, and subject  
18 to federal financial participation, essential community providers,  
19 which, for the purposes of this section, shall mean a provider that  
20 offers health services within a defined and isolated geographic region  
21 where such services would otherwise be unavailable to the population of  
22 such region, shall be eligible for enhanced payments or reimbursement  
23 under a supplemental rate methodology for the purpose of promoting  
24 access and improving quality of care. Eligible providers under this  
25 paragraph may include, but are not limited to, hospitals, residential  
26 health care facilities, diagnostic and treatment centers, ambulatory  
27 surgery centers and clinics.

1     (iii) In making such payments the commissioner may contemplate the  
2     extent to which any such provider receives assistance under subdivision  
3     (a) of this section and may require such provider to submit a written  
4     proposal demonstrating that the need for monies under this subdivision  
5     exceeds monies otherwise distributed pursuant to this section.

6     (iv) Payments under this subdivision may include, but not be limited  
7     to, temporary rate adjustments, lump sum Medicaid payments, supplemental  
8     rate methodologies and any other payments as determined by the commis-  
9     sioner.

10    (v) Payments under this subdivision shall be subject to approval by  
11    the director of the budget.

12    (vi) The commissioner may promulgate regulations to effectuate the  
13    provisions of this subdivision.

14    § 15. Intentionally omitted.

15    § 16. Section 12 of part A of chapter 1 of the laws of 2002, relating  
16    to the health care reform act of 2000, is amended to read as follows:

17    § 12. Notwithstanding any inconsistent provision of law or regulation  
18    to the contrary, and subject to the availability of federal financial  
19    participation pursuant to title XIX of the federal social security act,  
20    effective for the period September 1, 2001 through March 31, 2002, and  
21    state fiscal years thereafter, until March 31, 2012, the department of  
22    health is authorized to pay a specialty hospital adjustment to public  
23    general hospitals, as defined in subdivision 10 of section 2801 of the  
24    public health law, other than those operated by the state of New York or  
25    the state university of New York, receiving reimbursement for all inpa-  
26    tient services under title XIX of the federal social security act pursu-  
27    ant to paragraph (e) of subdivision 4 of section 2807-c of the public  
28    health law, and located in a city with a population of over 1 million,

1 of up to four hundred sixty-three million dollars for the period Septem-  
2 ber 1, 2001 through March 31, 2002 and up to seven hundred ninety-four  
3 million dollars annually for state fiscal years thereafter as medical  
4 assistance payments for inpatient services pursuant to title 11 of arti-  
5 cle 5 of the social services law for patients eligible for federal  
6 financial participation under title XIX of the federal social security  
7 act based on each such hospital's proportionate share of the sum of all  
8 inpatient discharges for all facilities eligible for an adjustment  
9 pursuant to this section for the base year two years prior to the rate  
10 year. Such proportionate share payment may be added to rates of payment  
11 or made as aggregate payments to eligible public general hospitals.

12 § 17. Section 13 of part B of chapter 1 of the laws of 2002, relating  
13 to the health care reform act of 2000, is amended to read as follows:

14 § 13. Notwithstanding any inconsistent provision of law or regulation  
15 to the contrary, and subject to the availability of federal financial  
16 participation pursuant to title XIX of the federal social security act,  
17 effective for the period April 1, 2002 through March 31, 2003, and state  
18 fiscal years thereafter until March 31, 2012, the department of health  
19 is authorized to pay a specialty hospital adjustment to public general  
20 hospitals, as defined in subdivision 10 of section 2801 of the public  
21 health law, other than those operated by the state of New York or the  
22 state university of New York, receiving reimbursement for all inpatient  
23 services under title XIX of the federal social security act pursuant to  
24 paragraph (e) of subdivision 4 of section 2807-c of the public health  
25 law, and located in a city with a population of over one million, of up  
26 to two hundred eighty-six million dollars as medical assistance payments  
27 for inpatient services pursuant to title 11 of article 5 of the social  
28 services law for patients eligible for federal financial participation

1 under title XIX of the federal social security act based on each such  
2 hospital's proportionate share of the sum of all inpatient discharges  
3 for all facilities eligible for an adjustment pursuant to this section  
4 for the base year two years prior to the rate year. Such proportionate  
5 share payment may be added to rates of payment or made as aggregate  
6 payments to eligible hospitals.

7 § 18. Notwithstanding any inconsistent provision of law or regulation  
8 to the contrary, and subject to the availability of federal financial  
9 participation pursuant to title XIX of the federal social security act,  
10 effective for the period April 1, 2012, through March 31, 2013, and  
11 state fiscal years thereafter, the department of health is authorized to  
12 pay a public hospital adjustment to public general hospitals, as defined  
13 in subdivision 10 of section 2801 of the public health law, other than  
14 those operated by the state of New York or the state university of New  
15 York, and located in a city with a population of over 1 million, of up  
16 to one billion eighty million dollars annually as medical assistance  
17 payments for inpatient services pursuant to title 11 of article 5 of the  
18 social services law for patients eligible for federal financial partic-  
19 ipation under title XIX of the federal social security act based on such  
20 criteria and methodologies as the commissioner may from time to time set  
21 through a memorandum of understanding with the New York city health and  
22 hospitals corporation, and such adjustments shall be paid by means of  
23 one or more estimated payments, with such estimated payments to be  
24 reconciled to the commissioner of health's final adjustment determi-  
25 nations after the disproportionate share hospital payment adjustment  
26 caps have been calculated for such period under sections 1923(f) and (g)  
27 of the federal social security act. Such adjustment payment may be added



1 to rates of payment or made as aggregate payments to eligible public  
2 general hospitals.

3 § 19. Section 14 of part A of chapter 1 of the laws of 2002, relating  
4 to the health care reform act of 2000, is amended to read as follows:

5 § 14. Notwithstanding any inconsistent provision of law, rule or regu-  
6 lation to the contrary, and subject to the availability of federal  
7 financial participation pursuant to title XIX of the federal social  
8 security act, effective for the period January 1, 2002 through March 31,  
9 2002, and state fiscal years thereafter until March 31, 2011, the  
10 department of health is authorized to increase the operating cost compo-  
11 nent of rates of payment for general hospital outpatient services and  
12 general hospital emergency room services issued pursuant to paragraph  
13 (g) of subdivision 2 of section 2807 of the public health law for public  
14 general hospitals, as defined in subdivision 10 of section 2801 of the  
15 public health law, other than those operated by the state of New York or  
16 the state university of New York, and located in a city with a popu-  
17 lation of over one million, which experienced free patient visits in  
18 excess of twenty percent of their total self-pay and free patient visits  
19 based on data reported on exhibit 33 of their 1999 institutional cost  
20 report and which experienced uninsured outpatient losses in excess of  
21 seventy-five percent of their total inpatient and outpatient uninsured  
22 losses based on data reported on exhibit 47 of their 1999 institutional  
23 cost report, of up to thirty-four million dollars for the period January  
24 1, 2002 through March 31, 2002 and up to one hundred thirty-six million  
25 dollars annually for state fiscal years thereafter as medical assistance  
26 payments for outpatient services pursuant to title 11 of article 5 of  
27 the social services law for patients eligible for federal financial  
28 participation under title XIX of the federal social security act based

1 on each such hospital's proportionate share of the sum of all outpatient  
2 visits for all facilities eligible for an adjustment pursuant to this  
3 section for the base year two years prior to the rate year. Such propor-  
4 tionate share payment may be added to rates of payment or made as aggre-  
5 gate payments to eligible public general hospitals.

6 § 20. Section 14 of part B of chapter 1 of the laws of 2002, relating  
7 to the health care reform act of 2000, is amended to read as follows:

8 § 14. Notwithstanding any inconsistent provision of law or regulation  
9 to the contrary, and subject to the availability of federal financial  
10 participation pursuant to title XIX of the federal social security act,  
11 effective for the period January 1, 2002 through March 31, 2002, and  
12 state fiscal years thereafter until March 31, 2011, the department of  
13 health is authorized to increase the operating cost component of rates  
14 of payment for general hospital outpatient services and general hospital  
15 emergency room services issued pursuant to paragraph (g) of subdivision  
16 2 of section 2807 of the public health law for public general hospitals,  
17 as defined in subdivision 10 of section 2801 of the public health law,  
18 other than those operated by the state of New York or the state univer-  
19 sity of New York, and located in a city with a population of over one  
20 million, which experienced free patient visits in excess of twenty  
21 percent of their total self-pay and free patient visits based on data  
22 reported on exhibit 33 of their 1999 institutional cost report and which  
23 experienced uninsured outpatient losses in excess of seventy-five  
24 percent of their total inpatient and outpatient uninsured losses based  
25 on data reported on exhibit 47 of their 1999 institutional cost report,  
26 of up to thirty-seven million dollars for the period January 1, 2002  
27 through March 31, 2002 and one hundred fifty-one million dollars annual-  
28 ly for state fiscal years thereafter as medical assistance payments for

1 outpatient services pursuant to title 11 of article 5 of the social  
2 services law for patients eligible for federal financial participation  
3 under title XIX of the federal social security act based on each such  
4 hospital's proportionate share of the sum of all outpatient visits for  
5 all facilities eligible for an adjustment pursuant to this section for  
6 the base year two years prior to the rate year. Such proportionate share  
7 payment may be added to rates of payment or made as aggregate payments  
8 to eligible public general hospitals.

9 § 21. Notwithstanding any inconsistent provision of law, rule or regu-  
10 lation to the contrary, and subject to the availability of federal  
11 financial participation pursuant to title XIX of the federal social  
12 security act, effective for the period April 1, 2011 through March 31,  
13 2012, and state fiscal years thereafter, the department of health is  
14 authorized to increase the operating cost component of rates of payment  
15 for general hospital outpatient services and general hospital emergency  
16 room services issued pursuant to paragraph (g) of subdivision 2 of  
17 section 2807 of the public health law for public general hospitals, as  
18 defined in subdivision 10 of section 2801 of the public health law,  
19 other than those operated by the state of New York or the state univer-  
20 sity of New York, and located in a city with a population over one  
21 million, up to two hundred eighty-seven million dollars annually as  
22 medical assistance payments for outpatient services pursuant to title 11  
23 of article 5 of the social services law for patients eligible for feder-  
24 al financial participation under title XIX of the federal social securi-  
25 ty act based on such criteria and methodologies as the commissioner may  
26 from time to time set through a memorandum of understanding with the New  
27 York city health and hospitals corporation, and such adjustments shall  
28 be paid by means of one or more estimated payments, with such estimated

1 payments to be reconciled to the commissioner of health's final adjust-  
2 ment determinations after the disproportionate share hospital payment  
3 adjustment caps have been calculated for such period under sections  
4 1923(f) and (g) of the federal social security act. Such adjustment  
5 payment may be added to rates of payment or made as aggregate payments  
6 to eligible public general hospitals.

7 § 22. Section 16 of part A of chapter 1 of the laws of 2002, relating  
8 to the health care reform act of 2000, is amended to read as follows:

9 § 16. Any amounts provided pursuant to sections eleven, twelve, thir-  
10 teen and fourteen of this act shall be effective for purposes of deter-  
11 mining payments for public general hospitals contingent on receipt of  
12 all approvals required by federal law or regulations for federal finan-  
13 cial participation in payments made pursuant to title XIX of the federal  
14 social security act. If federal approvals are not granted for payments  
15 based on such amounts or components thereof, payments to public general  
16 hospitals shall be determined without consideration of such amounts or  
17 such components. Public general hospitals shall refund to the state, or  
18 the state may recoup from prospective payments, any overpayment  
19 received, including those based on a retroactive reduction in the  
20 payments. Any reduction in federal financial participation pursuant to  
21 title XIX of the federal social security act related to federal upper  
22 payment limits applicable to public general hospitals other than those  
23 operated by the state university of New York shall be deemed to apply  
24 first to amounts provided pursuant to sections eleven, twelve, thirteen  
25 and fourteen of this act and sections sixteen and nineteen of a chapter  
26 of the laws of two thousand fifteen.

27 § 23. Section 20 of part B of chapter 1 of the laws of 2002, relating  
28 to the health care reform act of 2000, is amended to read as follows:

1     § 20. Any amounts provided pursuant to sections thirteen and fourteen  
2 of this act shall be effective for purposes of determining payments for  
3 public general hospitals contingent on receipt of all approvals required  
4 by federal law or regulations for federal financial participation in  
5 payments made pursuant to title XIX of the federal social security act.  
6 If federal approvals are not granted for payments based on such amounts  
7 or components thereof, payments to public general hospitals shall be  
8 determined without consideration of such amounts or such components.  
9 Public general hospitals shall refund to the state, or the state may  
10 recoup from prospective payments, any overpayment received, including  
11 those based on a retroactive reduction in the payments. Any reduction in  
12 federal financial participation pursuant to title XIX of the federal  
13 social security act related to federal upper payment limits applicable  
14 to public general hospitals other than those operated by the state of  
15 New York or the state university of New York shall be deemed to apply  
16 first to amounts provided pursuant to sections thirteen and fourteen of  
17 this act and sections sixteen and nineteen of a chapter of the laws of  
18 two thousand fifteen.

19     § 24. Subdivisions 7, 7-a and 7-b of section 2807 of the public  
20 health law, subdivision 7 as amended by section 195 of part A of chapter  
21 389 of the laws of 1997, subdivision 7-a as amended by chapter 938 of  
22 the laws of 1990, subdivision 7-b as added by chapter 731 of the laws of  
23 1993, paragraph (b) of subdivision 7-b as amended by chapter 175 of the  
24 laws of 1997, are amended to read as follows:

25     7. Reimbursement rate promulgation. The commissioner shall notify each  
26 [hospital] residential health care facility and health-related service  
27 of its approved rates of payment which shall be used in reimbursing for  
28 services provided to persons eligible for payments made by state govern-

1 mental agencies at least sixty days prior to the beginning of an estab-  
2 lished rate period for which the rate is to become effective. Notifica-  
3 tion shall be made only after approval of rate schedules by the state  
4 director of the budget. The [sixty and thirty day] notice provisions,  
5 herein, shall not apply to rates issued following judicial annulment or  
6 invalidation of any previously issued rates, or rates issued pursuant to  
7 changes in the methodology used to compute rates which changes are  
8 promulgated following the judicial annulment or invalidation of previ-  
9 ously issued rates. Notwithstanding any provision of law to the contra-  
10 ry, nothing in this subdivision shall prohibit the recalculation and  
11 payment of rates, including both positive and negative adjustments,  
12 based on a reconciliation of amounts paid by residential health care  
13 facilities beginning April first, nineteen hundred ninety-seven for  
14 additional assessments or further additional assessments pursuant to  
15 section twenty-eight hundred seven-d of this article with the amounts  
16 originally recognized for reimbursement purposes.

17 [7-a. Notwithstanding any inconsistent provision of law, with regard  
18 to a general hospital the provisions of subdivisions four and seven of  
19 this section and the provisions of section eighteen of chapter two of  
20 the laws of nineteen hundred eighty-eight relating to the requirement of  
21 prior notice and the time frames for notice, approval or certification  
22 of rates of payment, maximum rates of payment or maximum charges where  
23 not otherwise waived pursuant to law shall be applicable only to such  
24 rates of payment or maximum charges prospectively established for an  
25 annual rate period and such provisions shall not be applicable to a  
26 general hospital with regard to prospective adjustments or retrospective  
27 adjustments of established rates of payment or maximum charges for or  
28 during an annual rate period based on correction of errors or omissions

1 of data or in computation, rate appeals, audits or other rate adjust-  
2 ments authorized by law or regulations adopted pursuant to section twen-  
3 ty-eight hundred three of this article.

4 7-b. Notification of diagnostic and treatment center approved rates.

5 (a) For rate periods or portions of rate periods beginning on or after  
6 October first, nineteen hundred ninety-four, the commissioner shall  
7 notify each diagnostic and treatment center of its approved rates of  
8 payment, which shall be used in the reimbursement for services provided  
9 to persons eligible for payments made by state governmental agencies at  
10 least thirty days prior to the beginning of the period for which such  
11 rates are to become effective.

12 (b)] (a) Notwithstanding any contrary provision of law, all diagnostic  
13 and treatment centers certified on or before September second, nineteen  
14 hundred ninety-seven shall, not later than September second, nineteen  
15 hundred ninety-seven, notify the commissioner whether they intend to  
16 maintain all books and records utilized by the diagnostic and treatment  
17 center for cost reporting and reimbursement purposes on a calendar year  
18 basis or, commencing on July first, nineteen hundred ninety-six, on a  
19 July first through June thirtieth basis, and shall thereafter maintain  
20 all books and records on such basis. All diagnostic and treatment  
21 centers certified after September second, nineteen hundred ninety-seven  
22 shall notify the commissioner at the time of certification whether they  
23 intend to maintain all books and records on a calendar year basis or on  
24 [or] a July first through June thirtieth basis, and shall thereafter  
25 maintain all books and records on such a basis.

26 [(c)] (b) The books and records maintained pursuant to paragraph [(b)]  
27 (a) of this subdivision shall be utilized and made available to the

1 commissioner in promulgating rates of payment for annual rate periods  
2 beginning on or after October first, nineteen hundred ninety-seven.

3 [(d)] (c) Notwithstanding any provision of the law to the contrary,  
4 rates of payment established in accordance with paragraph [(b)] (a) as  
5 amended, and paragraph (f) of subdivision two of this section for the  
6 rate period beginning April first, nineteen hundred ninety-three shall  
7 continue in effect through September thirtieth, nineteen hundred nine-  
8 ty-four, and applicable trend factors shall be applied to that portion  
9 of such rates of payment for the rate period which begins April first,  
10 nineteen hundred ninety-four.

11 § 25. Section 365-1 of the social services law is amended by adding a  
12 new subdivision 2-b to read as follows:

13 2-b. The commissioner is authorized to make grants up to a gross  
14 amount of five million dollars, to establish coordination between health  
15 homes and the criminal justice system and for the integration of infor-  
16 mation of health homes with state and local correctional facilities, to  
17 the extent permitted by law. Health homes receiving such funds shall be  
18 required to document and demonstrate the effective use of funds distrib-  
19 uted herein.

20 § 26. Paragraph (e) of subdivision 2-a of section 2807 of the public  
21 health law is amended by adding a new subparagraph (iv) to read as  
22 follows:

23 (iv) Notwithstanding any law to the contrary and subject to federal  
24 financial participation, family planning or family planning related  
25 services that are eligible for enhanced federal medical assistance  
26 percentages, shall not be reimbursed pursuant to the methodology estab-  
27 lished in this subdivision.



1     § 27. Subdivision 35 of section 2807-c of the public health law is  
2 amended by adding a new paragraph (k) to read as follows:

3     (k) Notwithstanding any law to the contrary and subject to federal  
4 financial participation, family planning or family planning related  
5 services that are eligible for enhanced federal medical assistance  
6 percentages shall be excluded from reimbursement under this subdivision.

7     § 28. Subdivisions 6 and 7 of section 369-gg of the social services  
8 law are renumbered 7 and 8 and a new subdivision 6 is added to read as  
9 follows:

10    6. Rates of payment. (a) The commissioner shall select the contract  
11 with an independent actuary to study and recommend appropriate  
12 reimbursement methodologies for the cost of health care service coverage  
13 pursuant to this title. Such independent actuary shall review and make  
14 recommendations concerning appropriate actuarial assumptions relevant to  
15 the establishment of reimbursement methodologies, including but not  
16 limited to; the adequacy of rates of payment in relation to the popu-  
17 lation to be served adjusted for case mix, the scope of health care  
18 services approved organizations must provide, the utilization of such  
19 services and the network of providers required to meet state standards.

20    (b) Upon consultation with the independent actuary and entities  
21 representing approved organizations, the commissioner shall develop  
22 reimbursement methodologies and fee schedules for determining rates of  
23 payment, which rate shall be approved by the director of the division of  
24 the budget, to be made by the department to approved organizations for  
25 the cost of health care services coverage pursuant to this title. Such  
26 reimbursement methodologies and fee schedules may include provisions for  
27 capitation arrangements.

1     (c) The commissioner shall have the authority to promulgate regu-  
2     lations, including emergency regulations, necessary to effectuate the  
3     provisions of this subdivision.

4     § 29. Section 1 of part B of chapter 59 of the laws of 2011, amending  
5     the public health law relating to rates of payment and medical assist-  
6     ance, is amended to read as follows:

7     Section 1.     (a) Notwithstanding any inconsistent provision of law,  
8     rule or regulation to the contrary, and subject to the availability of  
9     federal financial participation, effective for the period April 1, 2011  
10    through March 31, 2012, and each state fiscal year thereafter, the  
11    department of health is authorized to make supplemental Medicaid  
12    payments or supplemental Medicaid managed care payments for professional  
13    services provided by physicians, nurse practitioners and physician  
14    assistants who are participating in a plan for the management of clin-  
15    ical practice at the State University of New York, in accordance with  
16    title 11 of article 5 of the social services law for patients eligible  
17    for federal financial participation under title XIX of the federal  
18    social security act, in amounts that will increase fees for such profes-  
19    sional services to an amount equal to the average commercial or Medicare  
20    rate that would otherwise be received for such services rendered by such  
21    physicians, nurse practitioners and physician assistants. The calcu-  
22    lation of such supplemental fee payments shall be made in accordance  
23    with applicable federal law and regulation and subject to the approval  
24    of the division of the budget. Such supplemental Medicaid fee payments  
25    may be added to the professional fees paid under the fee schedule [or],  
26    made as aggregate lump sum payments to eligible clinical practice plans  
27    authorized to receive professional fees or made as supplemental payments  
28    made for such purpose as described herein to Medicaid managed care

1 organizations. Supplemental Medicaid managed care payments under this  
2 section shall be distributed to providers as determined by the managed  
3 care model contract and may utilize managed care organization reported  
4 encounter data and other such metrics as determined by the department of  
5 health in order to ensure rates of payment equivalent to the average  
6 commercial or Medicare rate that would otherwise be received for such  
7 services rendered by such physicians, nurse practitioners and physician  
8 assistants.

9 (b) The affiliated State University of New York health science centers  
10 shall be responsible for payment of one hundred percent of the non-fed-  
11 eral share of such supplemental Medicaid payments or supplemental Medi-  
12 caid managed care payments for all services provided by physicians,  
13 nurse practitioners and physician assistants who are participating in a  
14 plan for the management of clinical practice, in accordance with section  
15 365-a of the social services law, regardless of whether another social  
16 services district or the department of health may otherwise be responsi-  
17 ble for furnishing medical assistance to the eligible persons receiving  
18 such services.

19 § 30. Section 93 of part H of chapter 59 of the laws of 2011, amending  
20 the public health law relating to general hospital inpatient reimburse-  
21 ment for annual rates, is amended to read as follows:

22 § 93. 1. Notwithstanding any inconsistent provision of law, rule or  
23 regulation to the contrary, and subject to the availability of federal  
24 financial participation, effective for the period April 1, 2011 through  
25 March 31, 2012, and each state fiscal year thereafter, the department of  
26 health is authorized to make supplemental Medicaid payments or supple-  
27 mental Medicaid managed care payments for professional services provided  
28 by physicians, nurse practitioners and physician assistants who are

1 employed by a public benefit corporation or a non-state operated public  
2 general hospital operated by a public benefit corporation or who are  
3 providing professional services at a facility of such public benefit  
4 corporation as either a member of a practice plan or an employee of a  
5 professional corporation or limited liability corporation under contract  
6 to provide services to patients of such a public benefit corporation, in  
7 accordance with title 11 of article 5 of the social services law for  
8 patients eligible for federal financial participation under title XIX of  
9 the federal social security act, in amounts that will increase fees for  
10 such professional services to an amount equal to either the Medicare  
11 rate or the average commercial rate that would otherwise be received for  
12 such services rendered by such physicians, nurse practitioners and  
13 physician assistants, provided, however, that such supplemental fee  
14 payments shall not be available with regard to services provided at  
15 facilities participating in the Medicare Teaching Election Amendment.  
16 The calculation of such supplemental fee payments shall be made in  
17 accordance with applicable federal law and regulation and subject to the  
18 approval of the division of the budget. Such supplemental Medicaid fee  
19 payments may be added to the professional fees paid under the fee sched-  
20 ule [or], made as aggregate lump sum payments to entities authorized to  
21 receive professional fees or made as supplemental payments made for such  
22 purpose as described herein to Medicaid managed care organizations.  
23 Supplemental Medicaid managed care payments under this section shall be  
24 distributed to providers as determined by the managed care model  
25 contract and may utilize managed care organization reported encounter  
26 data and other such metrics as determined by the department of health in  
27 order to ensure rates of payment equivalent to the average commercial or  
28 Medicare rate that would otherwise be received for such services

1 rendered by such physicians, nurse practitioners and physician assist-  
2 ants.

3 2. The supplemental Medicaid payments or supplemental Medicaid managed  
4 care payments for professional services authorized by subdivision one of  
5 this section may be made only at the election of the public benefit  
6 corporation or the local social services district in which the non-state  
7 operated public general hospital is located. The electing public benefit  
8 corporation or local social services district shall, notwithstanding the  
9 social services district Medicaid cap provisions of Part C of chapter 58  
10 of the laws of 2005, be responsible for payment of one hundred percent  
11 of the non-federal share of such supplemental Medicaid payments, in  
12 accordance with section 365-a of the social services law, regardless of  
13 whether another social services district or the department of health may  
14 otherwise be responsible for furnishing medical assistance to the eligi-  
15 ble persons receiving such services. Social services district or public  
16 benefit corporation funding of the non-federal share of any such  
17 payments shall be deemed to be voluntary for purposes of the increased  
18 federal medical assistance percentage provisions of the American Recov-  
19 ery and Reinvestment Act of 2009, provided, however, that in the event  
20 the federal Centers for Medicare and Medicaid Services determines that  
21 such non-federal share payments are not voluntary payments for purposes  
22 of such act, the provisions of this section shall be null and void.

