

FY 2018 NEW YORK STATE EXECUTIVE BUDGET

**HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12571-01-7

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

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state health and mental health
budget for the 2017-2018 state
fiscal year)

Budget Exec HMM

AN ACT

to amend the insurance law and the
public health law, in relation to
the early intervention program for
infants and toddlers with disabili-
ties and their families (Part A); to
amend the public health law, in
relation to the general public
health work program (Part B); to
amend the social services law, in
relation to requiring monthly premi-
um payments for the Essential Plan

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

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

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).

(Part C); to amend the public health law, in relation to high cost drugs; to amend the tax law, in relation to surcharges on high priced drugs; to amend the tax law, in relation to secrecy provisions; to amend the state finance law, in relation to the high priced drug reimbursement fund; to amend the social services law, in relation to the drug utilization review board; to amend the social services law, in relation to Medicaid reimbursement of covered outpatient drugs; to authorize the suspension of a provider's Medicaid enrollment for inappropriate prescribing of opioids; to amend the social services law, in relation to refills of controlled substances; to amend the public health law and the social services law, in relation to eliminating prescriber prevails with the exception of mental health medications; to amend the public health law, in relation to authorizing for comprehensive medication management by pharmacists; to amend the social services law, in relation to reducing Medicaid coverage and increasing copayments for non-prescription drugs, to aligning pharmacy copayment requirements with federal regulations, and to adjusting consumer price index penalties for generic drugs; and to repeal subdivision 25-a of section 364-j of the social services law, relating to the coverage of certain medically necessary prescription drugs by managed care providers (Part D); to amend the public health law, in relation to restricting enrollment in the Medicaid managed long term care program to individuals who require a nursing home level of care and to eliminate payments to nursing homes for bed hold days; to amend the social services law, in relation to conforming with federal law with regard to spousal contributions; to amend the social services law, in relation to hospice services covered under title XVIII of the federal social security act; and to repeal subdivision 25 of section 2808 of the public health law relating to

reserved bed days (Part E); to amend the social services law, in relation to carving out transportation from the managed long term care benefit; to repeal subdivision 5 of section 365-h of the social services law, relating to rural transit assistance payments to counties; and to repeal section 367-s of the social services law, relating to emergency medical transportation services (Part F); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the Medicaid global cap; to create an avenue for contract staff and student assistants in the department of health's office of health insurance programs to qualify for open competitive positions and to establish a health care service career internship program; and to amend part C of chapter 58 of the laws of 2005, authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to an administrative cap on such program (Part G); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend the public health law, in relation to health care initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; and to amend the public health law, in relation to the assessments on covered lives (Part H); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home

health agencies, in relation to the effectiveness thereof; to amend chapter 60 of the laws of 2014 amending the social services law relating to eliminating prescriber prevails for brand name drugs with generic equivalents, in relation to the effectiveness thereof; to amend the public health law, in relation to extending the nursing home cash assessment; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to delay of certain administrative cost; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend chapter 109 of the laws of 2010, amending the social services law relating to transportation costs, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to the effectiveness thereof; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper

payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to extending the provisions thereof; to amend chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to the effectiveness thereof; and to amend chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof (Part I); to amend the insurance law, in relation to pharmacy benefit managers (Part J); to amend the public health law, in relation to the health care facility transformation program (Part K); to amend the public health law, in relation to establishing a health care regulation modernization team within the department of health (Part L); to amend the public health law, in relation to creating the "Emerging Contaminant Monitoring Act" (Part M); to amend the public health law, the real property law, and the environmental conservation law, in relation to creating the "residential well testing act" (Part N); to amend the criminal procedure law, in relation to authorizing restorations to competency within correctional facility based residential settings; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend chapter 56 of the laws of 2013

amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to extending government rates for behavioral services and adding a value based payment requirement; and to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services and adding a value based payment requirement (Part P); and to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to forgoing such adjustment during the 2017-2018 state fiscal year and the effectiveness thereof (Part Q)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2017-2018
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Paragraph 2 of subsection (d) of section 3224-a of the
14 insurance law, as amended by section 57-b of part A of chapter 56 of the
15 laws of 2013, is amended to read as follows:

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

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

5 § 3235-a. Payment for early intervention services. (a) No policy of
6 accident and health insurance, including contracts issued pursuant to
7 article forty-three of this chapter, shall exclude coverage for other-
8 wise covered services solely on the basis that the services constitute
9 early intervention program services under title two-A of article twen-
10 ty-five of the public health law.

11 (b) Where a policy of accident and health insurance, including a
12 contract issued pursuant to article forty-three of this chapter,
13 provides coverage for an early intervention program service, such cover-
14 age shall not be applied against any maximum annual or lifetime monetary
15 limits set forth in such policy or contract. When such policy of acci-
16 dent and health insurance, including a contract issued pursuant to arti-
17 cle forty-three of this chapter, provides coverage for services that
18 constitutes early intervention services as set forth in paragraph (h) of
19 subdivision seven of section twenty five-hundred forty-one of the public
20 health law or early intervention evaluation services as set forth in
21 subdivision nine of section twenty-five hundred forty-one of the public
22 health law, or provides coverage for autism spectrum disorder pursuant
23 to paragraph twenty-five of subsection (i) of section thirty-two hundred
24 sixteen, paragraph seventeen of subsection (l) of section thirty-two
25 hundred twenty-one, or subsection (ee) of section forty-three hundred
26 three of this chapter, the insurer shall pay for such services to the
27 extent that the services are a covered benefit under the policy. Any
28 documentation obtained pursuant to clause (ii) of paragraph (a) of

1 subdivision three of section twenty-five hundred fifty-nine of the
2 public health law and submitted to the insurer shall be sufficient to
3 meet precertification, preauthorization and/or medical necessity
4 requirements imposed under such policy of accident and health insurance,
5 including a contract issued pursuant to article forty-three of this
6 chapter. Visit limitations and other terms and conditions of the policy
7 will continue to apply to early intervention services. However, any
8 visits used for early intervention program services shall not reduce the
9 number of visits otherwise available under the policy or contract for
10 such services.

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

14 (i) the location where services are provided; or

15 (ii) the duration of the child's condition and/or that the child's
16 condition is not amendable to significant improvement within a certain
17 period of time as specified in the policy.

18 (d) Any right of subrogation to benefits which a municipality or
19 provider is entitled in accordance with paragraph (d) of subdivision
20 three of section twenty-five hundred fifty-nine of the public health law
21 shall be valid and enforceable to the extent benefits are available
22 under any accident and health insurance policy. The right of subrogation
23 does not attach to insurance benefits paid or provided under any acci-
24 dent and health insurance policy prior to receipt by the insurer of
25 written notice from the municipality or provider, as applicable. [The]
26 An insurer shall, within fifteen business days of receipt of a notice of
27 right of subrogation, notify the provider, in a format determined by the
28 department of health, through the department of health's designated

1 fiscal agent, whether the policy is fully insured or whether the insurer
2 is acting as a third party administrator.

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

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

19 § 3. Subdivision 3 of section 2543 of the public health law, as added
20 by section 2 of part B3 of chapter 62 of the laws of 2003, is amended to
21 read as follows:

22 3. [The] In a format prescribed by the department, the parent of the
23 eligible child shall provide and the early intervention official,
24 service coordinator, and provider shall collect such information and or
25 documentation as is necessary and sufficient to determine the eligible
26 child's third party payor coverage and to seek payment from all third
27 party payors including the medical assistance program and other govern-
28 mental agency payors.

1 § 4. Subdivision 3-a of section 2557 of the public health law, as
2 added by section 3 of part L1 of chapter 63 of the laws of 2003, is
3 amended to read as follows:

4 3-a. Each municipality may perform an audit, which may include site
5 visitation, of evaluators and providers of such services within its
6 municipality in accordance with standards established by the commission-
7 er. The municipality shall submit the results of any such audit to the
8 commissioner for review and, if warranted, adjustments in state aid
9 reimbursement pursuant to subdivision three of this section[, as well as
10 for]. The results shall also include any recovery by the municipality of
11 its share of any disallowances identified in such audit.

12 § 5. Paragraph (a) of subdivision 3 of section 2559 of the public
13 health law, as amended by section 11 of part A of chapter 56 of the laws
14 of 2012, is amended to read as follows:

15 (a) Providers of evaluations and early intervention services, herein-
16 after collectively referred to in this subdivision as "provider" or
17 "providers", shall in the first instance and where applicable, seek
18 payment from all third party payors including governmental agencies
19 prior to claiming payment from a given municipality for evaluations
20 conducted under the program and for services rendered to eligible chil-
21 dren, provided that, the obligation to seek payment shall not apply to a
22 payment from a third party payor who is not prohibited from applying
23 such payment, and will apply such payment, to an annual or lifetime
24 limit specified in the insured's policy.