23 § 31. Subparagraph (iii) of paragraph (d) of subdivision 1 of section  
24 367-a of the social services law, as amended by section 65 of part H of  
25 chapter 59 of the laws 2011, is amended to read as follows:

26 (iii) [When payment under part B of title XVIII of the federal social  
27 security act for] With respect to items and services provided to eligi-  
28 ble persons who are also beneficiaries under part B of title XVIII of

1 the federal social security act and [for] items and services provided to  
2 qualified medicare beneficiaries under part B of title XVIII of the  
3 federal social security act [would exceed the amount that otherwise  
4 would be made under this title if provided to an eligible person other  
5 than a person who is also a beneficiary under part B or is a qualified  
6 medicare beneficiary, the amount payable for services covered under this  
7 title shall be twenty percent of], the amount payable for services  
8 covered under this title shall be the amount of any co-insurance liabil-  
9 ity of such eligible persons pursuant to federal law were they not  
10 eligible for medical assistance or were they not qualified medicare  
11 beneficiaries with respect to such benefits under such part B, but shall  
12 not exceed the amount that otherwise would be made under this title if  
13 provided to an eligible person other than a person who is also a benefi-  
14 ciary under part B or is a qualified medicare beneficiary minus the  
15 amount payable under part B; provided, however, amounts payable under  
16 this title for items and services provided to eligible persons who are  
17 also beneficiaries under part B or to qualified medicare beneficiaries  
18 by an ambulance service under the authority of an operating certificate  
19 issued pursuant to article thirty of the public health law, a psychol-  
20 ogist licensed under article one hundred fifty-three of the education  
21 law, or a facility under the authority of an operating certificate  
22 issued pursuant to article sixteen, thirty-one or thirty-two of the  
23 mental hygiene law and with respect to outpatient hospital and clinic  
24 items and services provided by a facility under the authority of an  
25 operating certificate issued pursuant to article twenty-eight of the  
26 public health law, shall not be less than the amount of any co-insurance  
27 liability of such eligible persons or such qualified medicare benefi-  
28 aries, or for which such eligible persons or such qualified medicare

1 beneficiaries would be liable under federal law were they not eligible  
2 for medical assistance or were they not qualified medicare beneficiaries  
3 with respect to such benefits under part B.

4 § 32. Paragraph (d) of subdivision 1 of section 367-a of the social  
5 services law is amended by adding a new subparagraph (iv) to read as  
6 follows:

7 (iv) If a health plan participating in part C of title XVIII of the  
8 federal social security act pays for items and services provided to  
9 eligible persons who are also beneficiaries under part B of title XVIII  
10 of the federal social security act or to qualified medicare benefi-  
11 aries, the amount payable for services under this title shall be the  
12 amount of any co-insurance liability of such eligible persons pursuant  
13 to federal law if they were not eligible for medical assistance or were  
14 not qualified medicare beneficiaries with respect to such benefits under  
15 part B, but shall not exceed the amount that otherwise would be made  
16 under this title if provided to an eligible person who is not a benefi-  
17 ciary under part B or a qualified medicare beneficiary, less the amount  
18 payable by the part C health plan.

19 § 33. Paragraph (a) of subdivision 3 of section 366 of the social  
20 services law, as amended by chapter 110 of the laws of 1971, is amended  
21 to read as follows:

22 (a) Medical assistance shall be furnished to applicants in cases  
23 where, although such applicant has a responsible relative with suffi-  
24 cient income and resources to provide medical assistance as determined  
25 by the regulations of the department, the income and resources of the  
26 responsible relative are not available to such applicant because of the  
27 absence of such relative [or] and the refusal or failure of such absent  
28 relative to provide the necessary care and assistance. In such cases,

1 however, the furnishing of such assistance shall create an implied  
2 contract with such relative, and the cost thereof may be recovered from  
3 such relative in accordance with title six of article three of this  
4 chapter and other applicable provisions of law.

5 § 34. The commissioner of health is authorized to contract with one  
6 or more entities to conduct an assessment of the mobility and transpor-  
7 tation needs of persons with disabilities and other special needs popu-  
8 lations. The assessment shall include identification of any legal,  
9 statutory or regulatory, and funding barriers. After consultation with  
10 the department of transportation, office for people with developmental  
11 disabilities, office for the aging, office of mental health, and office  
12 of alcoholism and substance abuse services, the contractor shall make  
13 recommendations for the development of a pilot demonstration project to  
14 coordinate medical and non-medical transportation services, maximize  
15 funding sources, enhance community integration and any other related  
16 tasks.

17 § 35. Section 133 of the social services law, as amended by chapter  
18 455 of the laws of 2010, is amended to read as follows:

19 § 133. Temporary preinvestigation emergency needs assistance or care.  
20 Upon application for public assistance or care under this chapter, the  
21 local social services district shall notify the applicant in writing of  
22 the availability of a monetary grant adequate to meet emergency needs  
23 assistance or care and shall, at such time, determine whether such  
24 person is in immediate need. If it shall appear that a person is in  
25 immediate need, emergency needs assistance or care shall be granted  
26 pending completion of an investigation. The written notification  
27 required by this section shall inform such person of a right to an expe-  
28 dited hearing when emergency needs assistance or care is denied. A



1 public assistance applicant who has been denied emergency needs assist-  
2 ance or care must be given reason for such denial in a written determi-  
3 nation which sets forth the basis for such denial. Nothing in this  
4 section shall be construed to require the social services district or  
5 any state agency to provide a monetary or other grant pursuant to this  
6 section for the purpose of obtaining medical care, home care, or related  
7 services.

8 § 36. Subdivision 7 of section 364-i of the social services law, as  
9 added by section 34 of part A of chapter 56 of the laws of 2013, is  
10 amended to read as follows:

11 7. Notwithstanding [section one hundred thirty-three of this chapter]  
12 any other section of law, where care [or], services, or supplies are  
13 received prior to the date [the] an individual is determined eligible  
14 for assistance under this title, medical assistance reimbursement shall  
15 be available for such care [or], services, or supplies only (a) if the  
16 care [or], services, or supplies are received during the three month  
17 period preceding the month of application for medical assistance and the  
18 recipient is determined to have been eligible in the month in which the  
19 care [or], service, or supply was received, or (b) [as] if provided [for  
20 in] during a period of presumptive eligibility pursuant to this section  
21 [or regulations of the department]. No medical assistance under this  
22 title, regardless of funding source, shall be available to meet the  
23 immediate needs of individuals prior to a determination that they meet  
24 the eligibility requirements of this title, except during a period of  
25 presumptive eligibility as provided in this subdivision.

26 § 37. Notwithstanding any provision of law to the contrary, enhanced  
27 federal medical assistance percentage monies available as a result of  
28 the state's participation in the community first choice state plan

1 option under section 1915 of title XIX of the federal social security  
2 act shall be used to implement the state's comprehensive plan for serv-  
3 ing New Yorkers with disabilities in the most integrated setting, also  
4 known as the state's Olmstead plan. Such monies shall be expended for  
5 the purposes consistent with the Olmstead plan. The Department of Health  
6 shall consult with stakeholders, relevant state agencies, the Division  
7 of Budget and the Olmstead cabinet in determining the level of invest-  
8 ment for each of the programs under the Olmstead plan.

9 § 38. Section 2808 of the public health law is amended by adding a new  
10 subdivision 27 to read as follows:

11 27. For periods on or after April first, two thousand fifteen, the  
12 commissioner shall authorize an energy efficiency and/or disaster  
13 preparedness demonstration program for residential health care facili-  
14 ties. Such program shall be limited to real property capital costs. The  
15 commissioner may promulgate regulations in order to implement the  
16 provisions of this subdivision.

17 § 39. The opening paragraph of subdivision 9 of section 3614 of the  
18 public health law, as amended by section 56 of part A of chapter 56 of  
19 the laws of 2013, is amended to read as follows:

20 Notwithstanding any law to the contrary, the commissioner shall,  
21 subject to the availability of federal financial participation, adjust  
22 medical assistance rates of payment for certified home health agencies  
23 for such services provided to children under eighteen years of age and  
24 for services provided to a special needs population of medically complex  
25 and fragile children, adolescents and young disabled adults by a CHHA  
26 operating under a pilot program approved by the department, long term  
27 home health care programs, AIDS home care programs established pursuant  
28 to this article, and hospice programs established under article forty of

1 this chapter [and for managed long term care plans and approved managed  
2 long term care operating demonstrations as defined in section forty-four  
3 hundred three-f of this chapter]. Such adjustments shall be for purposes  
4 of improving recruitment, training and retention of home health aides or  
5 other personnel with direct patient care responsibility in the following  
6 aggregate amounts for the following periods:

7 § 40. Paragraph (a) of subdivision 10 of section 3614 of the public  
8 health law, as amended by section 57 of part A of chapter 56 of the laws  
9 of 2013, is amended to read as follows:

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

25 § 41. The civil service law is amended by adding a new section 66 to  
26 read as follows:

27 § 66. Term appointments in health insurance program-related positions.

28 1. The department of health's office of health insurance programs is

1 tasked with implementing significant health insurance program reforms,  
2 initiatives and mandates. As the state continues to implement these  
3 changes, the office of health insurance programs may need to rely upon  
4 the expertise of individuals from either inside or outside the existing  
5 state workforce that possess highly specialized expertise in assessing  
6 and leveraging emerging health insurance programs and related issues.

7 To this end, notwithstanding any other provision in this chapter, the  
8 department may authorize term appointments without examination to tempo-  
9 rary positions requiring special expertise or qualifications in health  
10 insurance programs. Such appointments may be authorized only in such  
11 cases where the office of health insurance programs certifies to the  
12 department that because of the type of services to be rendered or the  
13 temporary or occasional character of such services, it would not be  
14 practicable to hold an examination of any kind. Such certification shall  
15 be a public document pursuant to the public officers law and shall iden-  
16 tify the special expertise or qualifications that are required and why  
17 they cannot be obtained through an appointment from an eligible list.  
18 The maximum period for a term appointment established pursuant to this  
19 subdivision shall not exceed sixty months and shall not be extended, and  
20 the maximum number of such appointments shall not exceed three hundred.  
21 At least fifteen days prior to making a term appointment pursuant to  
22 this section the appointing authority shall publicly and conspicuously  
23 post in its offices information about the temporary position and the  
24 required qualifications and shall allow any qualified employee to apply  
25 for said position. An employee appointed pursuant to this provision who  
26 has completed two years of continuous service under this provision shall  
27 be able to compete in one promotional examination that is also open to

1 employees who have permanent civil service appointments and appropriate  
2 qualifications.

3 2. A temporary position established pursuant to subdivision one of  
4 this section may be abolished for reasons of economy, consolidation or  
5 abolition of functions, curtailment of activities or otherwise. Upon  
6 such abolition or at the end of the term of the appointment, the  
7 provisions of sections seventy-eight, seventy-nine, eighty and eighty-  
8 one of this chapter shall not apply. In the event of a reduction of  
9 workforce pursuant to section eighty of this chapter affecting health  
10 insurance program-related positions, the term appointments pursuant to  
11 this section at the department of health's office of health insurance  
12 programs shall be abolished prior to the abolition of permanent compet-  
13 itive class health insurance program-related positions at the office of  
14 health insurance programs involving comparable skills and responsibil-  
15 ities.

16 § 42. Subdivision 12 of section 367-a of the social services law, as  
17 amended by section 63-a of part C of chapter 58 of the laws of 2007, is  
18 amended to read as follows:

19 12. Prior to receiving medical assistance under subparagraphs [twelve]  
20 five and [thirteen] six of paragraph [(a)] (c) of subdivision one of  
21 section three hundred sixty-six of this title, a person whose net avail-  
22 able income is at least one hundred fifty percent of the applicable  
23 federal income official poverty line, as defined and updated by the  
24 United States department of health and human services, must pay a month-  
25 ly premium, in accordance with a procedure to be established by the  
26 commissioner. The amount of such premium shall be twenty-five dollars  
27 for an individual who is otherwise eligible for medical assistance under  
28 such subparagraphs, and fifty dollars for a couple, both of whom are

1 otherwise eligible for medical assistance under such subparagraphs. No  
2 premium shall be required from a person whose net available income is  
3 less than one hundred fifty percent of the applicable federal income  
4 official poverty line, as defined and updated by the United States  
5 department of health and human services.

6 § 43. Subparagraph 6 of paragraph (b) of subdivision 1 of section 366  
7 of the social services law, as added by section 1 of part D of chapter  
8 56 of the laws of 2013, is amended to read as follows:

9 (6) An individual who is not otherwise eligible for medical assistance  
10 under this section is eligible for coverage of family planning services  
11 reimbursed by the federal government at a rate of ninety percent, and  
12 for coverage of those services identified by the commissioner of health  
13 as services generally performed as part of or as a follow-up to a  
14 service eligible for such ninety percent reimbursement, including treat-  
15 ment for sexually transmitted diseases, if his or her income does not  
16 exceed the MAGI-equivalent of two hundred percent of the federal poverty  
17 line for the applicable family size, which shall be calculated in  
18 accordance with guidance issued by the secretary of the United States  
19 department of health and human services[.]; provided further that the  
20 commissioner of health is authorized to establish criteria for presump-  
21 tive eligibility for services provided pursuant to this subparagraph in  
22 accordance with all applicable requirements of federal law or regulation  
23 pertaining to such eligibility.

24 § 44. Subdivision 1 of section 398-b of the social services law, as  
25 added by section 44 of part C of chapter 60 of the laws of 2014, is  
26 amended to read as follows:

27 1. Notwithstanding any inconsistent provision of law to the contrary  
28 and subject to the availability of federal financial participation, the

1 commissioner is authorized to make grants [from] up to a gross amount of  
2 five million dollars for state fiscal year two thousand fourteen--fif-  
3 teen and up to a gross amount of fifteen million dollars for state  
4 fiscal year two thousand fifteen--sixteen to facilitate the transition  
5 of foster care children placed with voluntary foster care agencies to  
6 managed care. The use of such funds may include providing training and  
7 consulting services to voluntary agencies to [access] assess readiness  
8 and make necessary infrastructure and organizational modifications,  
9 collecting service utilization and other data from voluntary agencies  
10 and other entities, and making investments in health information tech-  
11 nology, including the infrastructure necessary to establish and maintain  
12 electronic health records. Such funds shall be distributed pursuant to a  
13 formula to be developed by the commissioner of health, in consultation  
14 with the commissioner of the office of children and family [and child]  
15 services. In developing such formula the commissioners may take into  
16 account size and scope of provider operations as a factor relevant to  
17 eligibility for such funds. Each recipient of such funds shall be  
18 required to document and demonstrate the effective use of funds distrib-  
19 uted herein. If federal financial participation is unavailable, then  
20 the nonfederal share of payments pursuant to this subdivision may be  
21 made as state grants.

22 § 45. Paragraph (g) of subdivision 1 of section 366 of the social  
23 services law, as added by section 50 of part C of chapter 60 of the laws  
24 of 2014, is amended to read as follows:

25 (g) Coverage of certain noncitizens. (1) Applicants and recipients who  
26 are lawfully admitted for permanent residence, or who are permanently  
27 residing in the United States under color of law, or who are non-citiz-  
28 ens in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15);

1 who are MAGI eligible pursuant to paragraph (b) of this subdivision; and  
2 who would be ineligible for medical assistance coverage under subdivi-  
3 sions one and two of section three hundred sixty-five-a of this title  
4 solely due to their immigration status if the provisions of section one  
5 hundred twenty-two of this chapter were applied, shall only be eligible  
6 for assistance under this title if enrolled in a standard health plan  
7 offered by a basic health program established pursuant to section three  
8 hundred sixty-nine-gg of this article if such program is established and  
9 operating.

10 (2) With respect to a person described in subparagraph one of this  
11 paragraph who is enrolled in a standard health plan, medical assistance  
12 coverage shall mean:

13 (i) payment of required premiums and other cost-sharing obligations  
14 under the standard health plan that exceed the person's co-payment obli-  
15 gation under subdivision six of section three hundred sixty-seven-a of  
16 this title; and

17 (ii) payment for services and supplies described in subdivision one or  
18 two of section three hundred sixty-five-a of this title, as applicable,  
19 but only to the extent that such services and supplies are not covered  
20 by the standard health plan.

21 (3) Nothing in this subdivision shall prevent a person described in  
22 subparagraph one of this paragraph from qualifying for or receiving  
23 medical assistance while his or her enrollment in a standard health plan  
24 is pending, in accordance with applicable provisions of this title.

25 § 46. Subdivision 8 of section 369-gg of the social service law, as  
26 added by section 51 of part C of chapter 60 of the laws of 2014 and as  
27 renumbered by section thirty of this act, is amended to read as follows:



1     8.     An individual who is lawfully admitted for permanent residence  
2     [or], permanently residing in the United States under color of law, or  
3     who is a non-citizen in a valid nonimmigrant status, as defined in 8  
4     U.S.C. 1101(a)(15), and who would be ineligible for medical assistance  
5     under title eleven of this article due to his or her immigration status  
6     if the provisions of section one hundred twenty-two of this chapter were  
7     applied, shall be considered to be ineligible for medical assistance for  
8     purposes of paragraphs (b) and (c) of subdivision three of this section.

9     § 47. Notwithstanding any inconsistent provision of law, rule or regu-  
10    lation to the contrary, for purposes of implementing the provisions of  
11    the public health law and the social services law, references to titles  
12    XIX and XXI of the federal social security act in the public health law  
13    and the social services law shall be deemed to include and also to mean  
14    any successor titles thereto under the federal social security act.

15    § 48. Notwithstanding any inconsistent provision of law, rule or regu-  
16    lation, the effectiveness of the provisions of sections 2807 and 3614 of  
17    the public health law, section 18 of chapter 2 of the laws of 1988, and  
18    18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
19    or certification of rates of payment, are hereby suspended and without  
20    force or effect for purposes of implementing the provisions of this act.

21    § 49. Severability clause. If any clause, sentence, paragraph, subdi-  
22    vision, section or part of this act shall be adjudged by any court of  
23    competent jurisdiction to be invalid, such judgment shall not affect,  
24    impair or invalidate the remainder thereof, but shall be confined in its  
25    operation to the clause, sentence, paragraph, subdivision, section or  
26    part thereof directly involved in the controversy in which such judgment  
27    shall have been rendered. It is hereby declared to be the intent of the

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

3 § 50. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2015, section  
5 eight of this act shall expire and be deemed repealed March 31, 2017 and  
6 section thirty-eight of this act shall expire and be deemed repealed  
7 March 31, 2018 provided that:

8 1. sections two and three of this act shall take effect May 1, 2015;

9 2. sections six, nine and thirteen of this act shall take effect June  
10 1, 2015;

11 3. sections thirty-one and thirty-two of this act shall take effect  
12 July 1, 2015;

13 4. the amendments to subdivision 9 of section 367-a of the social  
14 services law made by sections two and three of this act shall not affect  
15 the expiration and reversion of such subdivision and shall be deemed  
16 expired therewith;

17 5. sections twenty-eight and forty-six of this act shall take effect  
18 on the same date and in the same manner as section 51 of part C of chap-  
19 ter 60 of the laws of 2014 takes effect;

20 6. section forty-five of this act shall take effect on the same date  
21 and in the same manner as section 50 of part C of chapter 60 of the laws  
22 of 2014 takes effect;

23 7. the amendments to section 364-j of the social services law made by  
24 section seven of this act shall not affect the repeal of such section  
25 and shall be deemed to be repealed therewith;

26 8. any rules or regulations necessary to implement the provisions of  
27 this act may be promulgated and any procedures, forms, or instructions

1 necessary for such implementation may be adopted and issued on or after  
2 the date this act shall have become a law;

3 9. this act shall not be construed to alter, change, affect, impair or  
4 defeat any rights, obligations, duties or interests accrued, incurred or  
5 conferred prior to the effective date of this act;

6 10. the commissioner of health and the superintendent of the depart-  
7 ment of financial services and any appropriate council may take steps  
8 necessary to implement this act prior to its effective date;

9 11. notwithstanding any inconsistent provision of the state adminis-  
10 trative procedure act or any other provision of law, rule or regulation,  
11 the commissioner of health and the superintendent of the department of  
12 financial services and any appropriate council is authorized to adopt or  
13 amend or promulgate on an emergency basis any regulation he or she or  
14 such council determines necessary to implement any provision of this act  
15 on its effective date; and

16 12. the provisions of this act shall become effective notwithstanding  
17 the failure of the commissioner of health or the superintendent of the  
18 department of financial services or any council to adopt or amend or  
19 promulgate regulations implementing this act.

20 PART C

21 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013  
22 amending chapter 59 of the laws of 2011 amending the public health law  
23 and other laws relating to general hospital reimbursement for annual  
24 rates relating to the cap on local Medicaid expenditures, as amended by  
25 section 13 of part C of chapter 60 of the laws of 2014, is amended to  
26 read as follows:

1     § 48-a. 1. Notwithstanding any contrary provision of law, the commis-  
2     sioners of the office of alcoholism and substance abuse services and the  
3     office of mental health are authorized, subject to the approval of the  
4     director of the budget, to transfer to the commissioner of health state  
5     funds to be utilized as the state share for the purpose of increasing  
6     payments under the medicaid program to managed care organizations  
7     licensed under article 44 of the public health law or under article 43  
8     of the insurance law. Such managed care organizations shall utilize such  
9     funds for the purpose of reimbursing providers licensed pursuant to  
10    article 28 of the public health law or article 31 or 32 of the mental  
11    hygiene law for ambulatory behavioral health services, as determined by  
12    the commissioner of health, in consultation with the commissioner of  
13    alcoholism and substance abuse services and the commissioner of the  
14    office of mental health, provided to medicaid eligible outpatients. Such  
15    reimbursement shall be in the form of fees for such services which are  
16    equivalent to the payments established for such services under the ambu-  
17    latory patient group (APG) rate-setting methodology as utilized by the  
18    department of health, the office of alcoholism and substance abuse  
19    services, or the office of mental health for rate-setting purposes;  
20    provided, however, that the increase to such fees that shall result from  
21    the provisions of this section shall not, in the aggregate and as deter-  
22    mined by the commissioner of health, in consultation with the commis-  
23    sioner of alcoholism and substance abuse services and the commissioner  
24    of the office of mental health, be greater than the increased funds made  
25    available pursuant to this section. The increase of such ambulatory  
26    behavioral health fees to providers available under this section shall  
27    be for all rate periods on and after the effective date of [the] section  
28    13 of part C of chapter 60 of the laws of 2014 [which amended this

1 section] through December 31, 2016 for patients in the city of New York,  
2 for all rate periods on and after the effective date of [the] section 13  
3 of part C of chapter 60 of the laws of 2014 [which amended this section]  
4 through June 30, 2017 for patients outside the city of New York, and for  
5 all rate periods on and after the effective date of such chapter [of the  
6 laws of 2014 which amended this section] through December 31, 2017 for  
7 all services provided to persons under the age of twenty-one; provided,  
8 however, that managed care organizations and providers may negotiate  
9 different rates and methods of payment during such periods described  
10 above, subject to the approval of the department of health. The depart-  
11 ment of health shall consult with the office of alcoholism and substance  
12 abuse services and the office of mental health in determining whether  
13 such alternative rates shall be approved. The commissioner of health  
14 may, in consultation with the commissioner of alcoholism and substance  
15 abuse services and the commissioner of the office of mental health,  
16 promulgate regulations, including emergency regulations promulgated  
17 prior to October 1, 2015 to establish rates for ambulatory behavioral  
18 health services, as are necessary to implement the provisions of this  
19 section. Rates promulgated under this section shall be included in the  
20 report required under section 45-c of part A of this chapter.

21 2. Notwithstanding any contrary provision of law, the fees paid by  
22 managed care organizations licensed under article 44 of the public  
23 health law or under article 43 of the insurance law, to providers  
24 licensed pursuant to article 28 of the public health law or article 31  
25 or 32 of the mental hygiene law, for ambulatory behavioral health  
26 services provided to patients enrolled in the child health insurance  
27 program pursuant to title one-A of article 25 of the public health law,  
28 shall be in the form of fees for such services which are equivalent to

1 the payments established for such services under the ambulatory patient  
2 group (APG) rate-setting methodology. The commissioner of health shall  
3 consult with the commissioner of alcoholism and substance abuse services  
4 and the commissioner of the office of mental health in determining such  
5 services and establishing such fees. Such ambulatory behavioral health  
6 fees to providers available under this section shall be for all rate  
7 periods on and after the effective date of this chapter through December  
8 31, 2016 for patients in the city of New York, and for all rate periods  
9 on and after the effective date of this chapter through June 30, 2017  
10 for patients outside the city of New York, provided, however, that  
11 managed care organizations and providers may negotiate different rates  
12 and methods of payment during such periods described above, subject to  
13 the approval of the department of health. The department of health  
14 shall consult with the office of alcoholism and substance abuse services  
15 and the office of mental health in determining whether such alternative  
16 rates shall be approved.

17 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating  
18 to increasing Medicaid payments to providers through managed care organ-  
19 izations and providing equivalent fees through an ambulatory patient  
20 group methodology, as amended by section 15 of part C of chapter 60 of  
21 the laws of 2014, is amended to read as follows:

22 Section 1. a. Notwithstanding any contrary provision of law, the  
23 commissioners of mental health and alcoholism and substance abuse  
24 services are authorized, subject to the approval of the director of the  
25 budget, to transfer to the commissioner of health state funds to be  
26 utilized as the state share for the purpose of increasing payments under  
27 the medicaid program to managed care organizations licensed under arti-  
28 cle 44 of the public health law or under article 43 of the insurance

1 law. Such managed care organizations shall utilize such funds for the  
2 purpose of reimbursing providers licensed pursuant to article 28 of the  
3 public health law, or pursuant to article 31 or article 32 of the mental  
4 hygiene law for ambulatory behavioral health services, as determined by  
5 the commissioner of health in consultation with the commissioner of  
6 mental health and commissioner of alcoholism and substance abuse  
7 services, provided to medicaid eligible outpatients. Such reimbursement  
8 shall be in the form of fees for such services which are equivalent to  
9 the payments established for such services under the ambulatory patient  
10 group (APG) rate-setting methodology as utilized by the department of  
11 health or by the office of mental health or office of alcoholism and  
12 substance abuse services for rate-setting purposes; provided, however,  
13 that the increase to such fees that shall result from the provisions of  
14 this section shall not, in the aggregate and as determined by the  
15 commissioner of health in consultation with the commissioners of mental  
16 health and alcoholism and substance abuse services, be greater than the  
17 increased funds made available pursuant to this section. The increase of  
18 such behavioral health fees to providers available under this section  
19 shall be for all rate periods on and after the effective date of [the]  
20 section 15 of part C of chapter 60 of the laws of 2014 [which amended  
21 this section] through December 31, 2016 for patients in the city of New  
22 York, for all rate periods on and after the effective date of [the]  
23 section 15 of part C of chapter 60 of the laws of 2014 [which amended  
24 this section] through June 30, 2017 for patients outside the city of New  
25 York, and for all rate periods on and after the effective date of [the]  
26 section 15 of part C of chapter 60 of the laws of 2014 [which amended  
27 this section] through December 31, 2017 for all services provided to  
28 persons under the age of twenty-one; provided, however, that managed

1 care organizations and providers may negotiate different rates and meth-  
2 ods of payment during such periods described, subject to the approval of  
3 the department of health. The department of health shall consult with  
4 the office of alcoholism and substance abuse services and the office of  
5 mental health in determining whether such alternative rates shall be  
6 approved. The commissioner of health may, in consultation with the  
7 commissioners of mental health and alcoholism and substance abuse  
8 services, promulgate regulations, including emergency regulations  
9 promulgated prior to October 1, 2013 that establish rates for behavioral  
10 health services, as are necessary to implement the provisions of this  
11 section. Rates promulgated under this section shall be included in the  
12 report required under section 45-c of part A of chapter 56 of the laws  
13 of 2013.

14 b. Notwithstanding any contrary provision of law, the fees paid by  
15 managed care organizations licensed under article 44 of the public  
16 health law or under article 43 of the insurance law, to providers  
17 licensed pursuant to article 28 of the public health law or article 31  
18 or 32 of the mental hygiene law, for ambulatory behavioral health  
19 services provided to patients enrolled in the child health insurance  
20 program pursuant to title one-A of article 25 of the public health law,  
21 shall be in the form of fees for such services which are equivalent to  
22 the payments established for such services under the ambulatory patient  
23 group (APG) rate-setting methodology. The commissioner of health shall  
24 consult with the commissioner of alcoholism and substance abuse services  
25 and the commissioner of the office of mental health in determining such  
26 services and establishing such fees. Such ambulatory behavioral health  
27 fees to providers available under this section shall be for all rate  
28 periods on and after the effective date of this chapter through December



31, 2016 for patients in the city of New York, and for all rate periods  
on and after the effective date of this chapter through June 30, 2017  
for patients outside the city of New York, provided, however, that  
managed care organizations and providers may negotiate different rates  
and methods of payment during such periods described above, subject to  
the approval of the department of health. The department of health shall  
consult with the office of alcoholism and substance abuse services and  
the office of mental health in determining whether such alternative  
rates shall be approved.

§ 3. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

§ 4. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

§ 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the

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

3 § 6. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2015. Provided,  
5 however that:

6 1. any rules or regulations necessary to implement the provisions of  
7 this act may be promulgated and any procedures, forms, or instructions  
8 necessary for such implementation may be adopted and issued on or after  
9 the date this act shall have become a law;

10 2. this act shall not be construed to alter, change, affect, impair or  
11 defeat any rights, obligations, duties or interests accrued, incurred or  
12 conferred prior to the effective date of this act;

13 3. the commissioner of health and the superintendent of the department  
14 of financial services and any appropriate council may take any steps  
15 necessary to implement this act prior to its effective date;

16 4. notwithstanding any inconsistent provision of the state administra-  
17 tive procedure act or any other provision of law, rule or regulation,  
18 the commissioner of health and the superintendent of the department of  
19 financial services and any appropriate council is authorized to adopt or  
20 amend or promulgate on an emergency basis any regulation he or she or  
21 such council determines necessary to implement any provision of this act  
22 on its effective date;

23 5. the provisions of this act shall become effective notwithstanding  
24 the failure of the commissioner of health or the superintendent of the  
25 department of financial services or any council to adopt or amend or  
26 promulgate regulations implementing this act; and

27 6. the amendments to section 48-a of part A of chapter 56 of the laws  
28 of 2013 made by section one of this act and the amendments to section 1

1 of part H of chapter 111 of the laws of 2010 made by section two of this  
2 act shall not affect the expiration of such sections and shall be deemed  
3 to expire therewith.

4 PART D

5 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the  
6 public health law relating to authorizing bad debt and charity care  
7 allowances for certified home health agencies, as amended by section 3  
8 of part B of chapter 56 of the laws of 2013, is amended to read as  
9 follows:

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

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

12 (b) [sections four through ten shall expire on June 30, 2015, and

13 (c)] provided that the amendment to section 2807-b of the public  
14 health law by section two of this act shall not affect the expiration of  
15 such section 2807-b as otherwise provided by law and shall be deemed to  
16 expire therewith.

17 § 2. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,  
18 amending the public health law and other laws relating to medical  
19 reimbursement and welfare reform, as amended by section 4 of part B of  
20 chapter 56 of the laws of 2013, is amended to read as follows:

21 2. Sections five, seven through nine, twelve through fourteen, and  
22 eighteen of this act shall be deemed to have been in full force and  
23 effect on and after April 1, 1995 through March 31, 1999 and on and  
24 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000  
25 through March 31, 2003 and on and after April 1, 2003 through March 31,  
26 2006 and on and after April 1, 2006 through March 31, 2007 and on and

1 after April 1, 2007 through March 31, 2009 and on and after April 1,  
2 2009 through March 31, 2011 and sections twelve, thirteen and fourteen  
3 of this act shall be deemed to be in full force and effect on and after  
4 April 1, 2011 [through March 31, 2015];

5 § 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section  
6 2807-d of the public health law, as amended by section 5 of part B of  
7 chapter 56 of the laws of 2013, is amended to read as follows:

8 (vi) Notwithstanding any contrary provision of this paragraph or any  
9 other provision of law or regulation to the contrary, for residential  
10 health care facilities the assessment shall be six percent of each resi-  
11 dential health care facility's gross receipts received from all patient  
12 care services and other operating income on a cash basis for the period  
13 April first, two thousand two through March thirty-first, two thousand  
14 three for hospital or health-related services, including adult day  
15 services; provided, however, that residential health care facilities'  
16 gross receipts attributable to payments received pursuant to title XVIII  
17 of the federal social security act (medicare) shall be excluded from the  
18 assessment; provided, however, that for all such gross receipts received  
19 on or after April first, two thousand three through March thirty-first,  
20 two thousand five, such assessment shall be five percent, and further  
21 provided that for all such gross receipts received on or after April  
22 first, two thousand five through March thirty-first, two thousand nine,  
23 and on or after April first, two thousand nine through March thirty-  
24 first, two thousand eleven such assessment shall be six percent, and  
25 further provided that for all such gross receipts received on or after  
26 April first, two thousand eleven through March thirty-first, two thou-  
27 sand thirteen such assessment shall be six percent, and further provided  
28 that for all such gross receipts received on or after April first, two

1 thousand thirteen through March thirty-first, two thousand fifteen such  
2 assessment shall be six percent, and further provided that for all such  
3 gross receipts received on or after April first, two thousand fifteen  
4 such assessment shall be six percent.

5 § 4. Section 88 of chapter 659 of the laws of 1997, constituting the  
6 long term care integration and finance act of 1997, as amended by  
7 section 6 of part B of chapter 56 of the laws of 2013, is amended to  
8 read as follows:

9 § 88. Notwithstanding any provision of law to the contrary, all oper-  
10 ating demonstrations, as such term is defined in paragraph (c) of subdi-  
11 vision 1 of section 4403-f of the public health law as added by section  
12 eighty-two of this act, due to expire prior to January 1, 2001 shall be  
13 deemed to [expire on December 31, 2015] remain in full force and effect  
14 subsequent to such date.

15 § 5. Subdivision 1 of section 194 of chapter 474 of the laws of 1996,  
16 amending the education law and other laws relating to rates for residen-  
17 tial health care facilities, as amended by section 9 of part B of chap-  
18 ter 56 of the laws of 2013, is amended to read as follows:

19 1. Notwithstanding any inconsistent provision of law or regulation,  
20 the trend factors used to project reimbursable operating costs to the  
21 rate period for purposes of determining rates of payment pursuant to  
22 article 28 of the public health law for residential health care facili-  
23 ties for reimbursement of inpatient services provided to patients eligi-  
24 ble for payments made by state governmental agencies on and after April  
25 1, 1996 through March 31, 1999 and for payments made on and after July  
26 1, 1999 through March 31, 2000 and on and after April 1, 2000 through  
27 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and  
28 on and after April 1, 2007 through March 31, 2009 and on and after April

1 1, 2009 through March 31, 2011 and on and after April 1, 2011 through  
2 March 31, 2013 and on and after April 1, 2013 through March 31, 2015 ,  
3 and for each state fiscal year thereafter shall reflect no trend factor  
4 projections or adjustments for the period April 1, 1996, through March  
5 31, 1997.

6 § 6. Subdivision 1 of section 89-a of part C of chapter 58 of the laws  
7 of 2007, amending the social services law and other laws relating to  
8 enacting the major components of legislation necessary to implement the  
9 health and mental hygiene budget for the 2007-2008 state fiscal year, as  
10 amended by section 10 of part B of chapter 56 of the laws of 2013, is  
11 amended to read as follows:

12 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c  
13 of the public health law and section 21 of chapter 1 of the laws of  
14 1999, as amended, and any other inconsistent provision of law or regu-  
15 lation to the contrary, in determining rates of payments by state  
16 governmental agencies effective for services provided beginning April 1,  
17 2006, [through March 31, 2009, and on and after April 1, 2009 through  
18 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,  
19 and on and after April 1, 2013 through March 31, 2015] for inpatient and  
20 outpatient services provided by general hospitals and for inpatient  
21 services and outpatient adult day health care services provided by resi-  
22 dential health care facilities pursuant to article 28 of the public  
23 health law, the commissioner of health shall apply a trend factor  
24 projection of two and twenty-five hundredths percent attributable to the  
25 period January 1, 2006 through December 31, 2006, and on and after Janu-  
26 ary 1, 2007, provided, however, that on reconciliation of such trend  
27 factor for the period January 1, 2006 through December 31, 2006 pursuant  
28 to paragraph (c) of subdivision 10 of section 2807-c of the public

1 health law, such trend factor shall be the final US Consumer Price Index  
2 (CPI) for all urban consumers, as published by the US Department of  
3 Labor, Bureau of Labor Statistics less twenty-five hundredths of a  
4 percentage point.

5 § 7. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the  
6 laws of 1995, amending the public health law and other laws relating to  
7 medical reimbursement and welfare reform, as amended by section 11 of  
8 part B of chapter 56 of the laws of 2013, is amended to read as follows:

9 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,  
10 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,  
11 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,  
12 February 1, 2012, February 1, 2013 [and], February 1, 2014 [and], Febru-  
13 ary 1, 2015 and prior to each February first thereafter the commissioner  
14 of health shall calculate the result of the statewide total of residen-  
15 tial health care facility days of care provided to beneficiaries of  
16 title XVIII of the federal social security act (medicare), divided by  
17 the sum of such days of care plus days of care provided to residents  
18 eligible for payments pursuant to title 11 of article 5 of the social  
19 services law minus the number of days provided to residents receiving  
20 hospice care, expressed as a percentage, for the period commencing Janu-  
21 ary 1, through November 30, of the prior year respectively, based on  
22 such data for such period. This value shall be called the 2000, 2001,  
23 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,  
24 2014 [and], 2015 and for each subsequent year such percentage shall be  
25 called the statewide target percentage [respectively] of the respective  
26 year.

27 § 8. Subparagraph (ii) of paragraph (b) of subdivision 3 of section 64  
28 of chapter 81 of the laws of 1995, amending the public health law and

1 other laws relating to medical reimbursement and welfare reform, as  
2 amended by section 12 of part B of chapter 56 of the laws of 2013, is  
3 amended to read as follows:

4 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
5 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 or subsequent  
6 years' statewide target percentages are not for each year at least three  
7 percentage points higher than the statewide base percentage, the commis-  
8 sioner of health shall determine the percentage by which the statewide  
9 target percentage for each year is not at least three percentage points  
10 higher than the statewide base percentage. The percentage calculated  
11 pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001,  
12 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,  
13 2014 [and], 2015 and for each subsequent year such percentage shall be  
14 called the statewide reduction percentage [respectively] of the respec-  
15 tive year. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
16 2007, 2008, 2009, 2010, 2011, 2012, 2013[;], 2014 [and], 2015 or subse-  
17 quent years' statewide target percentage for the respective year is at  
18 least three percentage points higher than the statewide base percentage,  
19 the statewide reduction percentage for the respective year shall be  
20 zero.

21 § 9. Subparagraph (iii) of paragraph (b) of subdivision 4 of section  
22 64 of chapter 81 of the laws of 1995, amending the public health law and  
23 other laws relating to medical reimbursement and welfare reform, as  
24 amended by section 13 of part B of chapter 56 of the laws of 2013, is  
25 amended to read as follows:

26 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,  
27 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 or subsequent years'  
28 statewide reduction percentage shall be multiplied by one hundred two



1 million dollars respectively to determine the 1998, 2000, 2001, 2002,  
2 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014  
3 [and], 2015 or respective subsequent years' statewide aggregate  
4 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,  
5 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015  
6 or respective subsequent years' statewide reduction percentage shall be  
7 zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004,  
8 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015  
9 or respective subsequent years' reduction amount.

10 § 10. Section 228 of chapter 474 of the laws of 1996, amending the  
11 education law and other laws relating to rates for residential health  
12 care facilities, as amended by section 14-a of part B of chapter 56 of  
13 the laws of 2013, is amended to read as follows:

14 § 228. 1. Definitions. (a) Regions, for purposes of this section,  
15 shall mean a downstate region to consist of Kings, New York, Richmond,  
16 Queens, Bronx, Nassau and Suffolk counties and an upstate region to  
17 consist of all other New York state counties. A certified home health  
18 agency or long term home health care program shall be located in the  
19 same county utilized by the commissioner of health for the establishment  
20 of rates pursuant to article 36 of the public health law.

21 (b) Certified home health agency (CHHA) shall mean such term as  
22 defined in section 3602 of the public health law.

23 (c) Long term home health care program (LTHHCP) shall mean such term  
24 as defined in subdivision 8 of section 3602 of the public health law.

25 (d) Regional group shall mean all those CHHAs and LTHHCPs, respective-  
26 ly, located within a region.

27 (e) Medicaid revenue percentage, for purposes of this section, shall  
28 mean CHHA and LTHHCP revenues attributable to services provided to

1 persons eligible for payments pursuant to title 11 of article 5 of the  
2 social services law divided by such revenues plus CHHA and LTHHCP reven-  
3 ues attributable to services provided to beneficiaries of Title XVIII of  
4 the federal social security act (medicare).

5 (f) Base period, for purposes of this section, shall mean calendar  
6 year 1995.

7 (g) Target period. For purposes of this section, the 1996 target peri-  
8 od shall mean August 1, 1996 through March 31, 1997, the 1997 target  
9 period shall mean January 1, 1997 through November 30, 1997, the 1998  
10 target period shall mean January 1, 1998 through November 30, 1998, the  
11 1999 target period shall mean January 1, 1999 through November 30, 1999,  
12 the 2000 target period shall mean January 1, 2000 through November 30,  
13 2000, the 2001 target period shall mean January 1, 2001 through November  
14 30, 2001, the 2002 target period shall mean January 1, 2002 through  
15 November 30, 2002, the 2003 target period shall mean January 1, 2003  
16 through November 30, 2003, the 2004 target period shall mean January 1,  
17 2004 through November 30, 2004, and the 2005 target period shall mean  
18 January 1, 2005 through November 30, 2005, the 2006 target period shall  
19 mean January 1, 2006 through November 30, 2006, and the 2007 target  
20 period shall mean January 1, 2007 through November 30, 2007 and the 2008  
21 target period shall mean January 1, 2008 through November 30, 2008, and  
22 the 2009 target period shall mean January 1, 2009 through November 30,  
23 2009 and the 2010 target period shall mean January 1, 2010 through  
24 November 30, 2010 and the 2011 target period shall mean January 1, 2011  
25 through November 30, 2011 and the 2012 target period shall mean January  
26 1, 2012 through November 30, 2012 and the 2013 target period shall mean  
27 January 1, 2013 through November 30, 2013, and the 2014 target period  
28 shall mean January 1, 2014 through November 30, 2014 and the 2015 target

1 period shall mean January 1, 2015 through November 30, 2015 and each  
2 January 1 through each November 30 of a calendar year thereafter shall  
3 mean such years' respective target period.

4 2. (a) Prior to February 1, 1997, for each regional group the commis-  
5 sioner of health shall calculate the 1996 medicaid revenue percentages  
6 for the period commencing August 1, 1996 to the last date for which such  
7 data is available and reasonably accurate.

8 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to  
9 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,  
10 prior to February 1, 2003, prior to February 1, 2004, prior to February  
11 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to  
12 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,  
13 prior to February 1, 2011, prior to February 1, 2012, prior to February  
14 1, 2013, prior to February 1, 2014 and prior to February 1, 2015, and  
15 prior to February first each year thereafter, for each regional group  
16 the commissioner of health shall calculate the prior year's medicaid  
17 revenue percentages for the period commencing January 1 through November  
18 30 of such prior year.

19 3. By September 15, 1996, for each regional group the commissioner of  
20 health shall calculate the base period medicaid revenue percentage.

21 4. (a) For each regional group, the 1996 target medicaid revenue  
22 percentage shall be calculated by subtracting the 1996 medicaid revenue  
23 reduction percentages from the base period medicaid revenue percentages.  
24 The 1996 medicaid revenue reduction percentage, taking into account  
25 regional and program differences in utilization of medicaid and medicare  
26 services, for the following regional groups shall be equal to:

27 (i) one and one-tenth percentage points for CHHAs located within the  
28 downstate region;

1 (ii) six-tenths of one percentage point for CHHAs located within the  
2 upstate region;

3 (iii) one and eight-tenths percentage points for LTHHCPS located with-  
4 in the downstate region; and

5 (iv) one and seven-tenths percentage points for LTHHCPS located within  
6 the upstate region.

7 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
8 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and each year  
9 thereafter, for each regional group, the target medicaid revenue  
10 percentage for the respective year shall be calculated by subtracting  
11 the respective year's medicaid revenue reduction percentage from the  
12 base period medicaid revenue percentage. The medicaid revenue reduction  
13 percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
14 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and each  
15 year thereafter, taking into account regional and program differences in  
16 utilization of medicaid and medicare services, for the following  
17 regional groups shall be equal to for each such year:

18 (i) one and one-tenth percentage points for CHHAs located within the  
19 downstate region;

20 (ii) six-tenths of one percentage point for CHHAs located within the  
21 upstate region;

22 (iii) one and eight-tenths percentage points for LTHHCPS located with-  
23 in the downstate region; and

24 (iv) one and seven-tenths percentage points for LTHHCPS located within  
25 the upstate region.

26 (c) For each regional group, the 1999 target medicaid revenue percent-  
27 age shall be calculated by subtracting the 1999 medicaid revenue  
28 reduction percentage from the base period medicaid revenue percentage.

1 The 1999 medicaid revenue reduction percentages, taking into account  
2 regional and program differences in utilization of medicaid and medicare  
3 services, for the following regional groups shall be equal to:

4 (i) eight hundred twenty-five thousandths (.825) of one percentage  
5 point for CHHAs located within the downstate region;

6 (ii) forty-five hundredths (.45) of one percentage point for CHHAs  
7 located within the upstate region;

8 (iii) one and thirty-five hundredths percentage points (1.35) for  
9 LTHHCPS located within the downstate region; and

10 (iv) one and two hundred seventy-five thousandths percentage points  
11 (1.275) for LTHHCPS located within the upstate region.

12 5. (a) For each regional group, if the 1996 medicaid revenue percent-  
13 age is not equal to or less than the 1996 target medicaid revenue  
14 percentage, the commissioner of health shall compare the 1996 medicaid  
15 revenue percentage to the 1996 target medicaid revenue percentage to  
16 determine the amount of the shortfall which, when divided by the 1996  
17 medicaid revenue reduction percentage, shall be called the 1996  
18 reduction factor. These amounts, expressed as a percentage, shall not  
19 exceed one hundred percent. If the 1996 medicaid revenue percentage is  
20 equal to or less than the 1996 target medicaid revenue percentage, the  
21 1996 reduction factor shall be zero.

22 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
23 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each  
24 year thereafter, for each regional group, if the medicaid revenue  
25 percentage for the respective year is not equal to or less than the  
26 target medicaid revenue percentage for such respective year, the commis-  
27 sioner of health shall compare such respective year's medicaid revenue  
28 percentage to such respective year's target medicaid revenue percentage

1 to determine the amount of the shortfall which, when divided by the  
2 respective year's medicaid revenue reduction percentage, shall be called  
3 the reduction factor for such respective year. These amounts, expressed  
4 as a percentage, shall not exceed one hundred percent. If the medicaid  
5 revenue percentage for a particular year is equal to or less than the  
6 target medicaid revenue percentage for that year, the reduction factor  
7 for that year shall be zero.

8 6. (a) For each regional group, the 1996 reduction factor shall be  
9 multiplied by the following amounts to determine each regional group's  
10 applicable 1996 state share reduction amount:

11 (i) two million three hundred ninety thousand dollars (\$2,390,000) for  
12 CHHAs located within the downstate region;

13 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located  
14 within the upstate region;

15 (iii) one million two hundred seventy thousand dollars (\$1,270,000)  
16 for LTHHCPS located within the downstate region; and

17 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPS  
18 located within the upstate region.

19 For each regional group reduction, if the 1996 reduction factor shall  
20 be zero, there shall be no 1996 state share reduction amount.

21 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
22 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each year  
23 thereafter, for each regional group, the reduction factor for the  
24 respective year shall be multiplied by the following amounts to deter-  
25 mine each regional group's applicable state share reduction amount for  
26 such respective year:

27 (i) two million three hundred ninety thousand dollars (\$2,390,000) for  
28 CHHAs located within the downstate region;

1 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located  
2 within the upstate region;

3 (iii) one million two hundred seventy thousand dollars (\$1,270,000)  
4 for LTHHCPS located within the downstate region; and

5 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPS  
6 located within the upstate region.

7 For each regional group reduction, if the reduction factor for a  
8 particular year shall be zero, there shall be no state share reduction  
9 amount for such year.

10 (c) For each regional group, the 1999 reduction factor shall be multi-  
11 plied by the following amounts to determine each regional group's appli-  
12 cable 1999 state share reduction amount:

13 (i) one million seven hundred ninety-two thousand five hundred dollars  
14 (\$1,792,500) for CHHAs located within the downstate region;

15 (ii) five hundred sixty-two thousand five hundred dollars (\$562,500)  
16 for CHHAs located within the upstate region;

17 (iii) nine hundred fifty-two thousand five hundred dollars (\$952,500)  
18 for LTHHCPS located within the downstate region; and

19 (iv) four hundred forty-two thousand five hundred dollars (\$442,500)  
20 for LTHHCPS located within the upstate region.

21 For each regional group reduction, if the 1999 reduction factor shall  
22 be zero, there shall be no 1999 state share reduction amount.

23 7. (a) For each regional group, the 1996 state share reduction amount  
24 shall be allocated by the commissioner of health among CHHAs and LTHHCPS  
25 on the basis of the extent of each CHHA's and LTHHCP's failure to  
26 achieve the 1996 target medicaid revenue percentage, calculated on a  
27 provider specific basis utilizing revenues for this purpose, expressed  
28 as a proportion of the total of each CHHA's and LTHHCP's failure to

1 achieve the 1996 target medicaid revenue percentage within the applica-  
2 ble regional group. This proportion shall be multiplied by the applica-  
3 ble 1996 state share reduction amount calculation pursuant to paragraph  
4 (a) of subdivision 6 of this section. This amount shall be called the  
5 1996 provider specific state share reduction amount.

6 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
7 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each  
8 year thereafter, for each regional group, the state share reduction  
9 amount for the respective year shall be allocated by the commissioner of  
10 health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's  
11 and LTHHCP's failure to achieve the target medicaid revenue percentage  
12 for the applicable year, calculated on a provider specific basis utiliz-  
13 ing revenues for this purpose, expressed as a proportion of the total of  
14 each CHHA's and LTHHCP's failure to achieve the target medicaid revenue  
15 percentage for the applicable year within the applicable regional group.  
16 This proportion shall be multiplied by the applicable year's state share  
17 reduction amount calculation pursuant to paragraph (b) or (c) of subdivi-  
18 sion 6 of this section. This amount shall be called the provider  
19 specific state share reduction amount for the applicable year.

20 8. (a) The 1996 provider specific state share reduction amount shall  
21 be due to the state from each CHHA and LTHHCP and may be recouped by the  
22 state by March 31, 1997 in a lump sum amount or amounts from payments  
23 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the  
24 social services law.

25 (b) The provider specific state share reduction amount for 1997, 1998,  
26 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,  
27 2011, 2012, 2013, 2014 [and], 2015, and for each year thereafter,  
28 respectively, shall be due to the state from each CHHA and LTHHCP and



1 each year the amount due for such year may be recouped by the state by  
2 March 31 of the following year in a lump sum amount or amounts from  
3 payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of  
4 the social services law.

5 9. CHHAs and LTHHCPs shall submit such data and information at such  
6 times as the commissioner of health may require for purposes of this  
7 section. The commissioner of health may use data available from third-  
8 party payors.

9 10. On or about June 1, 1997, for each regional group the commissioner  
10 of health shall calculate for the period August 1, 1996 through March  
11 31, 1997 a medicaid revenue percentage, a reduction factor, a state  
12 share reduction amount, and a provider specific state share reduction  
13 amount in accordance with the methodology provided in paragraph (a) of  
14 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-  
15 sion 6 and paragraph (a) of subdivision 7 of this section. The provider  
16 specific state share reduction amount calculated in accordance with this  
17 subdivision shall be compared to the 1996 provider specific state share  
18 reduction amount calculated in accordance with paragraph (a) of subdivi-  
19 sion 7 of this section. Any amount in excess of the amount determined in  
20 accordance with paragraph (a) of subdivision 7 of this section shall be  
21 due to the state from each CHHA and LTHHCP and may be recouped in  
22 accordance with paragraph (a) of subdivision 8 of this section. If the  
23 amount is less than the amount determined in accordance with paragraph  
24 (a) of subdivision 7 of this section, the difference shall be refunded  
25 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs  
26 and LTHHCPs shall submit data for the period August 1, 1996 through  
27 March 31, 1997 to the commissioner of health by April 15, 1997.