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

1 (ii) [Parents] In a timeline and format as prescribed by the depart-
2 ment, the municipality shall request from the parent, and the parent
3 shall provide the municipality [and the service coordinator], who shall
4 provide such documentation to the service coordinator and provider,
5 with: (A) a written order, referral [from a] or recommendation, signed
6 by the child's primary health care provider, for the medical necessity
7 of early intervention evaluation services to determine program eligibil-
8 ity or early intervention services;

9 (B) a copy of an individualized family service plan agreed upon pursu-
10 ant to section twenty-five hundred forty-five of this title that
11 contains documentation, signed by the child's primary [care] health care
12 provider [as documentation, for eligible children, of] on the medical
13 necessity of early intervention services included in the individualized
14 family services plan;

15 (C) written consent to contact the child's primary health care provid-
16 er for purposes of obtaining a signed written order, referral, or recom-
17 mendation as documentation for the medical necessity of early inter-
18 vention evaluation services to determine program eligibility or early
19 intervention services; or

20 (D) written consent to contact the child's primary health care provid-
21 er for purposes of obtaining a signed documentation of the medical
22 necessity of early intervention services contained within the individ-
23 ualized family service plan agreed upon pursuant to section twenty-five
24 hundred forty-five of this title.

25 (iii) providers shall utilize the department's fiscal agent and data
26 system for claiming payment for evaluations and services rendered under
27 the early intervention program.

1 (iv) In accordance with criteria established by the department, which
2 may include, but not be limited to, medical necessity, coordination of
3 benefits, or utilization review, for pursuit of appeals by a provider to
4 an insurer when a claim has been denied by such insurer, the department
5 or the department's fiscal agent may request the provider appeal a
6 denial for payment by a third party payor prior to claiming payment to
7 the municipality for the services provided in accordance with section
8 twenty-five hundred fifty-seven of this title. Providers shall not
9 discontinue or delay services to eligible children pending payment of
10 the claim or determinations of any appeal denials.

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

14 (d) A municipality, or its designee, and a provider shall be subrogat-
15 ed, to the extent of the expenditures by such municipality or for early
16 intervention services furnished to persons eligible for benefits under
17 this title, to any rights such person may have or be entitled to from
18 third party reimbursement. The provider shall submit any documentation
19 obtained pursuant to clause (ii) of paragraph (a) of this subdivision
20 and shall submit notice to the insurer or plan administrator of his or
21 her exercise of such right of subrogation upon the provider's assignment
22 as the early intervention service provider for the child. The right of
23 subrogation does not attach to benefits paid or provided under any
24 health insurance policy or health benefits plan prior to receipt of
25 written notice of the exercise of subrogation rights by the insurer or
26 plan administrator providing such benefits.

27 § 7. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on or after April 1, 2017; provided

1 however, that the amendments to section 3224-a of the insurance law as
2 made by section one of this act and the amendments to section 3235-a of
3 the insurance law as made by section two of this act shall apply only to
4 policies and contracts issued, renewed, modified, altered or amended on
5 or after such date.

6 PART B

7 Section 1. Subdivision 2 of section 605 of the public health law, as
8 amended by section 20 of part E of chapter 56 of the laws of 2013, is
9 amended to read as follows:

10 2. State aid reimbursement for public health services provided by a
11 municipality under this title, shall be made if the municipality is
12 providing some or all of the core public health services identified in
13 section six hundred two of this title, pursuant to an approved applica-
14 tion for state aid, at a rate of no less than thirty-six per centum,
15 except for a city with a population of one million or more persons,
16 which shall receive no less than twenty-nine per centum, of the differ-
17 ence between the amount of moneys expended by the municipality for
18 public health services required by section six hundred two of this title
19 during the fiscal year and the base grant provided pursuant to subdivi-
20 sion one of this section. No such reimbursement shall be provided for
21 services that are not eligible for state aid pursuant to this article.

22 § 2. Subdivision 1 of section 616 of the public health law, as amended
23 by section 27 of part E of chapter 56 of the laws of 2013, is amended to
24 read as follows:

25 1. The total amount of state aid provided pursuant to this article
26 shall be limited to the amount of the annual appropriation made by the

1 legislature. In no event, however, shall such state aid be less than an
2 amount to provide the full base grant and, as otherwise provided by
3 [paragraph (a) of] subdivision two of section six hundred five of this
4 article, at least thirty-six per centum, except for a city with a popu-
5 lation of one million or more persons, which shall receive no less than
6 twenty-nine per centum, of the difference between the amount of moneys
7 expended by the municipality for eligible public health services pursu-
8 ant to an approved application for state aid during the fiscal year and
9 the base grant provided pursuant to subdivision one of section six
10 hundred five of this article.

11 § 3. This act shall take effect July 1, 2017.

12 PART C

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

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

21 (i) up to twenty dollars monthly for an individual with a household
22 income above one hundred and [fifty] thirty-eight percent of the federal
23 poverty line but at or below two hundred percent of the federal poverty
24 line defined and annually revised by the United States department of
25 health and human services for a household of the same size; beginning in
26 two thousand eighteen and annually thereafter, such amount shall be

1 increased based on the percentage increase in the medical consumer price
2 index, rounded up to the nearest dollar; and

3 (ii) no payment is required for individuals with a household income at
4 or below one hundred and [fifty] thirty-eight percent of the federal
5 poverty line defined and annually revised by the United States depart-
6 ment of health and human services for a household of the same size.

7 (b) The commissioner shall establish cost sharing obligations for
8 enrollees, subject to federal approval.

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

11 PART D

12 Section 1. The public health law is amended by adding a new section
13 280 to read as follows:

14 § 280. High cost drugs. 1. Legislative purpose. There is hereby
15 declared to be a significant public interest in the transparency of the
16 costs and prices of drugs, and in being able to review the economic
17 value of certain drugs to the public. This would benefit the citizens of
18 the state who have a medical need for such drugs and whose tax dollars
19 contribute to making such drugs available to the recipients of public
20 health insurance programs. It is therefore intended that the department
21 collect information related to drug costs and prices, and with the
22 assistance of the drug utilization review board established by section
23 three hundred sixty-nine-bb of the social services law, identify high
24 priced drugs for which a per-unit benchmark price can be determined.
25 Such drugs will be subject to the rebate provisions of subdivision six
26 of this section if the drugs are paid for by the Medicaid program, and

1 to a surcharge in accordance with the provisions of article twenty-C of
2 the tax law.

3 2. High priced drugs. (a) The department may identify, for review,
4 drugs which:

5 (i) when first introduced on the market, are prohibitively expensive
6 for patients who could benefit from the drug; or

7 (ii) suddenly or over a relatively brief period of time experience a
8 large price increase and such increase is not explained by a significant
9 increase in ingredient costs or by some other relevant factor; or

10 (iii) are priced disproportionately given that they offer limited ther-
11 apeutic benefits.

12 (b) Drugs identified by the department for review may include:

13 (i) brand name or generic drugs;

14 (ii) drugs produced by multiple manufacturers or by a single manufac-
15 turer;

16 (iii) drugs reimbursed by commercial and/or public payers; and

17 (iv) prescription and non-prescription drugs.

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

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

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

27 (iii) administrative, marketing, and advertising costs for the drug,
28 apportioned by marketing activities that are directed to consumers,

1 marketing activities that are directed to prescribers, and the total
2 cost of all marketing and advertising that is directed primarily to
3 consumers and prescribers in New York, including but not limited to
4 prescriber detailing, copayment discount programs, and direct-to-consum-
5 er marketing;

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

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

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

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

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

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

17 (c) All information disclosed pursuant to paragraph (a) of this subdi-
18 vision shall be considered confidential and shall not be disclosed by
19 the department in a form that identifies a specific manufacturer or
20 prices charged for drugs by such manufacturer, except as the commission-
21 er determines is necessary to carry out this section, or to allow the
22 department, the attorney general, the state comptroller, or the centers
23 for Medicare and Medicaid services to perform audits or investigations
24 authorized by law.

25 4. Review of drug cost and pricing. The department may refer cost and
26 pricing information collected pursuant to subdivision three of this
27 section with respect to a particular drug to the drug utilization review
28 board, and request the board to recommend a value-based, per-unit bench-

1 mark price for the drug, taking into consideration such cost and pricing
2 information as well as other factors, including but not limited to:

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

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

6 (c) the effectiveness of the drug in treating the conditions for which
7 it is prescribed;

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

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

11 (f) the number of pharmaceutical manufacturers that produce the drug;
12 and

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

14 5. Designation of high priced drugs. If the price at which a drug is
15 being sold by a manufacturer exceeds the benchmark price for the drug
16 determined by the department pursuant to this section, the commissioner
17 shall designate such drug a high priced drug. The commissioner shall
18 publish on the department website a list of drugs designated as high
19 priced drugs pursuant to this subdivision, along with the date on which
20 each drug first appeared on such list and the benchmark price for such
21 drug determined by the department.