1 11. If a CHHA or LTHHCP fails to submit data and information as  
2 required for purposes of this section:

3 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-  
4 caid revenue percentage between the applicable base period and the  
5 applicable target period for purposes of the calculations pursuant to  
6 this section; and

7 (b) the commissioner of health shall reduce the current rate paid to  
8 such CHHA and such LTHHCP by state governmental agencies pursuant to  
9 article 36 of the public health law by one percent for a period begin-  
10 ning on the first day of the calendar month following the applicable due  
11 date as established by the commissioner of health and continuing until  
12 the last day of the calendar month in which the required data and infor-  
13 mation are submitted.

14 12. The commissioner of health shall inform in writing the director of  
15 the budget and the chair of the senate finance committee and the chair  
16 of the assembly ways and means committee of the results of the calcu-  
17 lations pursuant to this section.

18 § 11. Subdivision 5-a of section 246 of chapter 81 of the laws of  
19 1995, amending the public health law and other laws relating to medical  
20 reimbursement and welfare reform, as amended by section 15 of part B of  
21 chapter 56 of the laws of 2013, is amended to read as follows:

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

1 after April 1, 2011 through March 31, 2013, and on and after April 1,  
2 2013 through March 31, 2015];

3 § 12. Section 64-b of chapter 81 of the laws of 1995, amending the  
4 public health law and other laws relating to medical reimbursement and  
5 welfare reform, as amended by section 16 of part B of chapter 56 of the  
6 laws of 2013, is amended to read as follows:

7 § 64-b. Notwithstanding any inconsistent provision of law, the  
8 provisions of subdivision 7 of section 3614 of the public health law, as  
9 amended, shall remain and be in full force and effect on April 1, 1995  
10 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on  
11 and after April 1, 2000 through March 31, 2003 and on and after April 1,  
12 2003 through March 31, 2007, and on and after April 1, 2007 through  
13 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,  
14 and on and after April 1, 2011 through March 31, 2013, and on and after  
15 April 1, 2013 through March 31, 2015, and for each year thereafter.

16 § 13. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,  
17 amending the public health law, the social services law and the insur-  
18 ance law, relating to providing enhanced consumer and provider  
19 protections, as amended by section 17 of part B of chapter 56 of the  
20 laws of 2013, is amended to read as follows:

21 1. sections four, eleven and thirteen of this act shall take effect  
22 immediately [and shall expire and be deemed repealed June 30, 2015];

23 § 14. The opening paragraph of subdivision 7-a of section 3614 of the  
24 public health law, as amended by section 18 of part B of chapter 56 of  
25 the laws of 2013, is amended to read as follows:

26 Notwithstanding any inconsistent provision of law or regulation, for  
27 the purposes of establishing rates of payment by governmental agencies  
28 for long term home health care programs for the period April first, two

1 thousand five, through December thirty-first, two thousand five, and for  
2 the period January first, two thousand six through March thirty-first,  
3 two thousand seven, and on and after April first, two thousand seven  
4 through March thirty-first, two thousand nine, and on and after April  
5 first, two thousand nine through March thirty-first, two thousand elev-  
6 en, and on and after April first, two thousand eleven through March  
7 thirty-first, two thousand thirteen and on and after April first, two  
8 thousand thirteen through March thirty-first, two thousand fifteen, and  
9 for each year thereafter, the reimbursable base year administrative and  
10 general costs of a provider of services shall not exceed the statewide  
11 average of total reimbursable base year administrative and general costs  
12 of such providers of services.

13 § 15. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,  
14 amending the public health law and other laws relating to medical  
15 reimbursement and welfare reform, as amended by section 21 of part B of  
16 chapter 56 of the laws of 2013, is amended to read as follows:

17 12. Sections one hundred five-b through one hundred five-f of this act  
18 shall expire March 31, [2015] 2017.

19 § 16. Section 3 of chapter 303 of the laws of 1999, amending the New  
20 York state medical care facilities finance agency act relating to  
21 financing health facilities, as amended by section 30 of part A of chap-  
22 ter 59 of the laws of 2011, is amended to read as follows:

23 § 3. This act shall take effect immediately[, provided, however, that  
24 subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of  
25 1973, as added by section one of this act, shall expire and be deemed  
26 repealed June 30, 2015; and provided further, however, that the expira-  
27 tion and repeal of such subdivision 15-a shall not affect or impair in  
28 any manner any health facilities bonds issued, or any lease or purchase

1 of a health facility executed, pursuant to such subdivision 15-a prior  
2 to its expiration and repeal and that, with respect to any such bonds  
3 issued and outstanding as of June 30, 2015, the provisions of such  
4 subdivision 15-a as they existed immediately prior to such expiration  
5 and repeal shall continue to apply through the latest maturity date of  
6 any such bonds, or their earlier retirement or redemption, for the sole  
7 purpose of authorizing the issuance of refunding bonds to refund bonds  
8 previously issued pursuant thereto].

9 § 17. Subdivision (c) of section 62 of chapter 165 of the laws of  
10 1991, amending the public health law and other laws relating to estab-  
11 lishing payments for medical assistance, as amended by section 26 of  
12 part D of chapter 59 of the laws of 2011, is amended to read as follows:

13 (c) [section 364-j of the social services law, as amended by section  
14 eight of this act and subdivision 6 of section 367-a of the social  
15 services law as added by section twelve of this act shall expire and be  
16 deemed repealed on March 31, 2015 and] provided [further], that the  
17 amendments to the provisions of section 364-j of the social services law  
18 made by section eight of this act shall only apply to managed care  
19 programs approved on or after the effective date of this act;

20 § 18. Subdivision 3 of section 1680-j of the public authorities law,  
21 as amended by section 9 of part C of chapter 59 of the laws of 2011, is  
22 amended to read as follows:

23 3. Notwithstanding any law to the contrary, and in accordance with  
24 section four of the state finance law, the comptroller is hereby author-  
25 ized and directed to transfer from the health care reform act (HCRA)  
26 resources fund (061) to the general fund, upon the request of the direc-  
27 tor of the budget, up to \$6,500,000 on or before March 31, 2006, and the  
28 comptroller is further hereby authorized and directed to transfer from

1 the healthcare reform act (HCRA); Resources fund (061) to the Capital  
2 Projects Fund, upon the request of the director of budget, up to  
3 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to  
4 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to  
5 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to  
6 \$151,600,000 for the period April 1, 2009 through March 31, 2010, up to  
7 \$215,743,000 for the period April 1, 2010 through March 31, 2011, up to  
8 \$433,366,000 for the period April 1, 2011 through March 31, 2012, up to  
9 \$150,806,000 for the period April 1, 2012 through March 31, 2013, up to  
10 \$78,071,000 for the period April 1, 2013 through March 31, 2014, and up  
11 to \$86,005,000 for the period April 1, 2014 through March 31, 2015, and  
12 up to \$86,005,000 for the period April 1, 2015 through December 31,  
13 2017.

14 § 19. Subdivision (i) of section 111 of part H of chapter 59 of the  
15 laws of 2011, relating to enacting into law major components of legis-  
16 lation necessary to implement the health and mental hygiene budget for  
17 the 2011-2012 state fiscal plan, is REPEALED.

18 § 20. Section 97 of chapter 659 of the laws of 1997, amending the  
19 public health law and other laws relating to creation of continuing care  
20 retirement communities, as amended by section 65-b of part A of chapter  
21 57 of the laws of 2006, is amended to read as follows:

22 § 97. This act shall take effect immediately, provided, however, that  
23 the amendments to subdivision 4 of section 854 of the general municipal  
24 law made by section seventy of this act shall not affect the expiration  
25 of such subdivision and shall be deemed to expire therewith and provided  
26 further that sections sixty-seven and sixty-eight of this act shall  
27 apply to taxable years beginning on or after January 1, 1998 and  
28 [provided further that sections eighty-one through eighty-seven of this

1 act shall expire and be deemed repealed on December 31, 2015 and]  
2 provided further, however, that the amendments to section ninety of this  
3 act shall take effect January 1, 1998 and shall apply to all policies,  
4 contracts, certificates, riders or other evidences of coverage of long  
5 term care insurance issued, renewed, altered or modified pursuant to  
6 section 3229 of the insurance law on or after such date.

7 § 21. Paragraph (b) of subdivision 17 of section 2808 of the public  
8 health law, as amended by section 98 of part H of chapter 59 of the laws  
9 of 2011, is amended to read as follows:

10 (b) Notwithstanding any inconsistent provision of law or regulation to  
11 the contrary, for the state fiscal [year] years beginning April first,  
12 two thousand ten and ending March thirty-first, two thousand [fifteen]  
13 nineteen, the commissioner shall not be required to revise certified  
14 rates of payment established pursuant to this article for rate periods  
15 prior to April first, two thousand [fifteen] nineteen, based on consid-  
16 eration of rate appeals filed by residential health care facilities or  
17 based upon adjustments to capital cost reimbursement as a result of  
18 approval by the commissioner of an application for construction under  
19 section twenty-eight hundred two of this article, in excess of an aggre-  
20 gate annual amount of eighty million dollars for each such state fiscal  
21 year provided, however, that for the period April first, two thousand  
22 eleven through March thirty-first, two thousand twelve such aggregate  
23 annual amount shall be fifty million dollars. In revising such rates  
24 within such fiscal limit, the commissioner shall, in prioritizing such  
25 rate appeals, include consideration of which facilities the commissioner  
26 determines are facing significant financial hardship as well as such  
27 other considerations as the commissioner deems appropriate and, further,  
28 the commissioner is authorized to enter into agreements with such facil-

ities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department, including, but not limited to, amounts owed pursuant to section twenty-eight hundred seven-d of this article; provided, however, that the commissioner's authority to negotiate such agreements resolving multiple pending rate appeals as hereinbefore described shall continue on and after April first, two thousand [fifteen] nineteen. Rate adjustments made pursuant to this paragraph remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision two of section twenty-eight hundred seven of this article.

§ 22. Paragraph (a) of subdivision 13 of section 3614 of the public health law, as added by section 4 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of law or regulation and subject to the availability of federal financial participation, effective April first, two thousand twelve [through March thirty-first, two thousand fifteen], payments by government agencies for services provided by certified home health agencies, except for such services provided to children under eighteen years of age and other discreet groups as may be determined by the commissioner pursuant to regulations, shall be based on episodic payments. In establishing such payments, a statewide base price shall be established for each sixty day episode of care and adjusted by a regional wage index factor and an individual patient case mix index. Such episodic payments may be further adjusted for low utilization cases and to reflect a percentage limitation of the cost for high-utilization cases that exceed outlier thresholds of such payments.



1     § 23. Subdivision (a) of section 40 of part B of chapter 109 of the  
2 laws of 2010, amending the social services law relating to transporta-  
3 tion costs, is amended to read as follows:

4     (a) sections two, three, three-a, three-b, three-c, three-d, three-e  
5 and twenty-one of this act shall take effect July 1, 2010; sections  
6 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall  
7 take effect January 1, 2011; [and provided further that section twenty  
8 of this act shall be deemed repealed four years after the date the  
9 contract entered into pursuant to section 365-h of the social services  
10 law, as amended by section twenty of this act, is executed; provided  
11 that the commissioner of health shall notify the legislative bill draft-  
12 ing commission upon the execution of the contract entered into pursuant  
13 to section 367-h of the social services law in order that the commission  
14 may maintain an accurate and timely effective data base of the official  
15 text of the laws of the state of New York in furtherance of effectuating  
16 the provisions of section 44 of the legislative law and section 70-b of  
17 the public officers law;]

18     § 24. Subdivision 4 of section 365-h of the social services law, as  
19 added by section 20 of part B of chapter 109 of the laws of 2010, is  
20 amended to read as follows:

21     4. The commissioner of health is authorized to assume responsibility  
22 from a local social services official for the provision and reimburse-  
23 ment of transportation costs under this section. If the commissioner  
24 elects to assume such responsibility, the commissioner shall notify the  
25 local social services official in writing as to the election, the date  
26 upon which the election shall be effective and such information as to  
27 transition of responsibilities as the commissioner deems prudent. The  
28 commissioner is authorized to contract with a transportation manager or

1 managers to manage transportation services in any local social services  
2 district. Any transportation manager or managers selected by the commis-  
3 sioner to manage transportation services shall have proven experience in  
4 coordinating transportation services in a geographic and demographic  
5 area similar to the area in New York state within which the contractor  
6 would manage the provision of services under this section. Such a  
7 contract or contracts may include responsibility for: review, approval  
8 and processing of transportation orders; management of the appropriate  
9 level of transportation based on documented patient medical need; and  
10 development of new technologies leading to efficient transportation  
11 services. If the commissioner elects to assume such responsibility from  
12 a local social services district, the commissioner shall examine and, if  
13 appropriate, adopt quality assurance measures that may include, but are  
14 not limited to, global positioning tracking system reporting require-  
15 ments and service verification mechanisms. Any and all reimbursement  
16 rates developed by transportation managers under this subdivision shall  
17 be subject to the review and approval of the commissioner. [Notwith-  
18 standing any inconsistent provision of sections one hundred twelve and  
19 one hundred sixty-three of the state finance law, or section one hundred  
20 forty-two of the economic development law, or any other law, the commis-  
21 sioner is authorized to enter into a contract or contracts under this  
22 subdivision without a competitive bid or request for proposal process,  
23 provided, however, that:

24 (a) the department shall post on its website, for a period of no less  
25 than thirty days:

26 (i) a description of the proposed services to be provided pursuant to  
27 the contract or contracts;

28 (ii) the criteria for selection of a contractor or contractors;

1 (iii) the period of time during which a prospective contractor may  
2 seek selection, which shall be no less than thirty days after such  
3 information is first posted on the website; and

4 (iv) the manner by which a prospective contractor may seek such  
5 selection, which may include submission by electronic means;

6 (b) all reasonable and responsive submissions that are received from  
7 prospective contractors in timely fashion shall be reviewed by the  
8 commissioner; and

9 (c) the commissioner shall select such contractor or contractors that,  
10 in his or her discretion, are best suited to serve the purposes of this  
11 section.]

12 § 25. Section 5 of chapter 21 of the laws of 2011, amending the educa-  
13 tion law relating to authorizing pharmacists to perform collaborative  
14 drug therapy management with physicians in certain settings, as amended  
15 by chapter 125 of the laws of 2014, is amended to read as follows:

16 § 5. This act shall take effect on the one hundred twentieth day after  
17 it shall have become a law and shall expire [4] 7 years after such  
18 effective date when upon such date the provisions of this act shall be  
19 deemed repealed; provided, however, that the amendments to subdivision 1  
20 of section 6801 of the education law made by section one of this act  
21 shall be subject to the expiration and reversion of such subdivision  
22 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such  
23 date the provisions of section one-a of this act shall take effect;  
24 provided, further, that effective immediately, the addition, amendment  
25 and/or repeal of any rule or regulation necessary for the implementation  
26 of this act on its effective date is authorized and directed to be made  
27 and completed on or before such effective date.

1     § 26. Section 2 of chapter 459 of the laws of 1996, amending the  
2 public health law relating to recertification of persons providing emer-  
3 gency medical care, as amended by chapter 106 of the laws of 2011, is  
4 amended to read as follows:

5     § 2. This act shall take effect immediately and shall expire and be  
6 deemed repealed July 1, [2015] 2018.

7     § 27. Section 4 of chapter 505 of the laws of 1995, amending the  
8 public health law relating to the operation of department of health  
9 facilities, as amended by section 29 of part A of chapter 59 of the laws  
10 of 2011, is amended to read as follows:

11    § 4. This act shall take effect immediately; provided, however, that  
12 the provisions of paragraph (b) of subdivision 4 of section 409-c of the  
13 public health law, as added by section three of this act, shall take  
14 effect January 1, 1996 [and shall expire and be deemed repealed twenty  
15 years from the effective date thereof].

16    § 28. Subdivision (o) of section 111 of part H of chapter 59 of the  
17 laws of 2011, amending the public health law relating to the statewide  
18 health information network of New York and the statewide planning and  
19 research cooperative system and general powers and duties, is REPEALED.

20    § 29. Notwithstanding any inconsistent provision of law, rule or regu-  
21 lation, for purposes of implementing the provisions of the public health  
22 law and the social services law, references to titles XIX and XXI of the  
23 federal social security act in the public health law and the social  
24 services law shall be deemed to include and also to mean any successor  
25 titles thereto under the federal social security act.

26    § 30. Notwithstanding any inconsistent provision of law, rule or regu-  
27 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
28 the public health law, section 18 of chapter 2 of the laws of 1988, and

1 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
2 or certification of rates of payment, are hereby suspended and without  
3 force or effect for purposes of implementing the provisions of this act.

4 § 31. Severability clause. If any clause, sentence, paragraph, subdi-  
5 vision, section or part of this act shall be adjudged by any court of  
6 competent jurisdiction to be invalid, such judgment shall not affect,  
7 impair or invalidate the remainder thereof, but shall be confined in its  
8 operation to the clause, sentence, paragraph, subdivision, section or  
9 part thereof directly involved in the controversy in which such judgment  
10 shall have been rendered. It is hereby declared to be the intent of the  
11 legislature that this act would have been enacted even if such invalid  
12 provisions had not been included herein.

13 § 32. This act shall take effect immediately and shall be deemed to  
14 have been in full force and effect on and after April 1, 2015 provided,  
15 that:

16 1. section eighteen of this act shall take effect on the same date as  
17 the reversion of subdivision 3 of section 1680-j of the public authori-  
18 ties law as provided in subdivision (a) of section 70 of part HH of  
19 chapter 57 of the laws of 2013, as amended;

20 2. any rules or regulations necessary to implement the provisions of  
21 this act may be promulgated and any procedures, forms, or instructions  
22 necessary for such implementation may be adopted and issued on or after  
23 the date this act shall have become a law;

24 3. this act shall not be construed to alter, change, affect, impair or  
25 defeat any rights, obligations, duties or interests accrued, incurred or  
26 conferred prior to the effective date of this act;

1 4. the commissioner of health and the superintendent of the department  
2 of financial services and any appropriate council may take any steps  
3 necessary to implement this act prior to its effective date;

4 5. notwithstanding any inconsistent provision of the state administra-  
5 tive procedure act or any other provision of law, rule or regulation,  
6 the commissioner of health and the superintendent of the department of  
7 financial services and any appropriate council is authorized to adopt or  
8 amend or promulgate on an emergency basis any regulation he or she or  
9 such council determines necessary to implement any provision of this act  
10 on its effective date; and

11 6. the provisions of this act shall become effective notwithstanding  
12 the failure of the commissioner of health or the superintendent of the  
13 department of financial services or any council to adopt or amend or  
14 promulgate regulations implementing this act.

15 PART E

16 Section 1. Subdivision 5-d of section 2807-k of the public health  
17 law, as added by section 1 of part C of chapter 56 of the laws of 2013,  
18 is amended to read as follows:

19 5-d. (a) Notwithstanding any inconsistent provision of this section,  
20 section twenty-eight hundred seven-w of this article or any other  
21 contrary provision of law, and subject to the availability of federal  
22 financial participation, for periods on and after January first, two  
23 thousand thirteen, through December thirty-first, two thousand [fifteen]  
24 eighteen, all funds available for distribution pursuant to this section,  
25 except for funds distributed pursuant to subparagraph (v) of paragraph  
26 (b) of subdivision five-b of this section, and all funds available for

1 distribution pursuant to section twenty-eight hundred seven-w of this  
2 article, shall be reserved and set aside and distributed in accordance  
3 with the provisions of this subdivision.

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

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

18 (ii) Annual distributions pursuant to such regulations for the two  
19 thousand thirteen through two thousand [fifteen] eighteen calendar years  
20 shall be in accord with the following:

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

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

27 (iii) (A) Such regulations shall establish transition adjustments to  
28 the distributions made pursuant to clauses (A) and (B) of subparagraph

1 (ii) of this paragraph such that no facility experiences a reduction in  
2 indigent care pool payments pursuant to this subdivision that is greater  
3 than the percentages, as specified in clause (C) of this subparagraph as  
4 compared to the average distribution that each such facility received  
5 for the three calendar years prior to two thousand thirteen pursuant to  
6 this section and section twenty-eight hundred seven-w of this article.

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

14 (C) No facility shall experience a reduction in indigent care pool  
15 payments pursuant to this subdivision that: for the calendar year begin-  
16 ning January first, two thousand thirteen, is greater than two and one-  
17 half percent; for the calendar year beginning January first, two thou-  
18 sand fourteen, is greater than five percent; and, for the calendar year  
19 beginning on January first, two thousand fifteen, is greater than seven  
20 and one-half percent, and for the calendar year beginning on January  
21 first, two thousand sixteen, is greater than ten percent; and for the  
22 calendar year beginning on January first, two thousand seventeen, is  
23 greater than twelve and one-half percent; and for the calendar year  
24 beginning on January first, two thousand eighteen, is greater than  
25 fifteen percent.

26 (D) Notwithstanding any provision of this section to the contrary, in  
27 the event the aggregate level of medicaid DSH payments is reduced during  
28 the periods described in clause (C) of this subparagraph, the commis-



1 sioner may adjust, by regulation: the aggregate level of payments made  
2 pursuant to clauses (A) and (B) of subparagraph (ii) of paragraph (b) of  
3 this subdivision, the percentage of reductions in payments required by  
4 clause (C) of this subparagraph, and the methodology by which such DSH  
5 payments are distributed. Such adjustments shall take effect at the  
6 beginning of the calendar year following the year in which such  
7 reductions in medicaid DSH payments take effect and provided, further,  
8 any such regulations under this section may apply retroactively to such  
9 date.

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

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

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

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

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

1     § 2. Subdivision 17 of section 2807-k of the public health law, as  
2 added by section 3-b of part B of chapter 109 of the laws of 2010, is  
3 amended to read as follows:

4     17. Indigent care reductions. (a) For each hospital receiving payments  
5 pursuant to paragraph (i) of subdivision thirty-five of section twenty-  
6 eight hundred seven-c of this article, the commissioner shall reduce the  
7 sum of any amounts paid pursuant to this section and pursuant to section  
8 twenty-eight hundred seven-w of this article, as computed based on  
9 projected facility specific disproportionate share hospital ceilings, by  
10 an amount equal to the lower of such sum or each such hospital's  
11 payments pursuant to paragraph (i) of subdivision thirty-five of section  
12 twenty-eight hundred seven-c of this article, provided, however, that  
13 any additional aggregate reductions enacted in a chapter of the laws of  
14 two thousand ten to the aggregate amounts payable pursuant to this  
15 section and pursuant to section twenty-eight hundred seven-w of this  
16 article shall be applied subsequent to the adjustments otherwise  
17 provided for in this subdivision.

18     (b) For any reductions in payments under paragraph (i) of subdivision  
19 thirty-five of section twenty-eight hundred seven-c of this article  
20 resulting from aggregate upper payment limit calculations, the commis-  
21 sioner may reduce or redistribute payments under this section or section  
22 twenty-eight hundred seven-w of this article in a manner to be deter-  
23 mined in his or her discretion.

24     § 3. Notwithstanding any inconsistent provision of law, rule or regu-  
25 lation, for purposes of implementing the provisions of the public health  
26 law and the social services law, references to titles XIX and XXI of the  
27 federal social security act in the public health law and the social

1 services law shall be deemed to include and also to mean any successor  
2 titles thereto under the federal social security act.

3 § 4. Notwithstanding any inconsistent provision of law, rule or regu-  
4 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
5 the public health law, section 18 of chapter 2 of the laws of 1988, and  
6 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
7 or certification of rates of payment, are hereby suspended and without  
8 force or effect for purposes of implementing the provisions of this act.

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

18 § 6. This act shall take effect immediately and shall be deemed to  
19 have been in full force and effect on and after April 1, 2015; provided,  
20 that:

21 a. any rules or regulations necessary to implement the provisions of  
22 this act may be promulgated and any procedures, forms, or instructions  
23 necessary for such implementation may be adopted and issued on or after  
24 the date this act shall have become a law;

25 b. this act shall not be construed to alter, change, affect, impair or  
26 defeat any rights, obligations, duties or interests accrued, incurred or  
27 conferred prior to the effective date of this act;

c. the commissioner of health and the superintendent of financial services and any appropriate council may take any steps necessary to implement this act prior to its effective date;

d. notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of financial services and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date; and

e. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of financial services or any council to adopt or amend or promulgate regulations implementing this act.

#### PART F

Section 1. The public health law is amended by adding a new section 4415 to read as follows:

§ 4415. Value based payments. 1. Notwithstanding any contrary provision of law in this article or section three hundred sixty-four-j of the social services law, the commissioner may authorize managed care organizations licensed under this article to contract for value based payments and further, may authorize the department to utilize methodologies of reimbursement that are value based.

2. Nothing in subdivision one of this section shall limit the authority of the commissioner to authorize value based payments for performing provider systems participating in the delivery system reform incentive

1 program ("DSRIP"), or to authorize value based payments for any such  
2 subset of providers.

3 3. For the purposes of this section and notwithstanding any provision  
4 of law to the contrary, a performing provider system participating in  
5 DSRIP, or any such subset of providers, is authorized to arrange by  
6 contract for the delivery and provision of health services as contem-  
7 plated by this chapter or the social services law.

8 4. The commissioner, in consultation with the superintendent of finan-  
9 cial services, may promulgate regulations to effectuate the provisions  
10 of this section; provided, however, that the failure to adopt regu-  
11 lations shall not invalidate any exercise of authority under this  
12 section. Such regulations may, and shall as necessary for the purposes  
13 of this section, address matters including, but not limited to:

14 (a) Authorizing discrete levels of value based payments that account  
15 for level of risk;

16 (b) Placing conditions upon any such level of value based payment;

17 (c) Requiring or adjusting reserves, as applicable, for managed care  
18 organizations licensed under this article and entities participating in  
19 value based payment arrangements;

20 (d) Authorizing the commissioner to establish a reinsurance pool;

21 (e) Making any changes to value based payments or methodologies of  
22 reimbursement that are value based as necessary to conform to the terms  
23 and conditions of the DSRIP waiver.

24 5. Nothing contained in this section shall limit the authority of the  
25 commissioner to maintain a system of value based payments subsequent to  
26 the conclusion or expiration of the DSRIP waiver, nor shall any refer-  
27 ence to the DSRIP program within this section limit the authority of the  
28 commissioner, in consultation with the superintendent of financial

1 services, to otherwise apply such principles to organizations licensed  
2 under this article or to implement methodologies that utilize value  
3 based payments for any provider reimbursed under this chapter.

4 § 2. Notwithstanding any inconsistent provision of law, rule or regu-  
5 lation, for purposes of implementing the provisions of the public health  
6 law and the social services law, references to titles XIX and XXI of the  
7 federal social security act in the public health law and the social  
8 services law shall be deemed to include and also to mean any successor  
9 titles thereto under the federal social security act.

10 § 3. Notwithstanding any inconsistent provision of law, rule or regu-  
11 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
12 the public health law, section 18 of chapter 2 of the laws of 1988, and  
13 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
14 or certification of rates of payment, are hereby suspended and without  
15 force or effect for purposes of implementing the provisions of this act.

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

25 § 5. This act shall take effect immediately and shall be deemed to  
26 have been in full force and effect on and after April 1, 2015; provided  
27 that:

1 1. any rules or regulations necessary to implement the provisions of  
2 this act may be promulgated and any procedures, forms, or instructions  
3 necessary for such implementation may be adopted and issued on or after  
4 the date this act shall have become a law;

5 2. this act shall not be construed to alter, change, affect, impair or  
6 defeat any rights, obligations, duties or interests accrued, incurred or  
7 conferred prior to the effective date of this act;

8 3. the commissioner of health and the superintendent of financial  
9 services and any appropriate council may take any steps necessary to  
10 implement this act prior to its effective date;

11 4. notwithstanding any inconsistent provision of the state administra-  
12 tive procedure act or any other provision of law, rule or regulation,  
13 the commissioner of health and the superintendent of financial services  
14 and any appropriate council are authorized to adopt or amend or promul-  
15 gate on an emergency basis any regulation he or she or such council  
16 determines necessary to implement any provision of this act on its  
17 effective date; and

18 5. the provisions of this act shall become effective notwithstanding  
19 the failure of the commissioner of health or the superintendent of  
20 financial services or any council to adopt or amend or promulgate regu-  
21 lations implementing this act.

22 PART G

23 Section 1. The financial services law is amended by adding a new  
24 section 208 to read as follows:

25 § 208. Assessment for the operating expenses of the New York health  
26 benefit exchange. (a) For each fiscal year commencing on or after April

1 first, two thousand fifteen, assessments for the operating expenses  
2 attributable to qualified health plan coverage of the New York Health  
3 Benefit Exchange, established within the department of health by Execu-  
4 tive Order 42 signed by Governor Andrew M. Cuomo on April 12, 2012 in  
5 conformity with the Patient Protection and Affordable Care Act, Public  
6 Law 111-14 and the Health Care and Education Reconciliation Act, Public  
7 Law 111-152, and doing business as the NY State of Health, The Official  
8 Health Plan Marketplace (NY State of Health) shall be assessed by the  
9 superintendent in accordance with this section. A domestic accident and  
10 health insurer shall be assessed by the superintendent pursuant to this  
11 section for the operating expenses of the NY State of Health attribut-  
12 able to qualified health plans' coverage, which shall include direct and  
13 indirect expenses related to the operation of the New York State of  
14 Health attributable to such qualified health plan coverage with the  
15 assessments allocated pro rata upon all domestic accident and health  
16 insurers in the individual, small group and large group markets, in  
17 proportion to the gross direct premiums, exclusive of federal tax cred-  
18 its and other considerations, written or received by them in this state  
19 during the calendar year ending December thirty-first immediately  
20 preceding the end of the fiscal year for which the assessment is made  
21 (less return premiums and considerations thereon) for insurance policies  
22 or contracts of major medical or similar comprehensive type medical  
23 coverage or dental coverage delivered or issued for delivery in this  
24 state; but excluding insurance policies or contracts for major medical  
25 or similar comprehensive type medical or dental coverage delivered or  
26 issued for delivery in this state under title XVIII of the Social Secu-  
27 rity Act (Medicare), medical assistance under title eleven of article  
28 five of the social services law, child health plus insurance plan under



1 section twenty-five hundred of the public health law and/or the basic  
2 health insurance plan pursuant to paragraph (e) of subdivision one of  
3 section three hundred sixty-nine-gg of the social services law.

4 (b) The assessment upon domestic accident and health insurers  
5 described in subsection (a) of this section shall be made by the super-  
6 intendent commencing April first, two thousand fifteen, in a sum as  
7 prescribed by the superintendent for such insurers' pro rata share of  
8 the annual expenses of the NY State of Health attributable to qualified  
9 health plan coverage for the two thousand fifteen-two thousand sixteen  
10 fiscal year, as estimated by the superintendent. Such payment shall be  
11 made on or before February fifteenth, two thousand sixteen, or on or  
12 before such other dates as the superintendent may prescribe. Following  
13 the determination of the amount collected based on the actual enrollment  
14 in qualified health plan coverage through the NY State of Health and  
15 fully insured individual, small group, and large group coverage outside  
16 the NY State of Health for the two thousand fifteen-two thousand sixteen  
17 fiscal year, any overpayment of such assessment shall be applied against  
18 the next estimated quarterly assessment for such expenses as set forth  
19 in this section, if less than or equal to such amount, until fully  
20 reconciled. However, if the assessment collected is less than the  
21 expenses of the NY State of Health attributable to qualified health plan  
22 coverage for the two thousand fifteen-two thousand sixteen fiscal year,  
23 the superintendent may require full payment to be made on such date of  
24 the fiscal year as the superintendent may determine.

25 (c) For each fiscal year commencing on or after April first, two thou-  
26 sand sixteen, a partial payment shall be made by a domestic accident and  
27 health insurer in a sum equal to twenty-five per centum, or such other  
28 per centum or per centums as the superintendent may prescribe, of its

1 pro rata share of the annual expenses of the NY State of Health attrib-  
2 utable to qualified health plan coverage assessed upon it for the fiscal  
3 year as estimated by the superintendent. Such payment shall be made on  
4 March fifteenth of the preceding fiscal year and on June fifteenth,  
5 September fifteenth and December fifteenth of each year, or at such  
6 other dates as the superintendent may prescribe. The superintendent  
7 shall annually reconcile the assessment percentage based upon actual  
8 premium data submitted to the superintendent or commissioner of health,  
9 as applicable. The balance of assessments for the fiscal year shall be  
10 paid upon determination of the amount collected for policies or  
11 contracts of major medical or similar comprehensive type medical cover-  
12 age or dental coverage delivered or issued for delivery in this state as  
13 set forth in subsection (a) of this section. Any overpayment of annual  
14 assessment resulting from complying with the requirements of this  
15 section shall be applied against the next estimated quarterly assess-  
16 ment, if less than or equal to such amount, until fully reconciled.

17 (d) (1) Payments and reports submitted or required to be submitted to  
18 the commissioner of health pursuant to this section by a domestic acci-  
19 dent and health insurer shall be subject to audit by the commissioner of  
20 health for a period of six years following the close of the calendar  
21 year in which such payments and reports are due, after which such  
22 payments shall be deemed final and not subject to further adjustment or  
23 reconciliation, including through offset adjustments or reconciliations  
24 made by the domestic accident and health insurer with regard to subse-  
25 quent payments, provided, however, that nothing herein shall be  
26 construed as precluding the commissioner of health from pursuing  
27 collection of any such payments which are identified as delinquent with-  
28 in such six year period, or which are identified as delinquent as a

1 result of an audit commenced within such six year period, or from  
2 conducting an audit of any adjustments and reconciliation within such  
3 six year period, or from conducting an audit of payments made prior to  
4 such six year period which are found to be commingled with payments  
5 which are otherwise subject to timely audit pursuant to this section.

6 (2) The superintendent may assess a domestic accident and health  
7 insurer which, in the course of an audit pursuant to this section, fails  
8 to produce data or documentation requested in furtherance of such an  
9 audit, within thirty days of such request, a civil penalty of up to ten  
10 thousand dollars for each such failure, provided, however, that such  
11 civil penalty shall not be imposed if the domestic accident and health  
12 insurer demonstrates good cause for such failure.

13 (3) Records required to be retained for audit verification purposes by  
14 a domestic accident and health insurer in accordance with this section  
15 shall include, on a monthly basis, the source records generated by  
16 supporting information systems, financial accounting records, and such  
17 other records as may be required to prove compliance with, and to  
18 support reports submitted in accordance with, this section.

19 (4) If a domestic accident and health insurer fails to produce data or  
20 documentation requested in furtherance of an audit pursuant to this  
21 section for a quarter to which the assessment applies, the superinten-  
22 dent may estimate, based on available financial and statistical data as  
23 determined by the superintendent, the amount due for such quarter.  
24 Interest and penalties shall be applied to such amounts due in accord-  
25 ance with the provisions of subsection (b) of section nine thousand one  
26 hundred nine of the insurance law.

27 (5) The superintendent may, as part of a final resolution of an audit  
28 conducted by the commissioner of health pursuant to this subsection,

1 waive payment of interest and penalties otherwise applicable pursuant to  
2 subsection (b) of section nine thousand one hundred nine of the insur-  
3 ance law, when amounts due as a result of such audit, other than such  
4 waived penalties and interest, are paid in full to the commissioner of  
5 health within sixty days of the issuance of a final audit report that is  
6 mutually agreed to by the commissioner of health and domestic accident  
7 and health insurer, provided, however, that if such final audit report  
8 is not so mutually agreed upon, then the superintendent shall have no  
9 obligations pursuant to this paragraph.

10 (6) The commissioner of health may enter into an agreement with a  
11 domestic accident and health insurer in regard to which audit findings  
12 or prior settlements have been made pursuant to this section, extending  
13 and applying such audit findings or prior settlements, or a portion  
14 thereof, in settlement and satisfaction of potential audit liabilities  
15 for subsequent unaudited periods. The superintendent may reduce or waive  
16 payment of interest and penalties otherwise applicable to such subse-  
17 quent unaudited periods when such amounts due as a result of such agree-  
18 ment, other than reduced or waived interest and penalties, are paid in  
19 full to the commissioner of health within sixty days of execution of  
20 such agreement by all parties to the agreement. Any payments made pursu-  
21 ant to an agreement entered into in accordance with this paragraph shall  
22 be deemed to be in full satisfaction of any liability arising under this  
23 section, as referenced in such agreement and for the time periods  
24 covered by such agreement, provided, however, that the commissioner of  
25 health may audit future retroactive adjustments to payments made for  
26 such periods based on reports filed by a domestic accident and health  
27 insurer subsequent to such agreement.

1     (e) The commissioner of health shall have the authority under section  
2     twenty-eight hundred seven-y of the public health law to contract with  
3     the article forty-three insurance law plans, or such other contractors  
4     as the commissioner of health shall designate, to issue invoices,  
5     receive payment, and distribute funds from the assessment authorized by  
6     this section and to deposit it into the special revenue funds-other,  
7     HCRA Resources Fund.

8     (f) For the purpose of this section, "accident and health insurer"  
9     shall mean an insurer authorized under the insurance law to write acci-  
10    dent and health insurance in this state, a corporation organized pursu-  
11    ant to article forty-three of the insurance law, or a health maintenance  
12    organization holding or required to hold a certificate of authority  
13    pursuant to article forty-four of the public health law, that writes  
14    major medical or similar comprehensive type medical coverage or writes  
15    dental coverage.

16    (g) For the purpose of this section, "domestic accident and health  
17    insurer" shall mean an accident and health insurer incorporated or  
18    organized under any law of this state.

19    § 2. Paragraph (g) and (h) of subdivision 1 of section 2807-y of the  
20    public health law, as added by section 67 of part B of chapter 58 of the  
21    laws of 2005, are amended and a new paragraph (i) is added to read as  
22    follows:

23    (g) section thirty-six hundred fourteen-a of this chapter; [and]

24    (h) section three hundred sixty-seven-i of the social services law[.];  
25    and

26    (i) section two hundred eight of the financial services law.

1     § 3. Subdivision 3 of section 2807-y of the public health law, as  
2 added by section 67 of part B of chapter 58 of the laws of 2005, is  
3 amended to read as follows:

4     3. The reasonable costs and expenses of an administrator as approved  
5 by the commissioner, not to exceed for personnel services on an annual  
6 basis [four] six million [five hundred] fifty thousand dollars,  
7 increased annually by the lower of the consumer price index or five  
8 percent, for collection and distribution of allowances and assessments  
9 set forth in subdivision one of this section, shall be paid from the  
10 allowance and assessment funds.

11    § 4. Notwithstanding any inconsistent provision of law, rule or regu-  
12 lation, for purposes of implementing the provisions of the public health  
13 law and the social services law, references to titles XIX and XXI of the  
14 federal social security act in the public health law and the social  
15 services law shall be deemed to include and also to mean any successor  
16 titles thereto under the federal social security act.

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

26    § 6. This act shall take effect immediately and shall be deemed to  
27 have been in full force and effect on and after April 1, 2015; provided  
28 that:

1 1. any rules or regulations necessary to implement the provisions of  
2 this act may be promulgated and any procedures, forms, or instructions  
3 necessary for such implementation may be adopted and issued on or after  
4 the date this act shall have become a law;

5 2. this act shall not be construed to alter, change, affect, impair or  
6 defeat any rights, obligations, duties or interests accrued, incurred or  
7 conferred prior to the effective date of this act;

8 3. the commissioner of health and the superintendent of financial  
9 services may take any steps necessary to implement this act prior to its  
10 effective date;

11 4. notwithstanding any inconsistent provision of the state administra-  
12 tive procedure act or any other provision of law, rule or regulation,  
13 the commissioner of health and the superintendent of financial services  
14 are authorized to adopt or amend or promulgate on an emergency basis any  
15 regulation they determine necessary to implement any provision of this  
16 act on its effective date; and

17 5. the provisions of this act shall become effective notwithstanding  
18 the failure of the commissioner of health or the superintendent of  
19 financial services to adopt or amend or promulgate regulations imple-  
20 menting this act.

21 PART H

22 Section 1. Section 2801-a of the public health law is amended by  
23 adding a new subdivision 17 to read as follows:

24 17. (a) Diagnostic or treatment centers established to provide health  
25 care services within the space of a retail business operation, such as a  
26 pharmacy or a store open to the general public, or within space used by

1 an employer for providing health care services to its employees, may be  
2 operated by legal entities formed under the laws of the state of New  
3 York: (i) whose stockholders or members, as applicable, are not natural  
4 persons; (ii) whose principal stockholders and members, as applicable,  
5 and controlling persons comply with all applicable requirements of this  
6 section; and (iii) that demonstrate, to the satisfaction of the public  
7 health and health planning council, sufficient experience and expertise  
8 in delivering high quality health care services. Such diagnostic and  
9 treatment centers shall be referred to in this section as "limited  
10 services clinics".

11 (b) For purposes of paragraph (a) of this subdivision, the public  
12 health and health planning council shall adopt and amend rules and regu-  
13 lations, notwithstanding any inconsistent provision of this section, to  
14 address any matter it deems pertinent to the establishment of limited  
15 services clinics. Such rules and regulations shall include, but not be  
16 limited to, provisions governing or relating to: (i) any direct or indi-  
17 rect changes or transfers of ownership interests or voting rights in  
18 such entities or their stockholders or members, as applicable; (ii)  
19 public health and health planning council approval of any change in  
20 controlling interests, principal stockholders, controlling persons,  
21 parent company or sponsors; (iii) oversight of the operator and its  
22 shareholders or members, as applicable, including local governance of  
23 the limited services clinics; and (iv) the character and competence and  
24 qualifications of, and changes relating to, the directors and officers  
25 of the operator and its principal stockholders, controlling persons,  
26 parent company or sponsors.

27 (c) The following provisions of this section shall not apply to limit-  
28 ed services clinics: (i) paragraph (a) of subdivision three of this



1 section; (ii) paragraph (b) of subdivision three of this section, relat-  
2 ing to stockholders and members other than principal stockholders and  
3 principal members; (iii) paragraph (c) of subdivision four of this  
4 section, relating to the disposition of stock or voting rights; and (iv)  
5 paragraph (e) of subdivision four of this section, relating to the  
6 ownership of stock or membership.

7 (d) A limited services clinic shall be deemed to be a "health care  
8 provider" for the purposes of title two-D of article two of this chap-  
9 ter. A prescriber practicing in a limited service clinic shall not be  
10 deemed to be in the employ of a pharmacy or practicing in a hospital for  
11 purposes of subdivision two of section sixty-eight hundred seven of the  
12 education law.

13 (e) The commissioner shall promulgate regulations setting forth opera-  
14 tional and physical plant standards for limited services clinics, which  
15 may be different from the regulations otherwise applicable to diagnostic  
16 or treatment centers, including, but not limited to:

17 (i) requiring that limited services clinics attain and maintain  
18 accreditation and requiring timely reporting to the department if a  
19 limited service clinic loses its accreditation;

20 (ii) designating or limiting the treatments and services that may be  
21 provided, including:

22 (1) prohibiting the provision of services to patients twenty-four  
23 months of age or younger;

24 (2) the provision of specific immunizations to patients younger than  
25 eighteen years of age;

26 (iii) requiring limited service clinics to accept walk-ins and offer  
27 extended business hours;

1     (iv) setting forth guidelines for advertising and signage, disclosure  
2 of ownership interests, informed consent, record keeping, referral for  
3 treatment and continuity of care, case reporting to the patient's prima-  
4 ry care or other health care providers, design, construction, fixtures,  
5 and equipment. Signage shall also be required to indicate that  
6 prescriptions and over-the-counter supplies may be purchased by a  
7 patient from any business and do not need to be purchased on-site; and

8     (v) requiring the operator to directly employ a medical director who  
9 is licensed and currently registered to practice medicine in the state  
10 of New York.

11     (f) Such regulations also shall promote and strengthen primary care  
12 through: (i) the integration of services provided by limited services  
13 clinics with the services provided by the patient's other health care  
14 providers; and (ii) the referral of patients to appropriate health care  
15 providers, including appropriate transmission of patient health records.

16     § 2. The public health law is amended by adding a new section 230-e to  
17 read as follows:

18     § 230-e. Urgent care. 1. Definitions. As used in this section:

19     (a) "Accredited status" shall mean the full accreditation by such  
20 nationally-recognized accrediting agencies as determined by the commis-  
21 sioner.

22     (b) "Emergency medical care" shall mean the provision of treatment for  
23 life-threatening or potentially disabling trauma, burns, respiratory,  
24 circulatory or obstetrical conditions.

25     (c) "Licensee" shall mean an individual licensed or otherwise author-  
26 ized under article one hundred thirty-one or one hundred thirty-one-B of  
27 the education law.

1     (d) "Urgent care" shall mean the provision of treatment on an unsched-  
2 uled basis to patients for acute episodic illness, minor traumas that  
3 are not life-threatening, or potentially disabling, or for monitoring or  
4 treatment over prolonged periods.

5     (e) "Urgent care provider" shall mean a licensee practice that adver-  
6 tises or holds itself out as a provider of urgent care.

7     2. No licensee practice shall, within this state, display signage,  
8 advertise or hold itself out as a provider of urgent care through the  
9 use of the term urgent care, or through any other term or symbol that  
10 implies that it is a provider of urgent care, unless it obtains and  
11 maintains accredited status, obtains the approval of the department and  
12 otherwise complies with the provisions of this section and regulations  
13 promulgated hereunder. Any provider that loses its accredited status  
14 shall promptly notify the department thereof.

15     3. No licensee practice shall, within this state, display signage,  
16 advertise or hold itself out as a provider of emergency medical care  
17 through the use of the term emergency, or through any other term or  
18 symbol that implies that it is a provider of emergency medical care,  
19 regardless of whether it is an urgent care provider accredited under  
20 this section.

21     4. Nothing in this section shall be construed to prohibit a hospital  
22 established under article twenty-eight of this chapter from providing  
23 urgent care or emergency medical care, or from displaying signage,  
24 advertising or holding itself out as a provider of urgent or emergency  
25 care pursuant to regulations promulgated under that article.

26     5. The public health and health planning council, by a majority vote  
27 of its members, shall adopt and amend rules and regulations, subject to  
28 the approval of the commissioner, to effectuate the purposes and

1 provisions of this section, including, but not limited to defining the  
2 scope of services that may be provided by urgent care providers and the  
3 minimum services that shall be provided; requiring urgent care providers  
4 to disclose to patients the scope of services provided; and establishing  
5 standards for appropriate referral and continuity of care, staffing,  
6 equipment, and maintenance and transmission of patient records. Such  
7 regulations shall also promote and strengthen primary care through: (i)  
8 the integration of services provided by urgent care providers with the  
9 services provided by the patient's other health care providers; and (ii)  
10 the referral of patients to appropriate health care providers, including  
11 appropriate transmission of patient health records.

12 § 3. Subdivision 4 of section 2951 of the public health law is  
13 REPEALED.

14 § 4. Section 2956 of the public health law is REPEALED.

15 § 5. Section 225 of the public health law is amended by adding a new  
16 subdivision 13 to read as follows:

17 13. The public health and health planning council may review the type  
18 of procedures performed in outpatient settings, including practices  
19 required to report adverse events under section two hundred thirty-d of  
20 this article and health care facilities licensed under article twenty-  
21 eight of this chapter that provide ambulatory surgery services, for  
22 purposes of:

23 (a) identifying the types of procedures performed and types of  
24 anesthesia/sedation administered in such settings;

25 (b) considering whether it is appropriate for such procedures or  
26 anesthesia/sedation to be performed in such settings;

27 (c) considering whether settings performing such procedures or admin-  
28 istering such anesthesia/sedation are subject to sufficient oversight;

1 (d) considering whether settings performing such procedures or admin-  
2 istering such anesthesia/sedation are subject to an equivalent level of  
3 oversight regardless of setting; and

4 (e) making recommendations to the department regarding the foregoing.

5 § 6. This act shall take effect immediately, provided, however, that  
6 subdivision 2 of section 230-e of the public health law, as added by  
7 section two of this act, shall take effect January 1, 2017; subdivision  
8 3 of section 230-e of the public health law, as added by section two of  
9 this act, shall take effect January 1, 2016; and regulations shall be  
10 adopted or amended pursuant to subdivision 5 of section 230-e of the  
11 public health law, as added by section two of this act, on or before  
12 January 1, 2016, and shall not take effect until January 1, 2017.

13 PART I

14 Section 1. Subdivision 2-a of section 2781 of the public health law is  
15 REPEALED.

16 § 2. The criminal procedure law is amended by adding a new section  
17 60.47 to read as follows:

18 § 60.47 Possession of condoms; receipt into evidence.

19 Evidence that a person was in possession of one or more condoms may  
20 not be admitted at any trial, hearing, or other proceeding in a prose-  
21 cution for section 230.00 or section 240.37 of the penal law for the  
22 purpose of establishing probable cause for an arrest or proving any  
23 person's commission or attempted commission of such offense.

24 § 3. Section 220.45 of the penal law, as amended by chapter 284 of the  
25 laws of 2010, is amended to read as follows:

26 § 220.45 Criminally possessing a hypodermic instrument.

1 A person is guilty of criminally possessing a hypodermic instrument  
2 when he or she knowingly and unlawfully possesses or sells a hypodermic  
3 syringe or hypodermic needle. It shall not be a violation of this  
4 section when a person obtains and possesses a hypodermic syringe or  
5 hypodermic needle pursuant to section thirty-three hundred eighty-one of  
6 the public health law, which includes the state's syringe exchange and  
7 pharmacy and medical provider-based expanded syringe access programs.

8 Criminally possessing a hypodermic instrument is a class A misdemea-  
9 nor.

10 § 4. Section 220.03 of the penal law, as amended by chapter 284 of the  
11 laws of 2010, the opening paragraph as amended by chapter 154 of the  
12 laws of 2011, is amended to read as follows:

13 § 220.03 Criminal possession of a controlled substance in the seventh  
14 degree.

15 A person is guilty of criminal possession of a controlled substance in  
16 the seventh degree when he or she knowingly and unlawfully possesses a  
17 controlled substance; provided, however, that it shall not be a  
18 violation of this section when a person possesses a residual amount of a  
19 controlled substance and that residual amount is in or on a hypodermic  
20 syringe or hypodermic needle obtained and possessed pursuant to section  
21 thirty-three hundred eighty-one of the public health law, which includes  
22 the state's syringe exchange and pharmacy and medical provider-based  
23 expanded syringe access programs; nor shall it be a violation of this  
24 section when a person's unlawful possession of a controlled substance is  
25 discovered as a result of seeking immediate health care as defined in  
26 paragraph (b) of subdivision three of section 220.78 of the penal law,  
27 for either another person or him or herself because such person is expe-  
28 riencing a drug or alcohol overdose or other life threatening medical

1 emergency as defined in paragraph (a) of subdivision three of section  
2 220.78 of the penal law.

3 Criminal possession of a controlled substance in the seventh degree is  
4 a class A misdemeanor.

5 § 5. Paragraph (g) of subdivision 2 of section 850 of the general  
6 business law, as amended by chapter 812 of the laws of 1980, is amended  
7 to read as follows:

8 (g) Hypodermic syringes, needles and other objects, used or designed  
9 for the purpose of parenterally injecting controlled substances into the  
10 human body; provided, however, hypodermic syringes and needles obtained  
11 and possessed from the state's syringe exchange and pharmacy and medical  
12 provider-based expanded syringe access programs shall not be considered  
13 drug-related paraphernalia;

14 § 6. Paragraph (c) of subdivision 1 of section 3381 of the public  
15 health law, as amended by chapter 178 of the laws of 2010, is amended to  
16 read as follows:

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

26 § 7. Paragraph (d) of subdivision 5 of section 3381 of the public  
27 health law, as amended by section 9-a of part B of chapter 58 of the  
28 laws of 2007, is amended to read as follows:

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

§ 8. This act shall take effect immediately.