22 6. Rebates. (a) The commissioner may require a drug manufacturer to
23 provide rebates to the department for a drug determined to be a high
24 priced drug pursuant to subdivision four of this section when such drug
25 is paid for under the Medicaid program. In determining the amount of any
26 such rebate, the commissioner may consider information provided by the
27 drug manufacturer with respect to surcharges paid by the manufacturer,

1 or decreases in the price of the drug as a result of surcharges paid by
2 others, pursuant to article twenty-C of the tax law.

3 (b) Rebates required by this section shall be in addition to any
4 rebates payable to the department pursuant to any other provision of
5 federal or state law. The additional rebates authorized pursuant to
6 this subparagraph shall apply to drugs dispensed to enrollees of managed
7 care providers pursuant to section three hundred sixty-four-j of the
8 social services law and to drugs dispensed to Medicaid recipients who
9 are not enrollees of such providers.

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

12 ARTICLE 20-C

13 SURCHARGE ON HIGH PRICED DRUGS

14 Section 492. Definitions.

15 493. Imposition of surcharge.

16 494. Returns to be secret.

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

19 (a) "High priced drug" shall mean a drug determined to be a high
20 priced drug pursuant to section two hundred eighty of the public health
21 law, but not until the fifteenth day after the day the drug first
22 appeared on a list of such drugs to be maintained by the state depart-
23 ment of health on its website pursuant to subdivision seven of section
24 four hundred ninety-three of this article.

25 (b) "Gross receipt" shall mean the amount received in or by reason of
26 any sale of a high priced drug, conditional or otherwise, or in or by
27 reason of the furnishing of such high priced drug. Gross receipt is
28 expressed in money, whether paid in cash, credit or property of any kind

1 or nature, and shall be determined without any deduction therefrom on
2 account of the cost of the service sold or the cost of materials, labor
3 or services used or other costs, interest or discount paid, or any other
4 expenses whatsoever. "Amount received" for the purpose of the definition
5 of gross receipt, as used throughout this article, means the amount
6 charged for the sale or provision of a high priced drug.

7 (c) "Establishment" shall mean any person, firm, corporation or asso-
8 ciation required to be registered with the education department pursuant
9 to section six thousand eight hundred eight or section six thousand
10 eight hundred eight-b of the education law and any person, firm, corpo-
11 ration or association that would be required to be registered with the
12 education department pursuant to section six thousand eight hundred
13 eight-b of the education law but for the exception in subdivision two of
14 such section.

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

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

22 § 493. Imposition of surcharge. 1. There is hereby imposed a surcharge
23 on the excess charge amount of the gross receipt from the first sale in
24 the state of a high priced drug by an establishment at the rate of sixty
25 percent. The surcharge imposed by this article shall be charged against
26 and be paid by the establishment making such first sale and shall not be
27 added as a separate charge or line item on any invoice given to the
28 customer or otherwise passed down to the customer. However, an estab-

1 lishment liable for the surcharge imposed by this article shall clearly
2 note on the invoice for the first sale of such high priced drug in the
3 state its liability for the surcharge imposed by this article with
4 regard to such sale, along with its name, address, and taxpayer iden-
5 tification number. Any sale of a high priced drug in this state shall be
6 presumed to be the first sale of such drug in the state unless the sell-
7 er with regard to such sale can prove that the surcharge imposed by this
8 article is due from another establishment in the chain of title of such
9 drug, which burden can be satisfied, among other ways, by producing an
10 invoice from the establishment owing such surcharge in which such estab-
11 lishment has noted its liability for such surcharge.

12 2. Every establishment liable for the surcharge imposed by this arti-
13 cle shall, on or before the twentieth date of each month, file with the
14 commissioner a return, on forms to be prescribed by the commissioner,
15 showing the total excess charge amount of its gross receipt from the
16 first sale in the state of high priced drugs during the preceding calen-
17 dar month and the amount of surcharge due thereon. Such returns shall
18 contain such further information as the commissioner may require. Every
19 establishment required to file a return under this section shall, at the
20 time of filing such return, pay to the commissioner the total amount of
21 surcharge due on such first sales of high priced drugs for the period
22 covered by such return. If a return is not filed when due, the surcharge
23 shall be due on the day on which the return is required to be filed.

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

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

19 5. The provisions of article twenty-seven of this chapter shall apply
20 to the surcharge imposed by this article in the same manner and with the
21 same force and effect as if the language of such article had been incor-
22 porated in full into this section and had expressly referred to the
23 surcharge imposed by this article, except to the extent that any
24 provision of such article is either inconsistent with a provision of
25 this article or is not relevant to this article.

26 6. (a) The surcharges, interest, and penalties imposed by this article
27 and collected or received by the commissioner shall be deposited daily
28 with such responsible banks, banking houses or trust companies, as may

1 be designated by the superintendent of financial services, to the credit
2 of the high priced drug reimbursement fund established pursuant to
3 section eighty-nine-j of the state finance law. An account may be estab-
4 lished in one or more of such depositories. Such deposits will be kept
5 separate and apart from all other money in the possession of the super-
6 intendent of financial services. The superintendent of financial
7 services shall require adequate security from all such depositories. Of
8 the total revenue collected or received under this article, the super-
9 intendent of financial services shall retain such amount as the commis-
10 sioner may determine to be necessary for refunds under this article. The
11 commissioner is authorized and directed to deduct from the amounts it
12 receives under this article, before deposit into the trust accounts
13 designated by the superintendent of financial services, a reasonable
14 amount necessary to effectuate refunds of appropriations of the depart-
15 ment to reimburse the department for the costs incurred to administer,
16 collect and distribute the surcharges imposed by this article.

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

27 7. The state department of health shall maintain and publish on its
28 website a list of drugs determined, pursuant to section two hundred

1 eighty of the public health law, to be high priced drugs, along with the
2 date on which each drug first appeared on that list and the benchmark
3 price for such drug determined pursuant to section two hundred eighty of
4 the public health law by the department of health. Promptly after
5 including a high priced drug on such list, the state department of
6 health shall notify the manufacturer of such drug and the department
7 that the drug has been determined to be a high priced drug.

8 8. The state department of education and the state department of
9 health shall cooperate with the department in administering this
10 surcharge, including sharing with the department pertinent information
11 about establishments upon the request of the commissioner.

12 9. The commissioner may make, adopt and amend rules, regulations,
13 procedures and forms necessary for the proper administration of this
14 article.

15 § 494. Returns to be secret. 1. Except in accordance with proper judi-
16 cial order or as in this section or otherwise provided by law, it shall
17 be unlawful for the commissioner, any officer or employee of the depart-
18 ment, or any officer or person who, pursuant to this section, is permit-
19 ted to inspect any return or report or to whom a copy, an abstract or a
20 portion of any return or report is furnished, or to whom any information
21 contained in any return or report is furnished, or any person engaged or
22 retained by such department on an independent contract basis or any
23 person who in any manner may acquire knowledge of the contents of a
24 return or report filed pursuant to this article to divulge or make known
25 in any manner the contents or any other information relating to the
26 business of an establishment contained in any return or report required
27 under this article. The officers charged with the custody of such
28 returns or reports shall not be required to produce any of them or

1 evidence of anything contained in them in any action or proceeding in
2 any court, except on behalf of the state, the state department of
3 health, the state department of education or the commissioner in an
4 action or proceeding under the provisions of this chapter or on behalf
5 of the state or the commissioner in any other action or proceeding
6 involving the collection of a tax due under this chapter to which the
7 state or the commissioner is a party or a claimant or on behalf of any
8 party to any action or proceeding under the provisions of this article,
9 when the returns or the reports or the facts shown thereby are directly
10 involved in such action or proceeding, or in an action or proceeding
11 relating to the regulation or surcharge of high priced drugs on behalf
12 of officers to whom information shall have been supplied as provided in
13 subsection two of this section, in any of which events the court may
14 require the production of, and may admit in evidence so much of said
15 returns or reports or of the facts shown thereby as are pertinent to the
16 action or proceeding and no more. Nothing herein shall be construed to
17 prohibit the commissioner, in his or her discretion, from allowing the
18 inspection or delivery of a certified copy of any return or report filed
19 under this article or of any information contained in any such return or
20 report by or to a duly authorized officer or employee of the state
21 department of health or the state department of education; or by or to
22 the attorney general or other legal representatives of the state when an
23 action shall have been recommended or commenced pursuant to this chapter
24 in which such returns or reports or the facts shown thereby are directly
25 involved; or the inspection of the returns or reports required under
26 this article by the comptroller or duly designated officer or employee
27 of the state department of audit and control, for purposes of the audit
28 of a refund of any surcharge paid by an establishment or other person

1 under this article; nor to prohibit the delivery to an establishment, or
2 a duly authorized representative of such establishment, a certified copy
3 of any return or report filed by such establishment pursuant to this
4 article, nor to prohibit the publication of statistics so classified as
5 to prevent the identification of particular returns or reports and the
6 items thereof.

7 2. The commissioner, in his or her discretion and pursuant to such
8 rules and regulations as he or she may adopt, may permit the commission-
9 er of internal revenue of the United States, or the appropriate officers
10 of any other state which regulates or surcharges high priced drugs, or
11 the duly authorized representatives of such commissioner or of any such
12 officers, to inspect returns or reports made pursuant to this article,
13 or may furnish to such commissioner or other officers, or duly author-
14 ized representatives, a copy of any such return or report or an abstract
15 of the information therein contained, or any portion thereof, or may
16 supply such commissioner or any such officers or such representatives
17 with information relating to the business of an establishment making
18 returns or reports hereunder. The commissioner may refuse to supply
19 information pursuant to this subsection to the commissioner of internal
20 revenue of the United States or to the officers of any other state if
21 the statutes of the United States, or of the state represented by such
22 officers, do not grant substantially similar privileges to the commis-
23 sioner, but such refusal shall not be mandatory. Information shall not
24 be supplied to the commissioner of internal revenue of the United States
25 or the appropriate officers of any other state which regulates or
26 surcharges high priced drugs, or the duly authorized representatives of
27 such commissioner or of any of such officers, unless such commissioner,
28 officer or other representatives shall agree not to divulge or make

1 known in any manner the information so supplied, but such officers may
2 transmit such information to their employees or legal representatives
3 when necessary, who in turn shall be subject to the same restrictions as
4 those hereby imposed upon such commissioner, officer or other represen-
5 tatives.

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

10 (b) Cross-reference: For criminal penalties, see article thirty-seven
11 of this chapter.

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

14 § 1825. Violation of secrecy provisions of the tax law.--Any person
15 who violates the provisions of subdivision (b) of section twenty-one,
16 subdivision one of section two hundred two, subdivision eight of section
17 two hundred eleven, subdivision (a) of section three hundred fourteen,
18 subdivision one or two of section four hundred thirty-seven, section
19 four hundred eighty-seven, section four hundred ninety-four, subdivision
20 one or two of section five hundred fourteen, subsection (e) of section
21 six hundred ninety-seven, subsection (a) of section nine hundred nine-
22 ty-four, subdivision (a) of section eleven hundred forty-six, section
23 twelve hundred eighty-seven, subdivision (a) of section fourteen hundred
24 eighteen, subdivision (a) of section fifteen hundred eighteen, subdivi-
25 sion (a) of section fifteen hundred fifty-five of this chapter, and
26 subdivision (e) of section 11-1797 of the administrative code of the
27 city of New York shall be guilty of a misdemeanor.

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

3 § 89-j. High Priced Drug Reimbursement Fund. 1. There is hereby
4 established in the sole custody of the superintendent of financial
5 services an agency fund, to be known as the "High Priced Drug Reimburse-
6 ment Fund."

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

11 3. All moneys retained in such fund shall be held on behalf of health
12 insurers and the New York Medicaid program, and paid out by the super-
13 intendent of financial services to health insurers and the New York
14 Medicaid program in proportion to health insurers' and the New York
15 Medicaid program's respective costs attributable to each pharmaceutical
16 product for which the surcharge on high price drugs was imposed. The
17 superintendent of financial services shall establish regulations to
18 apportion such revenues derived to reflect health insurers' and the New
19 York Medicaid program's respective costs for such drugs.

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

26 5. For purposes of this section: (a) "health insurer" shall mean an
27 insurance company authorized in this state to write accident and health
28 insurance, a company organized pursuant to article forty-three of the

1 insurance law, a municipal cooperative health benefit plan established
2 pursuant to article forty-seven of the insurance law, a health mainte-
3 nance organization certified pursuant to article forty-four of the
4 public health law, an institution of higher education certified pursuant
5 to section one thousand one hundred twenty-four of the insurance law,
6 the New York state health insurance plan established under article elev-
7 en of the civil service law, or an employer with an employee benefit
8 plan, as defined by the federal Employee Retirement Income Security Act
9 of 1974, provided that the employer voluntarily elects;

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

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

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

18 8. Moneys distributed from the fund shall not be subject to appropri-
19 ation.

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

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

27 1. A [nineteen-member] twenty-three member drug utilization review
28 board is hereby created in the department. The board is responsible for

1 the establishment and implementation of medical standards and criteria
2 for the retrospective and prospective DUR program.

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

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

6 (g) One person who is an actuary.

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

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

11 (g) The review of the drug cost and pricing of specific drugs submit-
12 ted to the board pursuant to section two hundred eighty of the public
13 health law, and the formulation of recommendations as to a value-based,
14 per-unit benchmark price for such drugs, in accordance with the
15 provisions of such section.

16 § 7. The opening paragraph and subparagraphs (i) and (ii) of paragraph
17 (b) and paragraph (d) of subdivision 9 of section 367-a of the social
18 services law, the opening paragraph and paragraph (d) as amended by
19 chapter 19 of the laws of 1998, subparagraphs (i) and (ii) of paragraph
20 (b) as amended by section 2 of part C of chapter 60 of the laws of 2014,
21 subparagraph (i) of paragraph (d) as amended by section 10-a of part H
22 of chapter 59 of the laws of 2011 and subparagraph (ii) of paragraph (d)
23 as amended by section 48 of part C of chapter 58 of the laws of 2009,
24 are amended to read as follows:

25 Notwithstanding any inconsistent provision of law or regulation to the
26 contrary, for those drugs which may not be dispensed without a
27 prescription as required by section sixty-eight hundred ten of the
28 education law and for which payment is authorized pursuant to paragraph

1 (g) of subdivision two of section three hundred sixty-five-a of this
2 title, and for those drugs that are available without a prescription as
3 required by section sixty-eight hundred ten of the education law but are
4 reimbursed as items of medical assistance pursuant to paragraph (a) of
5 subdivision four of section three hundred sixty-five-a of this title,
6 payments under this title shall be made at the following amounts:

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

1 based on the package size dispensed from, as reported by the
2 prescription drug pricing service used by the department, less seventeen
3 and one-half percent thereof; (B) the federal upper limit, if any,
4 established by the federal centers for medicare and medicaid services;
5 (C) the state maximum acquisition cost, if any, established pursuant to
6 paragraph (e) of this subdivision; or (D) the dispensing pharmacy's
7 usual and customary price charged to the general public;

8 (ii) if the drug dispensed is [a multiple source prescription drug or]
9 a brand-name prescription drug [for which no specific upper limit has
10 been set by such federal agency], the lower of [the estimated acquisi-
11 tion cost of such drug to pharmacies or the dispensing pharmacy's usual
12 and customary price charged to the general public. For sole and multiple
13 source brand name drugs, estimated acquisition cost means the average
14 wholesale price of a prescription drug based upon the package size
15 dispensed from, as reported by the prescription drug pricing service
16 used by the department, less seventeen percent thereof or the wholesale
17 acquisition cost of a prescription drug based upon package size
18 dispensed from, as reported by the prescription drug pricing service
19 used by the department, minus zero and forty-one hundredths percent
20 thereof, and updated monthly by the department. For multiple source
21 generic drugs, estimated acquisition cost means the lower of the average
22 wholesale price of a prescription drug based on the package size
23 dispensed from, as reported by the prescription drug pricing service
24 used by the department, less twenty-five percent thereof, or the maximum
25 acquisition cost, if any, established pursuant to paragraph (e) of this
26 subdivision, provided that the methodology used by the department to
27 establish a maximum acquisition cost shall not include average acquisi-
28 tion cost as determined by department surveys.]:

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

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

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

19 (ii) for prescription drugs categorized as brand-name prescription
20 drugs by the prescription drug pricing service used by the department,
21 three dollars and fifty cents per prescription, provided, however, that
22 for brand name prescription drugs reimbursed pursuant to subparagraph

23 (ii) of paragraph (a-1) of subdivision four of section three hundred
24 sixty-five-a of this title, the dispensing fee shall be four dollars and
25 fifty cents per prescription] in the amount of ten dollars per
26 prescription or written order of a practitioner; provided, however that
27 this professional dispensing fee will not apply to drugs that are avail-
28 able without a prescription as required by section sixty-eight hundred

1 ten of the education law but do not meet the definition of a covered
2 outpatient drug pursuant to Section 1927K of the Social Security Act.