#### PART J

Section 1. Subparagraph (v) of paragraph a of subdivision 1 of section 6908 of the education law is relettered subparagraph (vi) and a new subparagraph (v) is added to read as follows:

(v) tasks provided by an advanced home health aide in accordance with regulations developed in consultation with the commissioner of health which, at a minimum, shall: (1) specify the types of tasks that may be performed by advanced home health aides pursuant to this subparagraph ("advanced tasks"), which shall include the administration of medications which are routine and prefilled or otherwise packaged in a manner that promotes relative ease of administration; (2) provide that advanced tasks performed by advanced home health aides may be performed only under the direct supervision of a registered professional nurse licensed in New York state and employed by a home care services agency licensed or certified pursuant to article thirty-six of the public health law or hospice program certified pursuant to article forty of the public health



1 law, where such nursing supervision (A) includes training and periodic  
2 assessment of the performance of advanced tasks, (B) shall be determined  
3 by the registered professional nurse responsible for supervising such  
4 advanced tasks based upon the complexity of such advanced tasks, the  
5 skill and experience of the advanced home health aide, and the health  
6 status of the individual for whom such advanced tasks are being  
7 performed, and (C) includes a comprehensive assessment of the individ-  
8 ual's needs; (3) provide that advanced tasks may be performed only in  
9 accordance with and pursuant to an authorized practitioner's ordered  
10 care; (4) provide that only a home health aide who has at least one year  
11 of experience as a certified home health aide, has completed the requi-  
12 site training and demonstrated competencies of an advanced home health  
13 aide, has successfully completed competency examinations satisfactory to  
14 the commissioner and meets other appropriate qualifications may perform  
15 advanced tasks as an advanced home health aide; (5) provide that only an  
16 individual who is listed in the home care services registry maintained  
17 by the department of health pursuant to subdivision nine of section  
18 thirty-six hundred thirteen of the public health law as having satisfied  
19 all applicable training requirements and having passed the applicable  
20 competency examinations and who meets other requirements as set forth in  
21 regulations issued by the commissioner of health pursuant to subdivision  
22 seventeen of section thirty-six hundred two of the public health law may  
23 perform advanced tasks pursuant to this subparagraph and may hold  
24 himself or herself out as an advanced home health aide; (6) establish  
25 minimum standards of training for the performance of advanced tasks by  
26 advanced home health aides, including (A) didactic training, (B) clin-  
27 ical training, and (C) a supervised clinical practicum with standards  
28 set forth by the commissioner; (7) provide that advanced home health

aides shall receive case-specific training on the advanced tasks to be assigned by the supervising nurse, provided that additional training shall take place whenever additional advanced tasks are assigned; (8) prohibit an advanced home health aide from holding himself or herself out, or accepting employment as, a person licensed to practice nursing under the provisions of this article; (9) provide that an advanced home health aide is not required nor permitted to assess the medication needs of an individual; (10) provide that an advanced home health aide shall not be authorized to perform any tasks or activities pursuant to this subparagraph that are outside the scope of practice of a licensed practical nurse; (11) provide that an advanced home health aide shall document medication administration to each individual through the use of a medication administration record; and (12) provide that the supervising registered professional nurse shall retain the discretion to decide whether to assign advanced tasks to home health aides under this program and shall not be subject to coercion or the threat of retaliation; in developing such regulations, the commissioner shall take into account the recommendations of the workgroup of stakeholders convened by the commissioner of health for the purpose of providing guidance on the foregoing; or

§ 2. Section 3602 of the public health law is amended by adding a new subdivision 17 to read as follows:

17. "Advanced home health aides" means home health aides who are authorized to perform advanced tasks as delineated in subparagraph (v) of paragraph a of subdivision one of section six thousand nine hundred eight of the education law and regulations issued by the commissioner of education, in consultation with the commissioner of health, relating thereto. The commissioner shall promulgate regulations regarding such

1 aides, which shall include a process for the limitation or revocation of  
2 the advanced home health aide's authorization to perform advanced tasks  
3 in appropriate cases.

4 § 3. Subdivision 9 of section 3613 of the public health law is renum-  
5 bered subdivision 10 and a new subdivision 9 is added to read as  
6 follows:

7 9. The department shall indicate within the home care services worker  
8 registry when a home health aide has satisfied all applicable training  
9 and recertification requirements and has passed the applicable competen-  
10 cy examinations necessary to perform advanced tasks pursuant to subpara-  
11 graph (v) of paragraph a of subdivision one of section six thousand nine  
12 hundred eight of the education law and regulations issued thereto. Any  
13 limitation or revocation of the advanced home health aide's authori-  
14 zation also shall be indicated on the registry.

15 § 4. In developing regulations required under subparagraph (v) of  
16 paragraph a of subdivision 1 of section 6908 of the education law, as  
17 added by section one of this act, the commissioner of education shall  
18 consider the recommendations of the workgroup of stakeholders convened  
19 by the commissioner of health, to provide guidance on the tasks which  
20 may be performed by advanced home health aides pursuant to such section  
21 including but not limited to recommendations encompassing the following  
22 matters:

23 (a) the tasks that appropriately could be performed by advanced home  
24 health aides with appropriate training and supervision ("advanced  
25 tasks");

26 (b) the types of medications that advanced home health aides should be  
27 authorized to administer, including whether subcutaneous injectables and  
28 controlled substances should be authorized;

1 (c) qualifications that must be satisfied by advanced home health  
2 aides to perform advanced tasks, including those related to experience,  
3 training, moral character, and examination requirements;

4 (d) minimum training and education standards; and

5 (e) adequate levels of supervision to be provided by nurses, including  
6 adherence to existing requirements for comprehensive assessment and any  
7 additional assessment that should be required, including when the indi-  
8 vidual receiving advanced tasks performed by an advanced home health  
9 aide experiences a significant change in condition.

10 § 5. This act shall take effect October 1, 2015; provided, however,  
11 that the commissioner of education shall adopt or amend regulations  
12 necessary to implement the provisions of subparagraph (v) of paragraph a  
13 of subdivision 1 of section 6908 of the education law, as added by  
14 section one of this act, by such effective date; provided, further, that  
15 no advanced tasks may be performed pursuant to such provision until such  
16 regulations are adopted and except in conformance with such regulations.

17 PART K

18 Section 1. Subdivisions 1, 2 and 3 of section 2802 of the public  
19 health law, subdivisions 1 and 2 as amended by section 58 of part A of  
20 chapter 58 of the laws of 2010, subdivision 3 as amended by chapter 609  
21 of the laws of 1982 and paragraph (e) of subdivision 3 as amended by  
22 chapter 731 of the laws of 1993, are amended to read as follows:

23 1. An application for such construction shall be filed with the  
24 department, together with such other forms and information as shall be  
25 prescribed by, or acceptable to, the department. Thereafter the depart-  
26 ment shall forward a copy of the application and accompanying documents

1 to the public health and health planning council, and the health systems  
2 agency, if any, having geographical jurisdiction of the area where the  
3 hospital is located.

4 2. The commissioner shall not act upon an application for construction  
5 of a hospital until the public health and health planning council and  
6 the health systems agency have had a reasonable time to submit their  
7 recommendations, and unless (a) the applicant has obtained all approvals  
8 and consents required by law for its incorporation or establishment  
9 (including the approval of the public health and health planning council  
10 pursuant to the provisions of this article) provided, however, that the  
11 commissioner may act upon an application for construction by an appli-  
12 cant possessing a valid operating certificate when the application qual-  
13 ifies for review without the recommendation of the council pursuant to  
14 regulations adopted by the council and approved by the commissioner; and  
15 (b) the commissioner is satisfied as to the public need for the  
16 construction, at the time and place and under the circumstances  
17 proposed, provided however that[,] in the case of an application by a  
18 hospital established or operated by an organization defined in subdivi-  
19 sion one of section four hundred eighty-two-b of the social services  
20 law, the needs of the members of the religious denomination concerned,  
21 for care or treatment in accordance with their religious or ethical  
22 convictions, shall be deemed to be public need[.]; and further provided  
23 that: (i) an application by a general hospital or diagnostic and treat-  
24 ment center, established under this article, to construct a facility to  
25 provide primary care services, as defined in regulation, may be approved  
26 without regard for public need; or (ii) an application by a general  
27 hospital or a diagnostic and treatment center, established under this  
28 article, to undertake construction that does not involve a change in

1 capacity, the types of services provided, major medical equipment,  
2 facility replacement, or the geographic location of services, may be  
3 approved without regard for public need.

4 3. Subject to the provisions of paragraph (b) of subdivision two of  
5 this section, the commissioner in approving the construction of a hospi-  
6 tal shall take into consideration and be empowered to request informa-  
7 tion and advice as to (a) the availability of facilities or services  
8 such as preadmission, ambulatory or home care services which may serve  
9 as alternatives or substitutes for the whole or any part of the proposed  
10 hospital construction;

11 (b) the need for special equipment in view of existing utilization of  
12 comparable equipment at the time and place and under the circumstances  
13 proposed;

14 (c) the possible economies and improvements in service to be antic-  
15 ipated from the operation of joint central services including, but not  
16 limited to laboratory, research, radiology, pharmacy, laundry and  
17 purchasing;

18 (d) the adequacy of financial resources and sources of future revenue,  
19 provided that the commissioner may, but is not required to, consider the  
20 adequacy of financial resources and sources of future revenue in  
21 relation to applications under subparagraphs (i) and (ii) of paragraph  
22 (b) of subdivision two of this section; and

23 (e) whether the facility is currently in substantial compliance with  
24 all applicable codes, rules and regulations, provided, however, that the  
25 commissioner shall not disapprove an application solely on the basis  
26 that the facility is not currently in substantial compliance, if the  
27 application is specifically:

28 (i) to correct life safety code or patient care deficiencies;

- 1 (ii) to correct deficiencies which are necessary to protect the life,  
2 health, safety and welfare of facility patients, residents or staff;  
3 (iii) for replacement of equipment that no longer meets the generally  
4 accepted operational standards existing for such equipment at the time  
5 it was acquired; and  
6 (iv) for decertification of beds and services.

7 § 2. Subdivisions 1, 2 and 3 of section 2807-z of the public health  
8 law, as amended by chapter 400 of the laws of 2012, are amended to read  
9 as follows:

10 1. Notwithstanding any provision of this chapter or regulations or any  
11 other state law or regulation, for any eligible capital project as  
12 defined in subdivision six of this section, the department shall have  
13 thirty days [of] after receipt of the certificate of need or  
14 construction application, pursuant to section twenty-eight hundred two  
15 of this article, for a limited or administrative review to deem such  
16 application complete. If the department determines the application is  
17 incomplete or that more information is required, the department shall  
18 notify the applicant in writing within thirty days of the date of the  
19 application's submission, and the applicant shall have twenty business  
20 days to provide additional information or otherwise correct the defi-  
21 ciency in the application.

22 2. For an eligible capital project requiring a limited or administra-  
23 tive review, within ninety days of the department deeming the applica-  
24 tion complete, the department shall make a decision to approve or disap-  
25 prove the certificate of need or construction application for such  
26 project. If the department determines to disapprove the project, the  
27 basis for such disapproval shall be provided in writing; however, disap-  
28 proval shall not be based on the incompleteness of the application. If

1 the department fails to take action to approve or disapprove the appli-  
2 cation within ninety days of the certificate of need application being  
3 deemed complete, the application will be deemed approved.

4 3. For an eligible capital project requiring full review by the coun-  
5 cil, the certificate of need or construction application shall be placed  
6 on the next council agenda following the department deeming the applica-  
7 tion complete.

8 § 3. Section 2801-a of the public health law is amended by adding a  
9 new subdivision 3-b to read as follows:

10 3-b. Notwithstanding any other provisions of this chapter to the  
11 contrary, the public health and health planning council may approve the  
12 establishment of diagnostic or treatment centers to be issued operating  
13 certificates for the purpose of providing primary care, as defined by  
14 the commissioner in regulations, without regard to the requirements of  
15 public need and financial resources as set forth in subdivision three of  
16 this section.

17 § 4. Subdivision 3 of section 2801-a of the public health law, as  
18 amended by section 57 of part A of chapter 58 of the laws of 2010, is  
19 amended to read as follows:

20 3. The public health and health planning council shall not approve a  
21 certificate of incorporation, articles of organization or application  
22 for establishment unless it is satisfied, insofar as applicable, as to  
23 (a) the public need for the existence of the institution at the time and  
24 place and under the circumstances proposed, provided, however, that in  
25 the case of an institution proposed to be established or operated by an  
26 organization defined in subdivision one of section one hundred seventy-  
27 two-a of the executive law, the needs of the members of the religious  
28 denomination concerned, for care or treatment in accordance with their



1 religious or ethical convictions, shall be deemed to be public need; (b)  
2 the character, competence, and standing in the community, of the  
3 proposed incorporators, directors, sponsors, members, principal members,  
4 stockholders, [members] principal stockholders or operators; with  
5 respect to any proposed incorporator, director, sponsor, member, princi-  
6 pal member, stockholder, [member] principal stockholder or operator who  
7 is already or within the past [ten] seven years has been an incorpora-  
8 tor, director, sponsor, member, principal stockholder, principal member,  
9 or operator of any hospital, private proprietary home for adults, resi-  
10 dence for adults, or non-profit home for the aged or blind which has  
11 been issued an operating certificate by the state department of social  
12 services, or a halfway house, hostel or other residential facility or  
13 institution for the care, custody or treatment of the mentally disabled  
14 which is subject to approval by the department of mental hygiene, no  
15 approval shall be granted unless the public health and health planning  
16 council, having afforded an adequate opportunity to members of health  
17 systems agencies, if any, having geographical jurisdiction of the area  
18 where the institution is to be located to be heard, shall affirmatively  
19 find by substantial evidence as to each such incorporator, director,  
20 sponsor, member, principal member, principal stockholder or operator  
21 that a substantially consistent high level of care is being or was being  
22 rendered in each such hospital, home, residence, halfway house, hostel,  
23 or other residential facility or institution with which such person is  
24 or was affiliated; for the purposes of this paragraph, the public health  
25 and health planning council shall adopt rules and regulations, subject  
26 to the approval of the commissioner, to establish the criteria to be  
27 used to determine whether a substantially consistent high level of care  
28 has been rendered, provided, however, that there shall not be a finding

1 that a substantially consistent high level of care has been rendered  
2 where there have been violations of the state hospital code, or other  
3 applicable rules and regulations, that (i) threatened to directly affect  
4 the health, safety or welfare of any patient or resident, and (ii) were  
5 recurrent or were not promptly corrected, unless the proposed incorpora-  
6 tor, director, sponsor, member, principal member, stockholder, principal  
7 stockholder, or operator demonstrates, and the public health and health  
8 planning council finds, that the violations cannot be attributed to the  
9 action or inaction of such proposed incorporator, director, sponsor,  
10 member, principal member, stockholder, principal stockholder, or opera-  
11 tor due to the timing, extent or manner of the affiliation; (c) the  
12 financial resources of the proposed institution and its sources of  
13 future revenues; and (d) such other matters as it shall deem pertinent.

14 § 5. Paragraphs (b) and (c) of subdivision 4 of section 2801-a of the  
15 public health law, as amended by section 57 of part A of chapter 58 of  
16 the laws of 2010, are amended to read as follows:

17 (b) [(i)] Any transfer, assignment or other disposition of ten percent  
18 or more of [an] direct or indirect interest or voting rights in [a part-  
19 nership or limited liability company, which is the] an operator of a  
20 hospital to a new stockholder, partner or member, or any transfer,  
21 assignment or other disposition of a direct or indirect interest or  
22 voting rights of such an operator which results in the ownership or  
23 control of more than ten percent of the interest or voting rights of  
24 such operator by any person not previously approved by the public health  
25 and health planning council, or its predecessor, for that operator shall  
26 be approved by the public health and health planning council, in accord-  
27 ance with the provisions of subdivisions two and three of this section,  
28 except that: (A) any such change shall be subject to the approval by the

1 public health and health planning council in accordance with paragraph  
2 (b) of subdivision three of this section only with respect to the new  
3 stockholder, partner or member, and any remaining stockholders, partners  
4 or members who have not been previously approved for that facility in  
5 accordance with such paragraph, and (B) such change shall not be subject  
6 to paragraph (a) of subdivision three of this section. In the absence of  
7 such approval, the operating certificate of such hospital shall be  
8 subject to revocation or suspension.

9 [(ii)] (c) (i) With respect to a transfer, assignment or disposition  
10 involving less than ten percent of [an] a direct or indirect interest or  
11 voting rights in [such partnership or limited liability company] an  
12 operator of a hospital to a new stockholder, partner or member, no prior  
13 approval of the public health and health planning council shall be  
14 required except where required by paragraph (b) of this subdivision.  
15 However, no such transaction shall be effective unless at least ninety  
16 days prior to the intended effective date thereof, the [partnership or  
17 limited liability company] operator fully completes and files with the  
18 public health and health planning council notice on a form, to be devel-  
19 oped by the public health and health planning council, which shall  
20 disclose such information as may reasonably be necessary for the public  
21 health and health planning council to determine whether it should bar  
22 the transaction for any of the reasons set forth in item (A), (B), (C)  
23 or (D) below. Within ninety days from the date of receipt of such  
24 notice, the public health and health planning council may bar any trans-  
25 action under this subparagraph: (A) if the equity position of the [part-  
26 nership or limited liability company,] operator, determined in accord-  
27 ance with generally accepted accounting principles, would be reduced as  
28 a result of the transfer, assignment or disposition; (B) if the trans-

1 action would result in the ownership of a [partnership or membership]  
2 direct or indirect interest or voting rights by any persons who have  
3 been convicted of a felony described in subdivision five of section  
4 twenty-eight hundred six of this article; (C) if there are reasonable  
5 grounds to believe that the proposed transaction does not satisfy the  
6 character and competence criteria set forth in subdivision three of this  
7 section; or (D) upon the recommendation of the department, if the trans-  
8 action, together with all transactions under this subparagraph for the  
9 [partnership] operator, or successor, during any five year period would,  
10 in the aggregate, involve twenty-five percent or more of the interest in  
11 the [partnership] operator. The public health and health planning coun-  
12 cil shall state specific reasons for barring any transaction under this  
13 subparagraph and shall so notify each party to the proposed transaction.

14 [(iii) With respect to a transfer, assignment or disposition of an  
15 interest or voting rights in such partnership or limited liability  
16 company to any remaining partner or member, which transaction involves  
17 the withdrawal of the transferor from the partnership or limited liabil-  
18 ity company, no prior approval of the public health and health planning  
19 council shall be required. However, no such transaction shall be effec-  
20 tive unless at least ninety days prior to the intended effective date  
21 thereof, the partnership or limited liability company fully completes  
22 and files with the public health and health planning council notice on a  
23 form, to be developed by the public health and health planning council,  
24 which shall disclose such information as may reasonably be necessary for  
25 the public health and health planning council to determine whether it  
26 should bar the transaction for the reason set forth below. Within ninety  
27 days from the date of receipt of such notice, the public health and  
28 health planning council may bar any transaction under this subparagraph

1 if the equity position of the partnership or limited liability company,  
2 determined in accordance with generally accepted accounting principles,  
3 would be reduced as a result of the transfer, assignment or disposition.  
4 The public health and health planning council shall state specific  
5 reasons for barring any transaction under this subparagraph and shall so  
6 notify each party to the proposed transaction.

7 (c) Any transfer, assignment or other disposition of ten percent or  
8 more of the stock or voting rights thereunder of a corporation which is  
9 the operator of a hospital or which is a member of a limited liability  
10 company which is the operator of a hospital to a new stockholder, or any  
11 transfer, assignment or other disposition of the stock or voting rights  
12 thereunder of such a corporation which results in the ownership or  
13 control of more than ten percent of the stock or voting rights there-  
14 under of such corporation by any person not previously approved by the  
15 public health and health planning council, or its predecessor, for that  
16 corporation shall be subject to approval by the public health and health  
17 planning council, in accordance with the provisions of subdivisions two  
18 and three of this section and rules and regulations pursuant thereto;  
19 except that: any such transaction shall be subject to the approval by  
20 the public health and health planning council in accordance with para-  
21 graph (b) of subdivision three of this section only with respect to a  
22 new stockholder or a new principal stockholder; and shall not be subject  
23 to paragraph (a) of subdivision three of this section. In the absence of  
24 such approval, the operating certificate of such hospital shall be  
25 subject to revocation or suspension.]

26 (ii) No prior approval of the public health and health planning coun-  
27 cil shall be required with respect to a transfer, assignment or disposi-  
28 tion of ten percent or more of [the stock] a direct or indirect interest

1 or voting rights [thereunder of a corporation which is the] in an opera-  
2 tor of a hospital [or which is a member of a limited liability company  
3 which is the owner of a hospital] to any person previously approved by  
4 the public health and health planning council, or its predecessor, for  
5 that [corporation] operator. However, no such transaction shall be  
6 effective unless at least ninety days prior to the intended effective  
7 date thereof, the [stockholder] operator fully completes and files with  
8 the public health and health planning council notice on forms to be  
9 developed by the public health and health planning council, which shall  
10 disclose such information as may reasonably be necessary for the public  
11 health and health planning council to determine whether it should bar  
12 the transaction. Such transaction will be final as of the intended  
13 effective date unless, prior thereto, the public health and health plan-  
14 ning council shall state specific reasons for barring such transactions  
15 under this paragraph and shall notify each party to the proposed trans-  
16 action. Nothing in this paragraph shall be construed as permitting a  
17 person not previously approved by the public health and health planning  
18 council for that [corporation] operator to become the owner of ten  
19 percent or more of the [stock of a corporation which is] interest or  
20 voting rights, directly or indirectly, in the operator of a hospital [or  
21 which is a member of a limited liability company which is the owner of a  
22 hospital] without first obtaining the approval of the public health and  
23 health planning council.

24 § 6. Subdivision 1 of section 3611-a of the public health law, as  
25 amended by section 67 of part A of chapter 58 of the laws of 2010, is  
26 amended to read as follows:

27 1. Any change in the person who, or any transfer, assignment, or other  
28 disposition of an interest or voting rights of ten percent or more, or

1 any transfer, assignment or other disposition which results in the  
2 ownership or control of an interest or voting rights of ten percent or  
3 more, in a limited liability company or a partnership which is the oper-  
4 ator of a licensed home care services agency or a certified home health  
5 agency shall be approved by the public health and health planning coun-  
6 cil, in accordance with the provisions of subdivision four of section  
7 thirty-six hundred five of this article relative to licensure or subdi-  
8 vision two of section thirty-six hundred six of this article relative to  
9 certificate of approval, except that:

10 (a) Public health and health planning council approval shall be  
11 required only with respect to the person, or the member or partner that  
12 is acquiring the interest or voting rights; and

13 (b) With respect to certified home health agencies, such change shall  
14 not be subject to the public need assessment described in paragraph (a)  
15 of subdivision two of section thirty-six hundred six of this article.

16 (c) In the absence of such approval, the license or certificate of  
17 approval shall be subject to revocation or suspension.

18 (d) (i) No prior approval of the public health and health planning  
19 council shall be required with respect to a transfer, assignment or  
20 disposition of:

21 [(i)] (A) an interest or voting rights to any person previously  
22 approved by the public health and health planning council, or its prede-  
23 cessor, for that operator; or

24 [(ii)] (B) an interest or voting rights of less than ten percent in  
25 the operator. [However, no]

26 (ii) No such transaction under subparagraph (i) of this paragraph  
27 shall be effective unless at least ninety days prior to the intended  
28 effective date thereof, the [partner or member] operator completes and

1 files with the public health and health planning council notice on forms  
2 to be developed by the public health council, which shall disclose such  
3 information as may reasonably be necessary for the public health and  
4 health planning council to determine whether it should bar the trans-  
5 action. Such transaction will be final as of the intended effective date  
6 unless, prior thereto, the public health and health planning council  
7 shall state specific reasons for barring such transactions under this  
8 paragraph and shall notify each party to the proposed transaction.

9 § 7. This act shall take effect immediately.

10 PART L

11 Section 1. Section 230-d of the public health law, as added by chapter  
12 365 of the laws of 2007, paragraph (i) of subdivision 1 as amended by  
13 chapter 438 of the laws of 2012, and subdivision 4 as amended by chapter  
14 477 of the laws of 2008, is amended to read as follows:

15 § 230-d. Office-based surgery and office-based anesthesia. 1. The  
16 following words or phrases, as used in this section shall have the  
17 following meanings:

18 (a) "Accredited status" means the full accreditation by nationally-re-  
19 cognized accrediting agency(ies) determined by the commissioner.

20 (b) "Adverse event" means (i) patient death within thirty days; (ii)  
21 unplanned transfer to a hospital or emergency department visit within  
22 seventy-two hours of office-based surgery; (iii) unscheduled hospital  
23 admission or assignment to observation services, within seventy-two  
24 hours of the office-based surgery, for longer than twenty-four hours; or  
25 (iv) any other serious or life-threatening event.



1 (c) "Deep sedation" means a drug-induced depression of consciousness  
2 during which (i) the patient cannot be easily aroused but responds  
3 purposefully following repeated painful stimulation; (ii) the patient's  
4 ability to maintain independent ventilatory function may be impaired;  
5 (iii) the patient may require assistance in maintaining a patent airway  
6 and spontaneous ventilation may be inadequate; and (iv) the patient's  
7 cardiovascular function is usually maintained without assistance.

8 (d) "General anesthesia" means a drug-induced depression of conscious-  
9 ness during which (i) the patient is not arousable, even by painful  
10 stimulation; (ii) the patient's ability to maintain independent ventila-  
11 tory function is often impaired; (iii) the patient, in many cases, often  
12 requires assistance in maintaining a patent airway and positive pressure  
13 ventilation may be required because of depressed spontaneous ventilation  
14 or drug-induced depression of neuromuscular function; and (iv) the  
15 patient's cardiovascular function may be impaired.

16 (e) "Moderate sedation" means a drug-induced depression of conscious-  
17 ness during which (i) the patient responds purposefully to verbal  
18 commands, either alone or accompanied by light tactile stimulation; (ii)  
19 no interventions are required to maintain a patent airway; (iii) sponta-  
20 neous ventilation is adequate; and (iv) the patient's cardiovascular  
21 function is usually maintained without assistance.

22 (f) "Minimal sedation" means a drug-induced state during which (i)  
23 patients respond normally to verbal commands; (ii) cognitive function  
24 and coordination may be impaired; and (iii) ventilatory and cardiovascu-  
25 lar functions are unaffected.

26 (g) "Minor procedures" means (i) procedures that can be performed  
27 safely with a minimum of discomfort where the likelihood of compli-  
28 cations requiring hospitalization is minimal; (ii) procedures performed

1 with local or topical anesthesia; or (iii) liposuction with removal of  
2 less than 500 cc of fat under unsupplemented local anesthesia.