3 § 8. It shall be an unacceptable practice in the Medicaid program
4 established pursuant to title 11 of article 5 of the social services law
5 for a provider to prescribe opioids in violation of the requirements of
6 paragraph (g-1) of subdivision 2 of section 365-a of such law, in
7 violation of any other applicable law limiting or restricting the
8 prescribing of opioids, and/or contrary to recommendations issued by the
9 drug utilization review board established by section 369-bb of the
10 social services law, and such practice may result in the provider being
11 excluded from participation in the Medicaid program.

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

15 (g-1) drugs provided on an in-patient basis, those drugs contained on
16 the list established by regulation of the commissioner of health pursu-
17 ant to subdivision four of this section, and those drugs which may not
18 be dispensed without a prescription as required by section sixty-eight
19 hundred ten of the education law and which the commissioner of health
20 shall determine to be reimbursable based upon such factors as the avail-
21 ability of such drugs or alternatives at low cost if purchased by a
22 medicaid recipient, or the essential nature of such drugs as described
23 by such commissioner in regulations, provided, however, that such drugs,
24 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
25 ties no greater than a thirty day supply or one hundred doses, whichever
26 is greater; provided further that the commissioner of health is author-
27 ized to require prior authorization for any refill of a prescription
28 when more than a ten day supply of the previously dispensed amount

1 should remain were the product used as normally indicated, or in the
2 case of a controlled substance, as defined in section thirty-three
3 hundred two of the public health law, when more than a seven day supply
4 of the previously dispensed amount should remain were the product used
5 as normally indicated; provided further that the commissioner of health
6 is authorized to require prior authorization of prescriptions of opioid
7 analgesics in excess of four prescriptions in a thirty-day period in
8 accordance with section two hundred seventy-three of the public health
9 law; medical assistance shall not include any drug provided on other
10 than an in-patient basis for which a recipient is charged or a claim is
11 made in the case of a prescription drug, in excess of the maximum reim-
12 bursable amounts to be established by department regulations in accord-
13 ance with standards established by the secretary of the United States
14 department of health and human services, or, in the case of a drug not
15 requiring a prescription, in excess of the maximum reimbursable amount
16 established by the commissioner of health pursuant to paragraph (a) of
17 subdivision four of this section;

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

21 (b) In the event that the patient does not meet the criteria in para-
22 graph (a) of this subdivision, the prescriber may provide additional
23 information to the program to justify the use of a prescription drug
24 that is not on the preferred drug list. The program shall provide a
25 reasonable opportunity for a prescriber to reasonably present his or her
26 justification of prior authorization. [If, after consultation with the
27 program, the prescriber, in his or her reasonable professional judgment,
28 determines that the use of a prescription drug that is not on the

1 preferred drug list is warranted, the prescriber's determination shall
2 be final.] The program shall consider the additional information and the
3 justification presented to determine whether the use of a prescription
4 drug that is not on the preferred drug list is warranted. In the case of
5 atypical antipsychotics and antidepressants, if, after consultation with
6 the program, the prescriber, in his or her reasonable professional judg-
7 ment, determines that the use of a prescription drug that is not on the
8 preferred drug list is warranted, the prescriber's determination shall
9 be final.

10 § 11. Subdivision 25 of section 364-j of the social services law, as
11 added by section 55 of part D of chapter 56 of the laws of 2012, is
12 amended to read as follows:

13 25. [Effective January first, two thousand thirteen, notwithstanding]
14 Notwithstanding any provision of law to the contrary, managed care
15 providers shall cover medically necessary prescription drugs in the
16 atypical antipsychotic and antidepressant therapeutic [class] classes,
17 including non-formulary drugs, upon demonstration by the prescriber,
18 after consulting with the managed care provider, that such drugs, in the
19 prescriber's reasonable professional judgment, are medically necessary
20 and warranted.

21 § 12. Subdivision 25-a of section 364-j of the social services law is
22 REPEALED.

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

25 § 280-c. Comprehensive medication management. 1. Definitions. For
26 purposes of this section:

27 (a) "qualified pharmacist" means a pharmacist who maintains a current
28 unrestricted license pursuant to article one hundred thirty-seven of the

1 education law and who has completed one or more programs, accredited by
2 the Accreditation Council for Pharmacy Education, for the medication
3 management of a chronic disease or diseases;

4 (b) "comprehensive medication management" means a program that ensures
5 a patient's medications, whether prescription or nonprescription, are
6 individually assessed to determine that each medication is appropriate
7 for the patient, effective for the medical condition, safe given comor-
8 bidities and other medications being taken, and able to be taken by the
9 patient as intended;

10 (c) "comprehensive medication management protocol" means a written
11 document pursuant to and consistent with any applicable state and feder-
12 al requirements, that is entered into voluntarily by either a physician
13 licensed pursuant to article one hundred thirty-one of the education law
14 or a nurse practitioner certified pursuant to section sixty-nine hundred
15 ten of the education law, and a qualified pharmacist which addresses a
16 chronic disease or diseases and that describes the nature and scope of
17 the comprehensive medication management services to be performed by the
18 qualified pharmacist, in accordance with the provisions of this section;
19 comprehensive medication management protocols between physicians or
20 nurse practitioners and qualified pharmacists shall be made available to
21 the department for review and to ensure compliance with this article,
22 upon request.

23 2. A physician licensed pursuant to article one hundred thirty-one of
24 the education law or a nurse practitioner certified pursuant to section
25 sixty-nine hundred ten of the education law shall be authorized to
26 voluntarily establish a comprehensive medication management protocol
27 with a qualified pharmacist to provide comprehensive medication manage-
28 ment services for a patient who has not met clinical goals of therapy,

1 is at risk for hospitalization, or for whom the physician or nurse prac-
2 titioner deems it is necessary to receive comprehensive medication
3 management services. Participation by the patient in comprehensive medi-
4 cation management services shall be voluntary.

5 3. Under a comprehensive medication management protocol, a qualified
6 pharmacist shall be permitted to:

7 (a) adjust or manage a drug regimen of the patient, which may include
8 adjusting drug strength, frequency of administration or route of admin-
9 istration, discontinuance of therapy or initiation of a drug which
10 differs from that initially prescribed by the patient's physician or
11 nurse practitioner;

12 (b) evaluate and only to the next extent necessary to discharge the
13 responsibility set forth in this section, order or perform routine
14 patient monitoring functions or disease state laboratory tests related
15 to comprehensive medication management for the specific chronic disease
16 or diseases, specified within the comprehensive medication management
17 protocol;

18 (c) access the complete patient medical record maintained by the
19 physician or nurse practitioner with whom he or she has the comprehen-
20 sive medication management protocol and shall document any adjustments
21 made pursuant to the protocol in the patient's medical record and shall
22 notify the patient's treating physician or nurse practitioner in a time-
23 ly manner electronically or by other means. Under no circumstances,
24 shall the qualified pharmacist be permitted to delegate comprehensive
25 medication management services to any other licensed pharmacist or other
26 pharmacy personnel.

27 4. Any medication adjustments made by the qualified pharmacist pursu-
28 ant to the comprehensive medication management protocol, including

1 adjustments in drug strength, frequency or route of administration, or
2 initiation of a drug which differs from that initially prescribed and as
3 documented in the patient medical record, shall be deemed an oral
4 prescription authorized by an agent of the patient's treating physician
5 or nurse practitioner and shall be dispensed consistent with section
6 sixty-eight hundred ten of the education law.

7 5. A physician licensed pursuant to article one hundred thirty-one of
8 the education law or a nurse practitioner certified pursuant to section
9 sixty-nine hundred ten of the education law, who has responsibility for
10 the treatment and care of a patient for a chronic disease or diseases
11 may refer the patient to a qualified pharmacist for comprehensive medi-
12 cation management services, pursuant to the comprehensive medication
13 management protocol that the physician or nurse practitioner has estab-
14 lished with the qualified pharmacist. Such referral shall be documented
15 in the patient's medical record. Participation by the patient in compre-
16 hensive medication management services shall be voluntary.

17 § 14. Paragraph (a) of subdivision 4 of section 365-a of the social
18 services law, as amended by chapter 493 of the laws of 2010, is amended
19 to read as follows:

20 (a) drugs which may be dispensed without a prescription as required by
21 section sixty-eight hundred ten of the education law; provided, however,
22 that the state commissioner of health may by regulation specify certain
23 of such drugs which may be reimbursed as an item of medical assistance
24 in accordance with the price schedule established by such commissioner.
25 Notwithstanding any other provision of law, [additions] modifications to
26 the list of drugs reimbursable under this paragraph may be filed as
27 regulations by the commissioner of health without prior notice and
28 comment;

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

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

10 § 16. Subparagraph (iii) of paragraph (c) of subdivision 6 of section
11 367-a of the social services law, as amended by section 9 of part C of
12 chapter 60 of the laws of 2014, is amended to read as follows:

13 (iii) Notwithstanding any other provision of this paragraph, co-pay-
14 ments charged for each generic prescription drug dispensed shall be one
15 dollar and for each brand name prescription drug dispensed shall be
16 [three dollars] two dollars and fifty cents; provided, however, that the
17 co-payments charged for [each brand name prescription drug on the
18 preferred drug list established pursuant to section two hundred seven-
19 ty-two of the public health law or, for managed care providers operating
20 pursuant to section three hundred sixty-four-j of this title, for each
21 brand name prescription drug on a managed care provider's formulary that
22 such provider has designated as a preferred drug, and the co-payments
23 charged for] each brand name prescription drug reimbursed pursuant to
24 subparagraph (ii) of paragraph (a-1) of subdivision four of section
25 three hundred sixty-five-a of this title shall be one dollar.

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

1 (1) The department may require manufacturers of drugs other than
2 single source drugs and innovator multiple source drugs, as such terms
3 are defined in 42 U.S.C. § 1396r-8(k), to provide rebates to the depart-
4 ment for any drug that has increased more than three hundred percent of
5 its state maximum acquisition cost (SMAC) [, on or after] during the
6 period April 1, 2016 through March 31, 2017, or that has increased more
7 than seventy-five percent of its SMAC on or after April 1, 2017, in
8 comparison to its SMAC at any time during the course of the preceding
9 twelve months. The required rebate shall be limited to the amount by
10 which the current SMAC for the drug exceeds [three hundred percent] the
11 applicable percentage of the SMAC for the same drug at any time during
12 the course of the preceding twelve months. Such rebates shall be in
13 addition to any rebates payable to the department pursuant to any other
14 provision of federal or state law. Nothing herein shall affect the
15 department's obligation to reimburse for covered outpatient drugs pursu-
16 ant to paragraph (d) of this subdivision.

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

20 (i) The number of drugs that exceeded the ceiling price established in
21 this paragraph during the preceding year in comparison to the number of
22 drugs that experienced at least a three hundred percent price increase
23 during two thousand fourteen and two thousand fifteen, or at least a
24 seventy-five percent price increase during two thousand fifteen and two
25 thousand sixteen;

26 (ii) The average percent amount above the ceiling price of drugs that
27 exceeded the ceiling price in the preceding year in comparison to the
28 number of drugs that experienced a price increase more than three

1 hundred percent during two thousand fourteen and two thousand fifteen,
2 or at least a seventy-five percent price increase during two thousand
3 fifteen and two thousand sixteen;

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

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

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

21 § 19. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2017; provided,
23 however, that sections nine, fourteen, fifteen, sixteen, and seventeen
24 of this act shall take effect July 1, 2017; provided, further, that the
25 amendments to section 364-j of the social services law made by section
26 eleven of this act shall not affect the repeal of such section and shall
27 be deemed repealed therewith; provided, further, that the amendments to
28 paragraph (c) of subdivision 6 of section 367-a of the social services

1 law made by sections fifteen and sixteen of this act shall not affect
2 the repeal of such paragraph and shall be deemed repealed therewith;
3 provided, further, that the amendments to paragraph (f) of subdivision 7
4 of section 367-a of the social services law made by section seventeen of
5 this act shall not affect the repeal of such paragraph and shall be
6 deemed repealed therewith; and provided, further, that the amendments to
7 subdivision 9 of section 367-a of the social services law made by
8 section seven of this act shall not affect the expiration of such subdi-
9 vision and shall be deemed to expire therewith.

10

PART E

11 Section 1. Subparagraph (i) of paragraph (b) of subdivision 7 of
12 section 4403-f of the public health law, as amended by section 41-b of
13 part H of chapter 59 of the laws of 2011, is amended to read as follows:

14 (i) The commissioner shall, to the extent necessary, submit the appro-
15 priate waivers, including, but not limited to, those authorized pursuant
16 to sections eleven hundred fifteen and nineteen hundred fifteen of the
17 federal social security act, or successor provisions, and any other
18 waivers necessary to achieve the purposes of high quality, integrated,
19 and cost effective care and integrated financial eligibility policies
20 under the medical assistance program or pursuant to title XVIII of the
21 federal social security act. In addition, the commissioner is authorized
22 to submit the appropriate waivers, including but not limited to those
23 authorized pursuant to sections eleven hundred fifteen and nineteen
24 hundred fifteen of the federal social security act or successor
25 provisions, and any other waivers necessary to require on or after April
26 first, two thousand twelve, medical assistance recipients who are twen-

1 ty-one years of age or older and who require community-based long term
2 care services, as specified by the commissioner, for a continuous period
3 of more than one hundred and twenty days from date of enrollment, to
4 receive such services through an available plan certified pursuant to
5 this section or other program model that meets guidelines specified by
6 the commissioner that support coordination and integration of services,
7 provided, however, that on or after October first, two thousand seven-
8 teen, the commissioner may, through such an approved waiver, further
9 limit eligibility to available plans to enrollees that require nursing
10 facility level of care. Notwithstanding the foregoing, medical assist-
11 ance recipients enrolled in a managed long term care plan on October
12 first, two thousand seventeen may continue to be eligible for such
13 plans, irrespective of whether the enrollee meets any applicable nursing
14 facility level of care requirements, provided, however, that once such
15 recipients are disenrolled from their managed long term care plan, any
16 applicable nursing facility level of care requirements would apply to
17 future eligibility determinations. Such guidelines shall address the
18 requirements of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and
19 (i) of subdivision three of this section as well as payment methods that
20 ensure provider accountability for cost effective quality outcomes. Such
21 other program models may include long term home health care programs
22 that comply with such guidelines. Copies of such original waiver appli-
23 cations and amendments thereto shall be provided to the chairs of the
24 senate finance committee, the assembly ways and means committee and the
25 senate and assembly health committees simultaneously with their
26 submission to the federal government.

27 § 2. Subdivision 25 of section 2808 of the public health law is
28 REPEALED.

1 § 3. Paragraph (b) of subdivision 5 of section 2801-e of the public
2 health law, as amended by chapter 257 of the laws of 2005, is amended to
3 read as follows:

4 (b) Notwithstanding any inconsistent provision of law or regulation to
5 the contrary, for purposes of determining medical assistance payments by
6 government agencies for residential health care facility services
7 provided pursuant to title eleven of article five of the social services
8 law for facilities that have temporarily decertified beds:

9 (i) the facility's capital cost reimbursement shall be adjusted to
10 appropriately take into account the new bed capacity of the facility;
11 and

12 (ii) the facility's peer group assignment for indirect cost reimburse-
13 ment shall be based on its total certified beds less the number of beds
14 that have been temporarily decertified[; and

15 (iii) the facility's vacancy rate shall be calculated on the basis of
16 its total certified beds less the number of beds that have been tempo-
17 rarily decertified for purposes of determining eligibility for payments
18 for reserved bed days for residents of residential health care facili-
19 ties, provided, however, that such payments for reserved bed days for
20 facilities that have temporarily decertified beds shall be in an amount
21 that is fifty percent of the otherwise applicable payment amount for
22 such beds].

23 § 4. Subdivision 2-c of section 2808 of the public health law is
24 amended by adding a new paragraph (f) to read as follows:

25 (f) The commissioner shall establish a prospective per diem adjustment
26 for all nursing homes, other than nursing homes providing services
27 primarily to children under the age of twenty-one, beginning April

1 first, two thousand seventeen and each year thereafter sufficient to
2 achieve eighteen million dollars in savings in each state fiscal year.

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

6 (a) Medical assistance shall be furnished to applicants in cases
7 where, although such applicant has a responsible relative with suffi-
8 cient income and resources to provide medical assistance as determined
9 by the regulations of the department, the income and resources of the
10 responsible relative are not available to such applicant because of the
11 absence of such relative [or] and the refusal or failure of such absent
12 relative to provide the necessary care and assistance. In such cases,
13 however, the furnishing of such assistance shall create an implied
14 contract with such relative, and the cost thereof may be recovered from
15 such relative in accordance with title six of article three of this
16 chapter and other applicable provisions of law.

17 § 6. Paragraph (m) of subdivision 2 of section 365-a of the social
18 services law, as amended by chapter 725 of the laws of 1989, is amended
19 to read as follows:

20 (m) hospice services provided by a hospice certified pursuant to arti-
21 cle forty of the public health law, to the extent that federal financial
22 participation is available and that such services are covered under
23 title XVIII of the federal social security act, and, notwithstanding
24 federal financial participation, coverage under title XVIII of the
25 federal social security act, and any provision of law or regulation to
26 the contrary, for hospice services provided pursuant to the hospice
27 supplemental financial assistance program for persons with special needs
28 as provided for in article forty of the public health law.