3 (h) "Office-based surgery" means any surgical or other invasive proce-  
4 dure, requiring general anesthesia, neuraxial anesthesia, major upper or  
5 lower extremity regional nerve blocks, moderate sedation, or deep  
6 sedation, and any liposuction procedure, where such surgical or other  
7 invasive procedure or liposuction is performed by a licensee in a  
8 location other than a hospital, as such term is defined in article twen-  
9 ty-eight of this chapter, excluding minor procedures and procedures  
10 requiring minimal sedation.

11 (i) "Licensee" shall mean an individual licensed or otherwise author-  
12 ized under article one hundred thirty-one, one hundred thirty-one-B,  
13 [individuals who have obtained an issuance of a privilege to perform  
14 podiatric standard or advanced ankle surgery pursuant to subdivisions  
15 one and two of section seven thousand nine] one hundred thirty-two, or  
16 one hundred forty-one of the education law.

17 (j) "Major upper or lower extremity regional nerve blocks" means types  
18 of regional anesthesia in which pain sensation is modified or blocked to  
19 a large area of the extremity by administration of medication around the  
20 nerves supplying that region of the extremity.

21 (k) "Neuraxial anesthesia" means a form of regional anesthesia in  
22 which pain sensation is modified or blocked by administration of medica-  
23 tion into the epidural space or spinal canal.

24 (l) "Office-based anesthesia" means general anesthesia, neuraxial  
25 anesthesia, major upper or lower extremity regional nerve blocks, moder-  
26 ate sedation or deep sedation where such anesthesia is administered by a  
27 licensee in a location other than a hospital, as such term is defined in  
28 article twenty-eight of this chapter.

2. Licensee practices in which office-based surgery or office-based anesthesia is performed shall obtain and maintain full accredited status and register with the department.

3. A licensee may only perform office-based surgery or office-based anesthesia in a setting that has obtained and maintains full accredited status and is registered with the department.

4. (a) Licensees shall report adverse events to the department's patient safety center within [one] three business [day] days of the occurrence of such adverse event. Licensees shall also report any suspected health care disease transmission originating in their practices to the patient safety center within [one] three business [day] days of becoming aware of such suspected transmission. For purposes of this section, health care disease transmission shall mean the transmission of a reportable communicable disease that is blood borne from a health care professional to a patient or between patients as a result of improper infection control practices by the health care professional.

(b) The department may also require licensees to report additional data such as procedural information as needed for the interpretation of adverse events and evaluation of patient care and quality improvement and assurance activities.

(c) The data reported [data] under this subdivision shall be subject to all confidentiality provisions provided by section twenty-nine hundred ninety-eight-e of this chapter.

4-a. Office-based surgery or office-based anesthesia shall be limited to operations and procedures with an expected duration of no more than six hours and expected appropriate and safe discharge within six hours.

5. The commissioner shall make, adopt, promulgate and enforce such rules and regulations, as he or she may deem appropriate, to effectuate

1 the purposes of this section. Where any rule or regulation under this  
2 section would affect the scope of practice of a health care practitioner  
3 licensed, registered or certified under title eight of the education law  
4 other than those licensed under articles one hundred thirty-one or one  
5 hundred thirty-one-B of the education law, the rule or regulation shall  
6 be made with the concurrence of the commissioner of education.

7 § 2. The section heading and subdivisions 1 and 2 of section 2998-e of  
8 the public health law, as added by chapter 365 of the laws of 2007, are  
9 amended to read as follows:

10 Reporting [of adverse events] in office based surgery and anesthesia.

11 1. The commissioner shall enter into agreements with accrediting agen-  
12 cies pursuant to which the accrediting agencies shall require all  
13 office-based surgical and office-based anesthesia practices to conduct  
14 quality improvement and quality assurance activities and utilize Ameri-  
15 can Board of Medical Specialties (ABMS) or equivalent certification,  
16 hospital privileging or other equivalent methods to determine competency  
17 of practitioners to perform office-based surgery and office-based anes-  
18 thesia, carry out surveys or complaint/incident investigations upon  
19 department request and shall report, at a minimum, [aggregate data on  
20 adverse events] findings of surveys and complaint/incident investi-  
21 gations, and data for all office-based surgical and office-based anes-  
22 thesia practices accredited by the accrediting agencies to the depart-  
23 ment. The department may disclose reports of aggregate data to the  
24 public.

25 2. The information required to be collected, maintained and reported  
26 directly to the department and maintained by office-based surgery and  
27 office-based anesthesia practices under quality improvement and quality  
28 assurance activities pursuant to section two hundred thirty-d of this

1 chapter shall be kept confidential and shall not be released, except to  
2 the department and except as required or permitted under subdivision  
3 nine-a and subparagraph (v) of paragraph (a) of subdivision ten of  
4 section two hundred thirty of this chapter. Notwithstanding any other  
5 provision of law, none of such information shall be subject to disclo-  
6 sure under article six of the public officers law or article thirty-one  
7 of the civil practice law and rules.

8 § 3. This act shall take effect one year after it shall have become a  
9 law.

10 PART M

11 Section 1. Subdivisions 1 and 2 of section 1100-a of the public health  
12 law, as added by chapter 258 of the laws of 1996, are amended and two  
13 new subdivisions 3 and 4 are added to read as follows:

14 1. Notwithstanding any contrary provision of law, rule, regulation or  
15 code, any county, city, town or village that owns both its public water  
16 system and the water supply for such system may by local law provide  
17 whether a fluoride compound shall [or shall not] be added to such public  
18 water supply.

19 2. Any county, wherein a public authority owns both its public water  
20 system and the water supply for such system, may by local law provide  
21 whether a fluoride compound shall [or shall not] be added to such public  
22 water supply.

23 3. No county, city, town or village, including a county wherein a  
24 public authority owns both its public water system and the water supply  
25 for such system, that fluoridates a public water supply or causes a  
26 public water supply to be fluoridated, shall discontinue the addition of

1 a fluoride compound to such public water supply unless it has first  
2 complied with the following requirements:

3 (a) issue a notice to the public of the preliminary determination to  
4 discontinue fluoridation for comment, which shall include the justifica-  
5 tion for the proposed discontinuance, alternatives to fluoridation  
6 available, and a summary of consultations with health professionals and  
7 the department concerning the proposed discontinuance. Such notice may,  
8 but is not required to, include publication in local newspapers.  
9 "Consultations with health professionals" may include formal studies by  
10 hired professionals, informal consultations with local public health  
11 officials or other health professionals, or other consultations,  
12 provided that the nature of such consultations and the identity of such  
13 professionals shall be identified in the public notice. "Alternatives to  
14 fluoridation" may include formal alternatives provided by or at the  
15 expense of the county, city, town or village, or other alternatives  
16 available to the public. Any public comments received in response to  
17 such notice shall be addressed by the county, city, town or village in  
18 the ordinary course of business; and

19 (b) provide the department at least ninety days prior written notice  
20 of the intent to discontinue and submit a plan for discontinuance that  
21 includes but is not limited to the notice that will be provided to the  
22 public, consistent with paragraph (a) of this subdivision, of the deter-  
23 mination to discontinue fluoridation of the water supply, including the  
24 date of such discontinuance and alternatives to fluoridation, if any,  
25 that will be made available in the community, and that includes informa-  
26 tion as may be required under the Sanitary Code.

27 4. The commissioner is hereby authorized, within amounts appropriated  
28 therefor, to make grants to counties, cities, towns or villages that own

1 their public water system and the water supply for such system, includ-  
2 ing a county wherein a public authority owns both its public water  
3 system and the water supply for such system, for the purpose of provid-  
4 ing assistance towards the costs of installation, including but not  
5 limited to technical and administrative costs associated with planning,  
6 design and construction, and start-up of fluoridation systems, and  
7 replacing, repairing or upgrading of fluoridation equipment for such  
8 public water systems. Grant funding shall not be available for assist-  
9 ance towards the costs and expenses of operation of the fluoridation  
10 system, as determined by the department. The grant applications shall  
11 include such information as required by the commissioner. In making the  
12 grant awards, the commissioner shall consider the demonstrated need for  
13 installation of new fluoridation equipment or replacing, repairing or  
14 upgrading of existing fluoridation equipment, and such other criteria as  
15 determined by the commissioner. Grant awards shall be made on a compet-  
16 itive basis and be subject to such conditions as may be determined by  
17 the commissioner.

18 § 2. This act shall take effect immediately.

19 PART N

20 Section 1. Purpose. The purpose of this act is to seek public input  
21 about the creation of an office of community living with the goal of  
22 providing improvements in service delivery and improved program outcomes  
23 that would result from the expansion of community living integration  
24 services for older adults and persons of all ages with disabilities.

25 § 2. Data and information collection. The director of the state office  
26 for the aging, in collaboration with other state agencies, will consult

1 with stakeholders, providers, individuals and their families to gather  
2 data and information on the creation of an office for community living.  
3 Areas of focus shall include, but not be limited to, furthering the  
4 goals of the governor's Olmstead plan, strengthening the No Wrong Door  
5 approach to accessing information and services, reinforcing initiatives  
6 of the Balancing Incentive Program, creating opportunities to better  
7 leverage resources, evaluating methods for service delivery improve-  
8 ments, and analyzing the fiscal impact of creating such an office on  
9 services, individuals and providers. The state office for the aging  
10 shall also examine recent federal initiatives to create an adminis-  
11 tration on community living; and examine other states' efforts to expand  
12 services supporting community living integration, and local and/or  
13 regional coordination efforts within New York.

14 § 3. Reporting. The director of the state office for the aging shall  
15 submit to the governor, and to the temporary president of the senate and  
16 the speaker of the assembly, a report and recommendations by December  
17 15, 2015, that outlines the results and findings associated with the  
18 aforementioned collection of data and solicitation of feedback. Such  
19 report shall include discussion regarding the potential impact and the  
20 feasibility of the expansion of the agency's community living inte-  
21 gration services beginning April 1, 2016.

22 § 4. This act shall take effect immediately.

23 PART O

24 Section 1. Section 1 of part D of chapter 111 of the laws of 2010  
25 relating to the recovery of exempt income by the office of mental health  
26 for community residences and family-based treatment programs as amended



1 by section 1 of part C of chapter 58 of the laws of 2014, is amended to  
2 read as follows:

3 Section 1. The office of mental health is authorized to recover fund-  
4 ing from community residences and family-based treatment providers  
5 licensed by the office of mental health, consistent with contractual  
6 obligations of such providers, and notwithstanding any other inconsis-  
7 tent provision of law to the contrary, in an amount equal to 50 percent  
8 of the income received by such providers which exceeds the fixed amount  
9 of annual Medicaid revenue limitations, as established by the commis-  
10 sioner of mental health. Recovery of such excess income shall be for the  
11 following fiscal periods: for programs in counties located outside of  
12 the city of New York, the applicable fiscal periods shall be January 1,  
13 2003 through December 31, 2009 and January 1, 2011 through December 31,  
14 [2015] 2016; and for programs located within the city of New York, the  
15 applicable fiscal periods shall be July 1, 2003 through June 30, 2010  
16 and July 1, 2011 through June 30, [2015] 2016.

17 § 2. This act shall take effect immediately.

18 PART P

19 Section 1. Subparagraph 9 of paragraph h of subdivision 4 of section  
20 1950 of the education law, as added by section 1 of part M of chapter 56  
21 of the laws of 2012, is amended to read as follows:

22 (9) To enter into contracts with the commissioner of the office of  
23 mental health, to provide special education [and], related services and  
24 any alternative education programs provided by the board of cooperative  
25 educational services to component school districts, in accordance with  
26 subdivision six-b of section thirty-two hundred two of this chapter to

1 patients hospitalized in hospitals operated by the office of mental  
2 health who are between the ages of five and twenty-one who have not  
3 received a high school diploma. Any such proposed contract shall be  
4 subject to the review by the commissioner and his [and] or her determi-  
5 nation that it is an approved cooperative educational service. Services  
6 provided pursuant to such contracts shall be provided at cost and  
7 approved by the commissioner of the office of mental health and the  
8 director of the division of the budget, and the board of cooperative  
9 educational services shall not be authorized to charge any costs  
10 incurred in providing such services to its component school districts.

11 § 2. The opening paragraph of subdivision 6-b of section 3202 of the  
12 education law, as added by section 2 of part M of chapter 56 of the laws  
13 of 2012, is amended to read as follows:

14 The commissioner of mental health may meet his or her obligations  
15 under section 33.11 of the mental hygiene law by contracting pursuant to  
16 this subdivision for educational services for children between the ages  
17 of five and twenty-one who do not hold a high school diploma and who are  
18 hospitalized in hospitals operated by the office of mental health with  
19 the trustees or board of education of any school district for educa-  
20 tional services or with a board of cooperative educational services for  
21 the provision of special education [and], related services and any  
22 alternative education programs provided by the board of cooperative  
23 educational services to component school districts to such children in  
24 accordance with their individualized education programs. The costs of  
25 such education shall not be a charge upon a school district pursuant to  
26 section 33.11 of the mental hygiene law.

27 § 3. Section 4 of part M of chapter 56 of the laws of 2012 amending  
28 the education law, relating to authorizing contracts for the provision

1 of special education and related services for certain patients hospital-  
2 ized in hospitals operated by the office of mental health, is amended to  
3 read as follows:

4 § 4. This act shall take effect July 1, 2012 and shall expire June 30,  
5 [2015] 2018, when upon such date the provisions of this act shall be  
6 deemed repealed.

7 § 4. This act shall take effect immediately and shall be deemed to  
8 have been in full force and effect on and after April 1, 2015, provided,  
9 however, that:

10 a. The amendments to subparagraph 9 of paragraph h of subdivision 4 of  
11 section 1950 of the education law made by section one of this act shall  
12 not affect the repeal of such subparagraph and shall be deemed repealed  
13 therewith; and

14 b. The amendments to the opening paragraph of subdivision 6-b of  
15 section 3202 of the education law made by section two of this act shall  
16 not affect the repeal of such subdivision and shall be deemed repealed  
17 therewith.

18 PART Q

19 Section 1. Section 2801-a of the public health law is amended by  
20 adding a new subdivision 17 to read as follows:

21 17. (a) The commissioner is authorized to establish a pilot program to  
22 assist in restructuring health care delivery systems by allowing for  
23 increased capital investment. Pursuant to the pilot program, the public  
24 health and health planning council shall approve the establishment, in  
25 accordance with the provisions of paragraphs (f), (g) and (h) of this  
26 subdivision and subdivision three of this section, of no more than five

1 business corporations formed under the business corporation law. Such  
2 business corporations shall affiliate, the extent of the affiliation to  
3 be determined by the commissioner, with at least one academic medical  
4 institution or teaching hospital approved by the commissioner. A busi-  
5 ness corporation shall not be eligible to participate in this program if  
6 any of its stock, or that of any of its direct or indirect owners, is or  
7 will be traded on a public stock exchange or on an over-the-counter  
8 market.

9 (b) Notwithstanding any provision of law to the contrary, business  
10 corporations established pursuant to this subdivision shall be deemed  
11 eligible to participate in debt financing provided by the dormitory  
12 authority of the state of New York, local development corporations and  
13 economic development corporations.

14 (c) The following provisions of this chapter shall not apply to busi-  
15 ness corporations established pursuant to this subdivision: (i) para-  
16 graph (b) of subdivision three of this section, relating to stockhold-  
17 ers, other than principal stockholders; (ii) paragraph (c) of  
18 subdivision four of this section, relating to the disposition of stock  
19 or voting rights; (iii) paragraphs (d) and (e) of subdivision four of  
20 this section, relating to the ownership of stock; and (iv) paragraph (a)  
21 of subdivision three of section four thousand four of this chapter,  
22 relating to the ownership of stock. Notwithstanding the foregoing, the  
23 public health and health planning council may require the disclosure of  
24 the identity of stockholders.

25 (d) The corporate powers and purposes of a business corporation estab-  
26 lished as an operator pursuant to this subdivision shall be limited to  
27 the ownership and operation, or operation, of a hospital or hospitals  
28 specifically named and the location or locations of which are specif-

ically designated by street address, city, town, village or locality and  
county; provided, however, that the corporate powers and purposes may  
also include the ownership and operation, or operation, of a certified  
home health agency or licensed home care services agency or agencies as  
defined in article thirty-six of this chapter or a hospice or hospices  
as defined in article forty of this chapter, if the corporation has  
received all approvals required under such law to own and operate, or  
operate, such home care services agency or agencies or hospice or  
hospices. Such corporate powers and purposes shall not be modified,  
amended or deleted without the prior approval of the commissioner.

(e)(1) In discharging the duties of their respective positions, the  
board of directors, committees of the board and individual directors and  
officers of a business corporation established pursuant to this subdivi-  
sion shall consider the effects of any action upon:

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

(B) the shareholders of the business corporation;

(C) the employees and workforce of the hospital or hospitals;

(D) the interests of patients of the hospital or hospitals;

(E) community and societal considerations, including those of any  
community in which facilities of the hospital or hospitals are located;

and

(F) the short-term and long-term interests of the business corpo-  
ration, including benefits that may accrue to the business corporation  
from its long-term plans.

(2) The consideration of interests and factors in the manner required  
by subparagraph one of this paragraph:

1     (A) shall not constitute a violation of the provisions of section  
2     seven hundred fifteen or seven hundred seventeen of the business corpo-  
3     ration law; and

4     (B) is in addition to the ability of directors to consider interests  
5     and factors as provided in section seven hundred seventeen of the busi-  
6     ness corporation law.

7     (f) While any decision to approve a business corporation under this  
8     section must weigh and balance a number of factors, in determining  
9     whether to approve a business corporation under this section, the public  
10    health and health planning council, in consultation with the commission-  
11    er, shall consider the extent to which the business corporation:

12    (1) provides for either equal or majority governance rights of the  
13    not-for-profit hospital partner, regardless of equity stakes, through  
14    weighted class voting structure or otherwise;

15    (2) incorporates a representative governance model that:

16    (A) clearly delineates authority and responsibility for the hospital's  
17    operations;

18    (B) defines mechanisms for approval of designated shareholders or  
19    investors; and

20    (C) reserves powers granted to a local governing authority to assure  
21    access and quality;

22    (3) is incorporated as a benefit corporation under the business corpo-  
23    ration law;

24    (4) commits to maintaining or enhancing existing levels of services,  
25    charity care and core community benefits;

26    (5) identifies an actionable strategy to monitor and maintain or  
27    improve quality of care;

1 (6) explains the level of capital commitment and the mechanism or  
2 mechanisms for infusing capital into the not-for-profit hospital part-  
3 ner;

4 (7) explains how it will retain the workforce, either in existing jobs  
5 or through retraining, and addresses obligations owed to employee bene-  
6 fit plans and pensions;

7 (8) will create a foundation to address the public health needs of the  
8 community; and

9 (9) identifies how profit distributions shall be made in a way to  
10 ensure that the community's access to quality care and core community  
11 benefits are not compromised and access to capital is not compromised.

12 None of the foregoing factors shall be dispositive in the approval or  
13 disapproval of the business corporation.

14 (g) No business corporation shall be approved under this section that  
15 fails to:

16 (1) attest that it will provide the not-for-profit hospital partner  
17 with the exclusive authority over functions relating to its exempt  
18 status;

19 (2) commit to ongoing monitoring and reporting to the department on  
20 quality of care, access to services, local investment, and workforce  
21 issues, to be defined by the commissioner; and

22 (3) provide for a local advisory board consisting of community repre-  
23 sentatives, which shall make recommendations on matters including:

24 (A) adopting a mission, vision and values statement;

25 (B) monitoring operating performance;

26 (C) assuring quality of care;

27 (D) ensuring medical staff comply with joint commission requirements;

28 (E) granting medical staff privileges;

1 (F) formulating strategic, operational and capital plans;

2 (G) nominating advisory board members;

3 (H) approving the chief executive officer and evaluating his or her  
4 performance; and

5 (I) identifying and approving policies relating to core community  
6 services and benefits and charity care policies.

7 (h) Any business corporation approved under this section must artic-  
8 ulate:

9 (1) the time period it expects to keep its investment in the hospital  
10 or hospitals;

11 (2) whether it will allow a "buy-back" option to its not-for-profit  
12 hospital partner or by an employee ownership plan;

13 (3) what safeguards it plans to put in place to protect access to  
14 services when it begins to negotiate with a subsequent investor; and

15 (4) the role of the not-for-profit hospital partner in those  
16 discussions with a subsequent investor.

17 (i) The board of directors of a business corporation established  
18 pursuant to this subdivision shall be deemed a "governing body" for the  
19 purposes of section twenty-eight hundred three-1 of this article and  
20 shall comply with the provisions of such section, regardless of the  
21 corporation's profit-making status.

22 (j) A sale, lease, conveyance, exchange, transfer, or other disposi-  
23 tion of all or substantially all of the assets of the business corpo-  
24 ration shall not be effective unless the transaction is approved by the  
25 commissioner.

26 No such transaction may occur within three years of the commissioner's  
27 approval of the business corporation's participation in the demon-



1 stration project. In approving such a transaction, the commissioner  
2 shall consider, among other things, whether the transaction:

3 (1) imposes safeguards to protect quality and access to core community  
4 services during the transition to the new investor;

5 (2) requires the subsequent investor to guarantee all obligations,  
6 including those described in subparagraph seven of paragraph (f) of this  
7 subdivision;

8 (3) will maintain the hospital governance structure and local govern-  
9 ing board's powers; and

10 (4) imposes minimum capitalization criteria post-transaction.

11 (k) No later than three years after the establishment of a business  
12 corporation under this subdivision, the commissioner shall provide the  
13 governor, the temporary president of the senate and the speaker of the  
14 assembly with a written evaluation of the pilot program. Such evaluation  
15 shall address the overall effectiveness of the program in allowing for  
16 access to capital investment and the impact such access may have on the  
17 quality of care provided by hospitals operated by business corporations  
18 established under this subdivision.

19 § 2. Paragraph (b) of subdivision 2 of section 1676 of the public  
20 authorities law is amended by adding a new undesignated paragraph to  
21 read as follows:

22 Such business corporations as are established pursuant to subdivision  
23 seventeen of section twenty-eight hundred one-a of the public health law  
24 for the acquisition, construction, reconstruction, rehabilitation and  
25 improvement, or otherwise providing, furnishing and equipping of a  
26 hospital or hospitals.

27 § 3. Subdivision 1 of section 1680 of the public authorities law is  
28 amended by adding a new undesignated paragraph to read as follows:

1 Such business corporations as are established pursuant to subdivision  
2 seventeen of section twenty-eight hundred one-a of the public health law  
3 for the acquisition, construction, reconstruction, rehabilitation and  
4 improvement, or otherwise providing, furnishing and equipping of a  
5 hospital or hospitals.

6 § 4. This act shall take effect immediately.

7 PART R

8 Section 1. Section 3 of part A of chapter 111 of the laws of 2010  
9 amending the mental hygiene law relating to the receipt of federal and  
10 state benefits received by individuals receiving care in facilities  
11 operated by an office of the department of mental hygiene, as amended by  
12 section 1 of part B of chapter 58 of the laws of 2014, is amended to  
13 read as follows:

14 § 3. This act shall take effect immediately; and shall expire and be  
15 deemed repealed June 30, [2015] 2018.

16 § 2. This act shall take effect immediately.

17 PART S

18 Section 1. Section 366 of the social services law is amended by adding  
19 a new subdivision 7-a to read as follows:

20 7-a. a. The commissioner of health in consultation with the commis-  
21 sioner of developmental disabilities shall apply for a home and communi-  
22 ty-based waiver, pursuant to subdivision (c) of section nineteen hundred  
23 fifteen of the federal social security act, in order to provide home and  
24 community-based services for a population of persons with developmental

1 disabilities, as such term is defined in section 1.03 of the mental  
2 hygiene law.

3 b. Persons eligible for participation in the waiver program shall:

4 (i) have a developmental disability as such term is defined in subdi-  
5 vision twenty-two of section 1.03 of the mental hygiene law;

6 (ii) meet the level of care criteria provided by an intermediate care  
7 facility for the developmentally disabled;

8 (iii) be eligible for Medicaid;

9 (iv) live at home or in an individualized residential alternative,  
10 community residence or family care home, operated, funded or licensed by  
11 the office for people with developmental disabilities or other appropri-  
12 ate community setting as defined in regulation by the commissioner of  
13 developmental disabilities;

14 (v) be capable of being cared for in the community if provided with  
15 such services as respite, home adaptation, or other home and community-  
16 based services, other than room and board, as may be approved by the  
17 secretary of the federal department of health and human services, in  
18 addition to other services provided under this title, as determined by  
19 the assessment required by paragraph c of this subdivision;

20 (vi) have a demonstrated need for home and community based waiver  
21 services; and

22 (vii) meet such other criteria as may be established by the commis-  
23 sioner of health and the commissioner of developmental disabilities, as  
24 may be necessary to administer the provisions of this subdivision.

25 c. The commissioner of developmental disabilities shall assess the  
26 eligibility of persons enrolled, or seeking to enroll, in the waiver  
27 program. The assessment shall include, but need not be limited to, an  
28 evaluation of the health, psycho-social, developmental, habilitation and

1 environmental needs of the person and shall serve as the basis for the  
2 development and provision of an appropriate plan of care for such  
3 person.

4 d. The office for people with developmental disabilities shall under-  
5 take or arrange for the development of a written plan of care for each  
6 person enrolled in the waiver. Such plan of care shall describe the  
7 provision of home and community based waiver services consistent with  
8 the assessment for each person.

9 e. The office for people with developmental disabilities shall review  
10 the plan of care and authorize those home and community based services  
11 to be included in the plan of care, taking into account the person's  
12 assessed needs, valued outcomes and available resources.

13 f. The commissioners of developmental disabilities and health shall  
14 determine quality standards for organizations providing services under  
15 such waiver and shall authorize organizations that meet such standards  
16 to provide such services.

17 g. The commissioner of developmental disabilities or health may  
18 promulgate rules and regulations as necessary to effectuate the  
19 provisions of this section.

20 h. This subdivision shall be effective only if, and as long as, feder-  
21 al financial participation is available for expenditures incurred under  
22 this subdivision.