1 § 7. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2017; provided
3 however, that the amendments to section 4403-f of the public health law
4 made by section one of this act shall take effect October 1, 2017;
5 provided further, that the amendments to paragraph (m) of subdivision
6 two of section 365-a of the social services law made by section six of
7 this act shall take effect June 1, 2017; provided, further, that the
8 amendments to subparagraph (i) of paragraph (b) of subdivision 7 of
9 section 4403-f of the public health law made by section one of this act
10 shall not affect the repeal of such section and shall be deemed repealed
11 therewith; and provided, further, that the amendments to subparagraph
12 (i) of paragraph (b) of subdivision 7 of section 4403-f of the public
13 health law made by section one of this act shall not affect the expira-
14 tion of such paragraph and shall be deemed to expire therewith.

15

PART F

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

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

1 managers to manage transportation services in any local social services
2 district[, other than transportation services provided or arranged for
3 enrollees of managed long term care plans issued certificates of author-
4 ity under section forty-four hundred three-f of the public health law].
5 Any transportation manager or managers selected by the commissioner to
6 manage transportation services shall have proven experience in coordi-
7 nating transportation services in a geographic and demographic area
8 similar to the area in New York state within which the contractor would
9 manage the provision of services under this section. Such a contract or
10 contracts may include responsibility for: review, approval and process-
11 ing of transportation orders; management of the appropriate level of
12 transportation based on documented patient medical need; and development
13 of new technologies leading to efficient transportation services. If the
14 commissioner elects to assume such responsibility from a local social
15 services district, the commissioner shall examine and, if appropriate,
16 adopt quality assurance measures that may include, but are not limited
17 to, global positioning tracking system reporting requirements and
18 service verification mechanisms. Any and all reimbursement rates devel-
19 oped by transportation managers under this subdivision shall be subject
20 to the review and approval of the commissioner.

21 § 2. Subdivision 5 of section 365-h of the social services law is
22 REPEALED.

23 § 3. Section 367-s of the social services law, as amended by section
24 43-a of part C of chapter 109 of the laws of 2006, is REPEALED.

25 § 4. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2017; provided
27 however, that the amendments to subdivision 4 of section 365-h of the
28 social services law made by section one of this act shall take effect

1 October 1, 2017; provided, further, that the amendments to section 365-h
2 of the social services law made by section one of this act shall not
3 affect the repeal of such section and shall be deemed repealed there-
4 with.

5 PART G

6 Section 1. Subdivision 1 of section 92 of part H of chapter 59 of the
7 laws of 2011, amending the public health law and other laws relating to
8 known and projected department of health state fund medicaid expendi-
9 tures, as separately amended by section 1 of part JJ of chapter 54 and
10 section 18 of part B of chapter 59 of the laws of 2016, is amended to
11 read as follows:

12 1. For state fiscal years 2011-12 through [2017-18] 2018-19, the
13 director of the budget, in consultation with the commissioner of health
14 referenced as "commissioner" for purposes of this section, shall assess
15 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
16 sion five of this section known and projected department of health state
17 funds medicaid expenditures by category of service and by geographic
18 regions, as defined by the commissioner, and if the director of the
19 budget determines that such expenditures are expected to cause medicaid
20 disbursements for such period to exceed the projected department of
21 health medicaid state funds disbursements in the enacted budget finan-
22 cial plan pursuant to subdivision 3 of section 23 of the state finance
23 law, the commissioner of health, in consultation with the director of
24 the budget, shall develop a medicaid savings allocation plan to limit
25 such spending to the aggregate limit level specified in the enacted
26 budget financial plan, provided, however, such projections may be

1 adjusted by the director of the budget to account for any changes in the
2 New York state federal medical assistance percentage amount established
3 pursuant to the federal social security act, changes to the availability
4 of federal financial participation in medicaid expenditures, or change
5 in federal medicaid eligibility criteria, changes in provider revenues,
6 reductions to local social services district medical assistance adminis-
7 tration, minimum wage increases, and beginning April 1, 2012 the opera-
8 tional costs of the New York state medical indemnity fund and state
9 costs or savings from the basic health plan. Such projections may be
10 adjusted by the director of the budget to account for increased or expe-
11 dited department of health state funds medicaid expenditures as a result
12 of a natural or other type of disaster, including a governmental decla-
13 ration of emergency.

14 § 2. Notwithstanding sections 61, 63, 70, 78, 79, 81 and 81-a of the
15 civil service law or any provisions to the contrary contained in any
16 general, special, or local laws:

17 1. staff contracted by the office of health insurance programs within
18 the department of health to assist with health insurance program initi-
19 atives, including under a contract authorized by subdivision 29 of
20 section 364-j of the social services law, who meet the open competitive
21 qualifications for positions established to perform these functions will
22 be eligible for appointment to appropriate positions, designated by the
23 office of health insurance programs in the department, that are classi-
24 fied to perform such functions without further examination or qualifica-
25 tion; and, upon such appointment and satisfactory completion of a proba-
26 tionary period, will have all the rights and privileges of the
27 jurisdictional classification to which such positions are allocated in
28 the classified service of the state;

1 2. student assistants working in the department of health's office of
2 health insurance programs through the department of civil service
3 student assistant classification who meet the open competitive quali-
4 fications for traineeship classifications in titles approved by the
5 department of civil service will be eligible for appointment to such
6 appropriate traineeship positions, designated by the office of health
7 insurance programs in the department of health, without further examina-
8 tion or qualification; and, upon such appointment and satisfactory
9 completion of a probationary period, will have all the rights and privi-
10 leges of the jurisdictional classification to which such traineeship
11 positions are allocated in the classified service of the state; and

12 3. within 90 days of the effective date of this section, the depart-
13 ment of civil service, in consultation with the department of health,
14 shall establish a health care service career internship program. This
15 program will be designed to prepare individuals with master's degrees in
16 public administration or a related health care field for management
17 positions within the department of health's office of health insurance
18 programs. The program will offer career tracks in the health insurance
19 program management areas of budget and finance, long term care, health
20 homes, outpatient patient care, and health care public policy. During a
21 two-year internship, interns will serve in a variety of professional
22 positions within the department of health's office of health insurance
23 programs and be provided specialized training, rotational assignments,
24 and mentoring. After satisfactory completion of the internship, interns
25 will advance to a permanent competitive class grade 18 position in the
26 various titles utilized within the department of health's office of
27 health insurance programs for health insurance program management with-
28 out further examination or qualification; and, upon such appointment and

1 satisfactory completion of a probationary period, will have all the
2 rights and privileges of the jurisdictional classification to which such
3 positions are allocated in the classified service of the state.

4 § 3. Section 4-a of part C of chapter 58 of the laws of 2005, author-
5 izing reimbursements for expenditures made by or on behalf of social
6 services districts for medical assistance for needy persons and the
7 administration thereof, is amended by adding a new subdivision (e) to
8 read as follows:

9 (e) Beginning with state fiscal year 2017-18, the amount due to be
10 reimbursed under subdivision (a) of this section to a social services
11 district which includes a city with a population of more than five
12 million shall be reduced annually by 50 million dollars unless:

13 (i) By June 30, 2017, such district has a shared savings allocation
14 plan approved by the commissioner of health to increase by 100 million
15 dollars the current annual dollar amount of the city's finally submitted
16 and payable Medicaid claims for preschool and school supportive health
17 services eligible for federal financial participation; the department of
18 health will provide technical assistance as needed to assist the social
19 services district in implementing the plan, which must detail: how the
20 city will identify preschool and school-aged children who are receiving
21 preschool and school supportive health services reimbursable under the
22 current Medicaid state plan and submit claims for reimbursement; and how
23 the plan will generate fifty million dollars in state savings to the
24 Medicaid program. Such plan may be revised, subject to the review and
25 approval of the commissioner of health, as necessary to maintain the
26 increased level of claiming and to generate the required Medicaid state
27 savings in subsequent fiscal years; and

1 (ii) On October 1, 2017 and annually thereafter, the commissioner of
2 health determines that ongoing activities under the approved shared
3 savings allocation plan approved pursuant to subparagraph (i) of this
4 paragraph are likely to achieve the targeted dollar amount of payable
5 Medicaid claims for preschool and school supportive health services for
6 the applicable fiscal year; the social services district and city shall
7 provide such information and documentation as the commissioner of health
8 may require in order to make such determination.

9 (iii) The non-federal share of the costs of services for which claims
10 are submitted as a result of the implementation of the shared savings
11 allocation plan established pursuant to this paragraph shall be the
12 responsibility of the social services district.

13 (iv) Any reduction in the amount due to be reimbursed under subdivi-
14 sion (a) of this section as a result of the operation of this subdivi-
15 sion shall be in addition to any reduction imposed pursuant to subdivi-
16 sion (c) of this section or authorized pursuant to any other applicable
17 law.