23 § 2. Paragraph (a) of subdivision 4 of section 488 of the social  
24 services law, as added by section 1 of part B of chapter 501 of the laws  
25 of 2012, is amended to read as follows:

26 (a) a facility or program in which services are provided and which is  
27 operated, licensed or certified by the office of mental health, the  
28 office for people with developmental disabilities or the office of alco-

1 holism and substance abuse services, including but not limited to  
2 psychiatric centers, inpatient psychiatric units of a general hospital,  
3 developmental centers, intermediate care facilities, community resi-  
4 dences, group homes and family care homes, provided, however, that such  
5 term shall not include a secure treatment facility as defined in section  
6 10.03 of the mental hygiene law, services defined in subparagraph four  
7 of subdivision (a) of section 16.03 of the mental hygiene law, or  
8 services provided in programs or facilities that are operated by the  
9 office of mental health and located in state correctional facilities  
10 under the jurisdiction of the department of corrections and community  
11 supervision;

12 § 3. Subdivision 2 of section 550 of the executive law, as added by  
13 section 3 of part A of chapter 501 of the laws of 2012, is amended to  
14 read as follows:

15 2. "Mental hygiene facility" shall mean a facility as defined in  
16 subdivision six of section 1.03 of the mental hygiene law and facilities  
17 for the operation of which an operating certificate is required pursuant  
18 to article sixteen or thirty-one of the mental hygiene law and including  
19 family care homes. "Mental hygiene facility" also means a secure treat-  
20 ment facility as defined by article ten of the mental hygiene law. This  
21 term shall not include services defined in subparagraph four of subdivi-  
22 sion (a) of section 16.03 of the mental hygiene law.

23 § 4. Subdivisions 3, 4, 5 and 22 of section 1.03 of the mental hygiene  
24 law, subdivision 3 as amended by chapter 223 of the laws of 1992, subdivi-  
25 sion 4 as added by chapter 978 of the laws of 1977, subdivision 5 as  
26 amended by chapter 75 of the laws of 2006, and subdivision 22 as amended  
27 by chapter 255 of the laws of 2002, are amended to read as follows:

1     3. "Mental disability" means mental illness, [mental retardation]  
2     intellectual disability, developmental disability, alcoholism, substance  
3     dependence, or chemical dependence. [A mentally disabled person is one  
4     who has a mental disability.]

5     4. "Services for [the mentally disabled] persons with a mental disa-  
6     bility" means examination, diagnosis, care, treatment, rehabilitation,  
7     supports, habilitation or training of the mentally disabled.

8     5. "Provider of services" means an individual, association, corpo-  
9     ration, partnership, limited liability company, or public or private  
10    agency, other than an agency or department of the state, which provides  
11    services for [the mentally disabled] persons with a mental disability.  
12    It shall not include any part of a hospital as defined in article twen-  
13    ty-eight of the public health law which is not being operated for the  
14    purpose of providing services for the mentally disabled. No provider of  
15    services shall be subject to the regulation or control of the department  
16    or one of its offices except as such regulation or control is provided  
17    for by other provisions of this chapter.

18    22. "Developmental disability" means a disability of a person which:

19    (a) (1) is attributable to [mental retardation] intellectual disabili-  
20    ty, cerebral palsy, epilepsy, neurological impairment, familial dysauto-  
21    nomia or autism;

22    (2) is attributable to any other condition of a person found to be  
23    closely related to [mental retardation] intellectual disability because  
24    such condition results in similar impairment of general intellectual  
25    functioning or adaptive behavior to that of [mentally retarded] intel-  
26    lectually disabled persons or requires treatment and services similar to  
27    those required for such person; or

1 (3) is attributable to dyslexia resulting from a disability described  
2 in subparagraph (1) or (2) of this paragraph;

3 (b) originates before such person attains age twenty-two;

4 (c) has continued or can be expected to continue indefinitely; and

5 (d) constitutes a substantial handicap to such person's ability to  
6 function normally in society.

7 § 5. Paragraph 3 of subdivision (a) of section 16.03 of the mental  
8 hygiene law, as amended by chapter 37 of the laws of 2011, is amended to  
9 read as follows:

10 (3) Operation of a facility established or maintained by a public  
11 agency, board, or commission, or by a corporation or voluntary associ-  
12 ation for the rendition of out-patient or non-residential services for  
13 persons with developmental disabilities; provided, however, that such  
14 operation shall not be deemed to include (i) professional practice,  
15 within the scope of a professional license or certificate issued by an  
16 agency of the state, by an individual practitioner or by a partnership  
17 of such individuals or by a professional service corporation duly incor-  
18 porated pursuant to the business corporation law or by a university  
19 faculty practice corporation duly incorporated pursuant to the not-for-  
20 profit corporation law or (ii) non-residential services which are  
21 licensed, supervised, or operated by another agency of the state and  
22 non-residential services which are chartered or issued a certificate of  
23 incorporation pursuant to the education law or (iii) pastoral counseling  
24 by a clergyman or minister, including those defined as clergyman or  
25 minister by section two of the religious corporations law.

26 § 6. Subdivision (a) of section 16.03 of the mental hygiene law is  
27 amended by adding a new paragraph 4 to read as follows:

1     (4) The provision of home and community based services approved under  
2     a waiver program authorized pursuant to subdivision (c) of section nine-  
3     teen hundred fifteen of the federal social security act and subdivisions  
4     seven and seven-a of section three hundred sixty-six of the social  
5     services law.

6     § 7. Section 16.03 of the mental hygiene law is amended by adding a  
7     new subdivision (f) to read as follows:

8     (f) Notwithstanding any other provision of law to the contrary, the  
9     provision of licensed professional services, including, but not limited  
10    to, psychology, nursing, social work, speech-language pathology, occupa-  
11    tional therapy, physical therapy and applied behavioral analysis, shall  
12    be authorized as part of the programs certified pursuant to this arti-  
13    cle.

14    § 8. Subdivision (a), paragraphs 2, 3, and 6 of subdivision (c), para-  
15    graphs 1 and 4 of subdivision (d), subdivision (e), and subdivision (i)  
16    of section 16.05 of the mental hygiene law, subdivision (a), paragraphs  
17    2, 3, and 6 of subdivision (c), paragraphs 1 and 4 of subdivision (d)  
18    and subdivision (e) as added by chapter 786 of the laws of 1983, para-  
19    graph 6 of subdivision (c) and paragraph 4 of subdivision (d) as renum-  
20    bered by chapter 618 of the laws of 1990, and subdivision (i) as amended  
21    by chapter 37 of the laws of 2011, are amended to read as follows:

22    (a)(1) Application for an operating certificate shall be made upon  
23    forms prescribed by the commissioner.

24    (2) Application shall be made by the person or entity responsible for  
25    operation of the facility or provision of services as described in  
26    subdivision four of section 16.03 of this article. Applications shall  
27    be in writing, shall be verified and shall contain such information as  
28    required by the commissioner.



1 (2) The character, competence and standing in the community of the  
2 person or entity responsible for operating the facility or providing  
3 services;

4 (3) The financial resources of the proposed facility or provider of  
5 services and its sources of future revenues;

6 (6) In the case of residential facilities, that arrangements have been  
7 made with other providers of services for the provision of health,  
8 habilitation, day treatment, education, sheltered workshop, transporta-  
9 tion or other services as may be necessary to meet the needs of  
10 [clients] individuals who will reside in the facility; and

11 (1) the financial resources of the proposed facility or provider of  
12 services and its sources of future revenues;

13 (4) in the case of residential facilities, that arrangements have been  
14 made with other providers of services for the provision of health,  
15 habilitation, day treatment, education, sheltered workshop, transporta-  
16 tion or other services as may be necessary to meet the needs of  
17 [clients] individuals who will reside in the facility; and

18 (e) The commissioner may disapprove an application for an operating  
19 certificate, may authorize fewer services than applied for, and may  
20 place limitations or conditions on the operating certificate including,  
21 but not limited to compliance with a time limited plan of correction of  
22 any deficiency which does not threaten the health or well-being of any  
23 [client] individuals. In such cases the applicant shall be given an  
24 opportunity to be heard, at a public hearing if requested by the appli-  
25 cant.

26 (i) In the event that the holder of an operating certificate for a  
27 residential facility issued by the commissioner pursuant to this article  
28 wishes to cease the operation or conduct of any of the activities, as

1 defined in paragraph one or four of subdivision (a) of section 16.03 of  
2 this article, for which such certificate has been issued or to cease  
3 operation of any one or more of facilities for which such certificate  
4 has been issued; wishes to transfer ownership, possession or operation  
5 of the premises and facilities upon which such activities are being  
6 conducted or to transfer ownership, possession or operation of any one  
7 or more of the premises or facilities for which such certificate has  
8 been issued; or elects not to apply to the commissioner for re-certifi-  
9 cation upon the expiration of any current period of certification, it  
10 shall be the duty of such certificate holder to give to the commissioner  
11 written notice of such intention not less than sixty days prior to the  
12 intended effective date of such transaction. Such notice shall set forth  
13 a detailed plan which makes provision for the safe and orderly transfer  
14 of each person with a developmental disability served by such certif-  
15 icate holder pursuant to such certificate into a program of services  
16 appropriate to such person's on-going needs and/or for the continuous  
17 provision of a lawfully operated program of such activities and services  
18 at the premises and facilities to be conveyed by the certificate holder.  
19 Such certificate holder shall not cease to provide any such services to  
20 any such person with a developmental disability under any of the circum-  
21 stances described in this section until the notice and plan required  
22 hereby are received, reviewed and approved by the commissioner. For the  
23 purposes of this paragraph, the requirement of prior notice and contin-  
24 uous provision of programs and services by the certificate holder shall  
25 not apply to those situations and changes in circumstances directly  
26 affecting the certificate holder that are not reasonably foreseeable at  
27 the time of occurrence, including, but not limited to, death or other  
28 sudden incapacitating disability or infirmity. Written notice shall be

1 given to the commissioner as soon as reasonably possible thereafter in  
2 the manner set forth within this subdivision.

3 § 9. Paragraph 1 of subdivision (a) of section 16.09 of the mental  
4 hygiene law, as added by chapter 786 of the laws of 1983, is amended to  
5 read as follows:

6 (1) "Facility" is limited to a facility in which services are offered  
7 for which an operating certificate is required by this article. For the  
8 purposes of this section facility shall include family care homes but  
9 shall not include the provision of services, as defined in paragraph  
10 four of subdivision (a) of section 16.03 of this article, outside of a  
11 facility.

12 § 10. The section heading and subdivision (a) of section 16.11 of the  
13 mental hygiene law are REPEALED and a new section heading and subdivi-  
14 sion (a) are added to read as follows:

15 Oversight of facilities and services. (a) The commissioner shall  
16 provide for the oversight of facilities and providers of services hold-  
17 ing operating certificates pursuant to section 16.03 of this article and  
18 shall provide for the annual review of such facilities and providers in  
19 implementing the requirements of the office and in providing quality  
20 care and person centered and community based services.

21 (1) The review of facilities issued an operating certificate pursuant  
22 to this article shall include a site visit to occur at least once during  
23 each calendar year and shall be without prior notice. Areas of review  
24 shall include, but not be limited to, a review of a facility's: physical  
25 plant, fire safety procedures, health care, protective oversight, abuse  
26 and neglect prevention, and reporting procedures.

27 (2) The review of providers of services, as defined in paragraph four  
28 of subdivision (a) of section 16.03 of this article, shall ensure that

1 the provider of services complies with all the requirements of the  
2 applicable federal home and community based services waiver program and  
3 applicable federal regulation, subdivisions seven and seven-a of section  
4 three hundred sixty-six of the social services law and rules and regu-  
5 lations adopted by the commissioner.

6 § 11. Subdivisions (b), (c), (d), and (e) of section 16.11 of the  
7 mental hygiene law, subdivision (b) as amended by chapter 37 of the laws  
8 of 2011, and subdivisions (c), (d) and (e) as added by chapter 786 of  
9 the laws of 1983, are amended to read as follows:

10 (b) The commissioner shall have the power to conduct investigations  
11 into the operations of any provider of service, person or entity which  
12 holds an operating certificate issued by the office, into the operation  
13 of any facility, service or program issued an operating certificate by  
14 the office and into the operations, related to the provision of services  
15 regulated by this chapter, of any person or entity providing a residence  
16 for one or more unrelated persons with developmental disabilities.

17 (c) In conducting an inspection or investigation, the commissioner or  
18 his or her authorized representative shall have the power to inspect  
19 facilities, conduct interviews of clients, interview personnel, examine  
20 and copy all records, including financial and medical records of the  
21 facility or provider of services, and obtain such other information as  
22 may be required in order to carry out his or her responsibilities under  
23 this chapter.

24 (d) In conducting any inspection or investigation under this chapter,  
25 the commissioner or his or her authorized representative is empowered to  
26 subpoena witnesses, compel their attendance, administer oaths to  
27 witnesses, examine witnesses under oath, and require the production of  
28 any books or papers deemed relevant to the investigation, inspection, or

1 hearing. A subpoena issued under this section shall be regulated by the  
2 civil practice law and rules.

3 (e) The supreme court may enjoin persons or entities subject to  
4 inspection or investigation pursuant to this article to cooperate with  
5 the commissioner and to allow the commissioner access to providers of  
6 services, facilities, records, clients and personnel as necessary to  
7 enable the commissioner to conduct the inspection or investigation.

8 § 12. Section 16.17 of the mental hygiene law, as added by chapter 786  
9 of the laws of 1983, subdivision (a) and paragraph 2 and subparagraph b  
10 of paragraph 1 of subdivision (b) as amended and subparagraph d of para-  
11 graph 1 of subdivision (b) as relettered by chapter 169 of the laws of  
12 1992, subdivision (b) as amended by chapter 856 of the laws of 1985, the  
13 opening paragraph and subparagraph c of paragraph 1 of subdivision (b)  
14 as amended by chapter 37 of the laws of 2011, subparagraph d of para-  
15 graph 1 of subdivision (b) as added by chapter 618 of the laws of 1990,  
16 paragraph 4 of subdivision (b) as amended by chapter 168 of the laws of  
17 2010, paragraph 1 of subdivision (f) as amended by chapter 601 of the  
18 laws of 2007, subdivision (g) as amended by chapter 24 of the laws of  
19 2007, and subdivision (h) as amended by chapter 306 of the laws of 1995,  
20 is amended to read as follows:

21 § 16.17 Suspension, revocation, or limitation of an operating certif-  
22 icate.

23 (a) The commissioner may revoke, suspend, or limit an operating  
24 certificate or impose the penalties described in subparagraph a, b, c or  
25 d of paragraph one of subdivision (b) or in subdivision (g) of this  
26 section upon a determination that the holder of the certificate has  
27 failed to comply with the terms of its operating certificate or with the  
28 provisions of any applicable statute, rule or regulation. The holder of

1 the certificate shall be given notice and an opportunity to be heard  
2 prior to any such determination except that no such notice and opportu-  
3 nity to be heard shall be necessary prior to an emergency suspension or  
4 limitation of the facility's or provider of services' operating certif-  
5 icate imposed pursuant to paragraph one of subdivision (b) of this  
6 section, nor shall such notice and opportunity to be heard be necessary  
7 should the commissioner, in his or her discretion, decide to issue sepa-  
8 rate operating certificates to each facility or provider of services  
9 formerly included under the services authorized by one operating certif-  
10 icate to the provider of services.

11 (b) (1) An operating certificate may be temporarily suspended or  
12 limited without a prior hearing for a period not in excess of sixty days  
13 upon written notice to the facility or provider of services following a  
14 finding by the office for people with developmental disabilities that a  
15 [client's] individual's health or safety is in imminent danger. Upon  
16 such finding and notice, the power of the commissioner temporarily to  
17 suspend or limit an operating certificate shall include, but shall not  
18 be limited to, the power to:

19 a. Prohibit or limit the placement of new [clients] individuals in the  
20 facility or services;

21 b. Remove or cause to be removed some or all of the [clients] individ-  
22 uals in the facility or services;

23 c. Suspend or limit or cause to be suspended or limited the payment of  
24 any governmental funds to the facility or provider of services provided  
25 that such action shall not in any way jeopardize the health, safety and  
26 welfare of any person with a developmental disability in such program or  
27 facility or services;

1 d. Prohibit or limit the placement of new [clients] individuals,  
2 remove or cause to be removed some or all [clients] individuals, or  
3 suspend or limit or cause to be suspended or limited the payment of any  
4 governmental funds, in or to any one or more of the facilities or  
5 provider of services authorized pursuant to an operating certificate  
6 [issued to a provider of services].

7 (2) At any time subsequent to the suspension or limitation of any  
8 operating certificate pursuant to paragraph one of this subdivision  
9 where said suspension or limitation is the result of correctable phys-  
10 ical plant, staffing or program deficiencies, the facility or provider  
11 of services may request the office to [reinspect] review the facility or  
12 provider of services to redetermine whether a physical plant, staffing  
13 or program deficiency continues to exist. After the receipt of such a  
14 request, the office shall [reinspect] review the facility or provider of  
15 services within ten days and in the event that the previously found  
16 physical plant, staffing or program deficiency has been corrected, the  
17 suspension or limitation shall be withdrawn. If the physical plant,  
18 staffing or program deficiency has not been corrected, the commissioner  
19 shall not thereafter be required to [reinspect] review the facility or  
20 provider of services during the emergency period of suspension or limi-  
21 tation.

22 (3) During the sixty day suspension or limitation period provided for  
23 in paragraph one of this subdivision the commissioner shall determine  
24 whether to reinstate or remove the limitations on the facility's or  
25 provider of services' operating certificate or to revoke, suspend or  
26 limit the operating certificate pursuant to subdivision (a) of this  
27 section. Should the commissioner choose to revoke, suspend or limit the  
28 operating certificate, then the emergency suspension or limitation

1 provided for in this subdivision shall remain in effect pending the  
2 outcome of an administrative hearing on the revocation, suspension or  
3 limitation.

4 (4) The facility operator or provider of services, within ten days of  
5 the date when the emergency suspension or limitation pursuant to para-  
6 graph one of this subdivision is first imposed, may request an evidenti-  
7 ary hearing to contest the validity of the emergency suspension or limi-  
8 tation. Such an evidentiary hearing shall commence within ten days of  
9 the facility operator's or provider's request and no request for an  
10 adjournment shall be granted without the concurrence of the facility  
11 operator or provider of service, office for people with developmental  
12 disabilities, and the hearing officer. The evidentiary hearing shall be  
13 limited to those violations of federal and state law and regulations  
14 that existed at the time of the emergency suspension or limitation and  
15 which gave rise to the emergency suspension or limitation. The emergency  
16 suspension or limitation shall be upheld upon a determination that the  
17 office for people with developmental disabilities had reasonable cause  
18 to believe that a [client's] individual's health or safety was in immi-  
19 nent danger. A record of such hearing shall be made available to the  
20 facility operator or provider of service upon request. Should the  
21 commissioner determine to revoke, suspend or limit [the facility's] an  
22 operating certificate pursuant to subdivision (a) of this section, no  
23 administrative hearing on that action shall commence prior to the  
24 conclusion of the evidentiary hearing. The commissioner shall issue a  
25 ruling within ten days after the receipt of the hearing officer's  
26 report.

27 (c) When the holder of an operating certificate shall request an  
28 opportunity to be heard, the commissioner shall fix a time and place for



1 the hearing. A copy of the charges, together with the notice of the time  
2 and place of the hearing, shall be served in person or mailed by regis-  
3 tered or certified mail to the facility or provider of services at least  
4 ten days before the date fixed for the hearing. The facility or provider  
5 of services shall file with the office, not less than three days prior  
6 to the hearing, a written answer to the charges.

7 (d) (1) When a hearing must be afforded pursuant to this section or  
8 other provisions of this article, the commissioner, acting as hearing  
9 officer, or any person designated by him or her as hearing officer,  
10 shall have power to:

11 a. administer oaths and affirmations;

12 b. issue subpoenas, which shall be regulated by the civil practice law  
13 and rules;

14 c. take testimony; or

15 d. control the conduct of the hearing.

16 (2) The rules of evidence observed by courts need not be observed  
17 except that the rules of privilege recognized by law shall be respected.  
18 Irrelevant or unduly repetitious evidence may be excluded.

19 (3) All parties shall have the right of counsel and be afforded an  
20 opportunity to present evidence and cross-examine witnesses.

21 (4) If evidence at the hearing relates to the identity, condition, or  
22 clinical record of [a client] an individual, the hearing officer may  
23 exclude all persons from the room except parties to the proceeding,  
24 their counsel and the witness. The record of such proceeding shall not  
25 be available to anyone outside the office, other than a party to the  
26 proceeding or his counsel, except by order of a court of record.

27 (5) The commissioner may establish regulations to govern the hearing  
28 procedure and the process of determination of the proceeding.

1 (6) The commissioner shall issue a ruling within ten days after the  
2 termination of the hearing or, if a hearing officer has been designated,  
3 within ten days from the hearing officer's report.

4 (e) All orders or determinations hereunder shall be subject to review  
5 as provided in article seventy-eight of the civil practice law and  
6 rules.

7 (f) (1) Except as provided in paragraph two of this subdivision,  
8 anything contained in this section to the contrary notwithstanding, an  
9 operating certificate of a facility or provider of service shall be  
10 revoked upon a finding by the office that any individual, member of a  
11 partnership or shareholder of a corporation to whom or to which an oper-  
12 ating certificate has been issued, has been convicted of a class A, B or  
13 C felony or a felony related in any way to any activity or program  
14 subject to the regulations, supervision, or administration of the office  
15 or of the office of temporary and disability assistance, the department  
16 of health, or another office of the department of mental hygiene, or in  
17 violation of the public officers law in a court of competent jurisdic-  
18 tion of the state, or in a court in another jurisdiction for an act  
19 which would have been a class A, B or C felony in this state or a felony  
20 in any way related to any activity or program which would be subject to  
21 the regulations, supervision, or administration of the office or of the  
22 office of temporary and disability assistance, the department of health,  
23 or another office of the department of mental hygiene, or for an act  
24 which would be in violation of the public officers law. The commissioner  
25 shall not revoke or limit the operating certificate of any facility or  
26 provider of service, solely because of the conviction, whether in the  
27 courts of this state or in the courts of another jurisdiction, more than  
28 ten years prior to the effective date of such revocation or limitation,

1 of any person of a felony, or what would amount to a felony if committed  
2 within the state, unless the commissioner makes a determination that  
3 such conviction was related to an activity or program subject to the  
4 regulations, supervision, and administration of the office or of the  
5 office of temporary and disability assistance, the department of health,  
6 or another office of the department of mental hygiene, or in violation  
7 of the public officers law.

8 (2) In the event one or more members of a partnership or shareholders  
9 of a corporation shall have been convicted of a felony as described in  
10 paragraph one of this subdivision, the commissioner shall, in addition  
11 to his or her other powers, limit the existing operating certificate of  
12 such partnership or corporation so that it shall apply only to the  
13 remaining partner or shareholders, as the case may be, provided that  
14 every such convicted person immediately and completely ceases and with-  
15 draws from participation in the management and operation of the facility  
16 or provider of services and further provided that a change of ownership  
17 or transfer of stock is completed without delay, and provided that such  
18 partnership or corporation shall immediately reapply for a certificate  
19 of operation pursuant to subdivision (a) of section 16.05 of this arti-  
20 cle.

21 (g) The commissioner may impose a fine upon a finding that the holder  
22 of the certificate has failed to comply with the terms of the operating  
23 certificate or with the provisions of any applicable statute, rule or  
24 regulation. The maximum amount of such fine shall be one thousand  
25 dollars per day or fifteen thousand dollars per violation.

26 Such penalty may be recovered by an action brought by the commissioner  
27 in any court of competent jurisdiction or by offsetting such penalty  
28 against a future medicaid or office payment to such provider.

1 Such penalty may be released or compromised by the commissioner before  
2 the matter has been referred to the attorney general. Any such penalty  
3 may be released or compromised and any action commenced to recover the  
4 same may be settled or discontinued by the attorney general with the  
5 consent of the commissioner.

6 (h) Where a proceeding has been brought pursuant to section 16.27 of  
7 this article, and a receiver appointed pursuant thereto, the commission-  
8 er may assume operation of the facility subject to such receivership,  
9 upon termination of such receivership, and upon showing to the court  
10 having jurisdiction over such receivership that no voluntary associ-  
11 ation, not-for-profit corporation or other appropriate provider is will-  
12 ing to assume operation of the facility subject to receivership and is  
13 capable of meeting the requirements of this article; provided that the  
14 commissioner notifies the chairman of the assembly ways and means  
15 committee, the chairman of the senate finance committee and the director  
16 of the budget of his intention to assume operation of such facility upon  
17 service of the order to show cause upon the owner or operator of the  
18 facility, pursuant to subdivision (b) of section 16.27 of this article.

19 § 13. Paragraph 5 of subdivision (a) of section 16.29 of the mental  
20 hygiene law, as amended by section 9 of part C of chapter 501 of the  
21 laws of 2012, is amended to read as follows:

22 (5) removing a service recipient when it is determined that there is a  
23 risk to such person if he or she continues to remain in a facility or  
24 service program; and

25 § 14. Paragraph (ii) of subdivision (c) of section 16.29 of the mental  
26 hygiene law, as amended by section 9 of part C of chapter 501 of the  
27 laws of 2012, is amended to read as follows:

1 (ii) development and implementation of a plan of prevention and reme-  
2 diation, in the event an investigation of a report of an alleged report-  
3 able incident exists and such reportable incident may be attributed in  
4 whole or in part to noncompliance by the facility or provider of  
5 services with the provisions of this chapter or regulations of the  
6 office applicable to the operation of such facility or provider of  
7 services. Any plan of prevention and remediation required to be devel-  
8 oped pursuant to this subdivision by a facility supervised by the office  
9 shall be submitted to and approved by such office in accordance with  
10 time limits established by regulations of such office. Implementation of  
11 the plan shall be monitored by such office. In reviewing the continued  
12 qualifications of a residential facility or provider of services or  
13 program for an operating certificate, the office shall evaluate such  
14 facility's or provider of service's compliance with plans of prevention  
15 and remediation developed and implemented pursuant to this subdivision.

16 § 15. This act shall take effect immediately.

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

26 § 3. This act shall take effect immediately provided, however, that  
27 the applicable effective date of Parts A through S of this act shall be  
28 as specifically set forth in the last section of such Part.