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

20 PART H

21 Section 1. Subdivision 5 of section 168 of chapter 639 of the laws of
22 1996, constituting the New York Health Care Reform Act of 1996, as
23 amended by section 1 of part B of chapter 60 of the laws of 2014, is
24 amended to read as follows:

25 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
26 law, as amended or as added by this act, shall expire on December 31,

1 [2017] 2020, and shall be thereafter effective only in respect to any
2 act done on or before such date or action or proceeding arising out of
3 such act including continued collections of funds from assessments and
4 allowances and surcharges established pursuant to sections 2807-c,
5 2807-j, 2807-s and 2807-t of the public health law, and administration
6 and distributions of funds from pools established pursuant to sections
7 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
8 health law related to patient services provided before December 31,
9 [2017] 2020, and continued expenditure of funds authorized for programs
10 and grants until the exhaustion of funds therefor;

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

15 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
16 law, as amended by this act, shall expire on December 31, [2017] 2020,
17 and shall be thereafter effective only in respect to any act done before
18 such date or action or proceeding arising out of such act including
19 continued collections of funds from assessments and allowances and
20 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
21 2807-t of the public health law, and administration and distributions of
22 funds from pools established pursuant to sections 2807-c, 2807-j,
23 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
24 health law, as amended or added by this act, related to patient services
25 provided before December 31, [2017] 2020, and continued expenditure of
26 funds authorized for programs and grants until the exhaustion of funds
27 therefor;

1 § 3. Subparagraph (xv) of paragraph (a) of subdivision 6 of section
2 2807-s of the public health law, as amended by section 3 of part B of
3 chapter 60 of the laws of 2014, is amended to read as follows:

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

7 § 4. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section
8 2807-s of the public health law, as amended by section 4 of part B of
9 chapter 60 of the laws of 2014, is amended to read as follows:

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

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

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

19 (v) one hundred ninety-one million two hundred fifty thousand dollars
20 of the funds accumulated for the period January first, two thousand
21 [seventeen] twenty through March thirty-first, two thousand [seventeen]
22 twenty.

23 § 6. Subdivisions 5-a and 7 of section 2807-m of the public health
24 law, as amended by section 9 of part B of chapter 60 of the laws of
25 2014, subparagraphs (iv), (v) and (vi) of paragraph (d) of subdivision
26 5-a as added by section 4 of part W of chapter 57 of the laws of 2015,
27 are amended to read as follows:

1 5-a. Graduate medical education innovations pool. (a) Supplemental
2 distributions. (i) Thirty-one million dollars for the period January
3 first, two thousand eight through December thirty-first, two thousand
4 eight, shall be set aside and reserved by the commissioner from the
5 regional pools established pursuant to subdivision two of this section
6 and shall be available for distributions pursuant to subdivision five of
7 this section and in accordance with section 86-1.89 of title 10 of the
8 codes, rules and regulations of the state of New York as in effect on
9 January first, two thousand eight; provided, however, for purposes of
10 funding the empire clinical research investigation program (ECRIP) in
11 accordance with paragraph eight of subdivision (e) and paragraph two of
12 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and
13 regulations of the state of New York, distributions shall be made using
14 two regions defined as New York city and the rest of the state and the
15 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-
16 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-
17 lations of the state of New York shall be increased from sixty thousand
18 dollars to seventy-five thousand dollars.

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

25 (b) Empire clinical research investigator program (ECRIP). Nine
26 million one hundred twenty thousand dollars annually for the period
27 January first, two thousand nine through December thirty-first, two
28 thousand ten, and two million two hundred eighty thousand dollars for

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

15 Distributions shall first be made to consortia and teaching general
16 hospitals for the empire clinical research investigator program (ECRIP)
17 to help secure federal funding for biomedical research, train clinical
18 researchers, recruit national leaders as faculty to act as mentors, and
19 train residents and fellows in biomedical research skills based on
20 hospital-specific data submitted to the commissioner by consortia and
21 teaching general hospitals in accordance with clause (G) of this subpar-
22 agraph. Such distributions shall be made in accordance with the follow-
23 ing methodology:

24 (A) The greatest number of clinical research positions for which a
25 consortium or teaching general hospital may be funded pursuant to this
26 subparagraph shall be one percent of the total number of residents
27 training at the consortium or teaching general hospital on July first,
28 two thousand eight for the period January first, two thousand nine

1 through December thirty-first, two thousand nine rounded up to the near-
2 est one position.

3 (B) Distributions made to a consortium or teaching general hospital
4 shall equal the product of the total number of clinical research posi-
5 tions submitted by a consortium or teaching general hospital and
6 accepted by the commissioner as meeting the criteria set forth in para-
7 graph (b) of subdivision one of this section, subject to the reduction
8 calculation set forth in clause (C) of this subparagraph, times one
9 hundred ten thousand dollars.

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

1 research positions that continue from and were funded in prior distrib-
2 ution periods shall be eliminated or reduced by such methodology.

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

5 (I) Each consortium or teaching general hospital with a one-year ECRIP
6 award shall receive its annual distribution amount in full upon
7 completion of the requirements set forth in items (I) and (II) of clause
8 (G) of this subparagraph. The requirements set forth in items (IV) and
9 (V) of clause (G) of this subparagraph must be completed by the consor-
10 tium or teaching general hospital in order for the consortium or teach-
11 ing general hospital to be eligible to apply for ECRIP funding in any
12 subsequent funding cycle.

13 (II) Each consortium or teaching general hospital with a two-year
14 ECRIP award shall receive its first annual distribution amount in full
15 upon completion of the requirements set forth in items (I) and (II) of
16 clause (G) of this subparagraph. Each consortium or teaching general
17 hospital will receive its second annual distribution amount in full upon
18 completion of the requirements set forth in item (III) of clause (G) of
19 this subparagraph. The requirements set forth in items (IV) and (V) of
20 clause (G) of this subparagraph must be completed by the consortium or
21 teaching general hospital in order for the consortium or teaching gener-
22 al hospital to be eligible to apply for ECRIP funding in any subsequent
23 funding cycle.

24 (E) Each consortium or teaching general hospital receiving distrib-
25 utions pursuant to this subparagraph shall reserve seventy-five thousand
26 dollars to primarily fund salary and fringe benefits of the clinical
27 research position with the remainder going to fund the development of

1 faculty who are involved in biomedical research, training and clinical
2 care.

3 (F) Undistributed or returned funds available to fund clinical
4 research positions pursuant to this paragraph for a distribution period
5 shall be available to fund clinical research positions in a subsequent
6 distribution period.

7 (G) In order to be eligible for distributions pursuant to this subpar-
8 agraph, each consortium and teaching general hospital shall provide to
9 the commissioner by July first of each distribution period, the follow-
10 ing data and information on a hospital-specific basis. Such data and
11 information shall be certified as to accuracy and completeness by the
12 chief executive officer, chief financial officer or chair of the consor-
13 tium governing body of each consortium or teaching general hospital and
14 shall be maintained by each consortium and teaching general hospital for
15 five years from the date of submission:

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

27 (II) For each clinical research position, information on the name,
28 citizenship status, medical education and training, and medical license

1 number of the researcher, if applicable, shall be provided by December
2 thirty-first of the calendar year following the distribution period;

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

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

11 (V) Tracking information concerning past researchers, including but
12 not limited to (A) background information, (B) employment history, (C)
13 research status, (D) current research activities, (E) publications and
14 presentations, (F) research support, and (G) any other information
15 necessary to track the researcher; and

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

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

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

26 (2) provide that ECRIP grant applicants may include interdisciplinary
27 research teams comprised of teaching general hospitals acting in collab-

1 oration with entities including but not limited to medical centers,
2 hospitals, universities and local health departments;

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

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

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

10 (c) Ambulatory care training. Four million nine hundred thousand
11 dollars for the period January first, two thousand eight through Decem-
12 ber thirty-first, two thousand eight, four million nine hundred thousand
13 dollars for the period January first, two thousand nine through December
14 thirty-first, two thousand nine, four million nine hundred thousand
15 dollars for the period January first, two thousand ten through December
16 thirty-first, two thousand ten, one million two hundred twenty-five
17 thousand dollars for the period January first, two thousand eleven
18 through March thirty-first, two thousand eleven, four million three
19 hundred thousand dollars each state fiscal year for the period April
20 first, two thousand eleven through March thirty-first, two thousand
21 fourteen, [and] up to four million sixty thousand dollars each state
22 fiscal year for the period April first, two thousand fourteen through
23 March thirty-first, two thousand seventeen, and within amounts appropri-
24 ated for each state fiscal year for periods on and after April first,
25 two thousand seventeen, shall be set aside and reserved by the commis-
26 sioner from the regional pools established pursuant to subdivision two
27 of this section and shall be available for distributions to sponsoring
28 institutions to be directed to support clinical training of medical

1 students and residents in free-standing ambulatory care settings,
2 including community health centers and private practices. Such funding
3 shall be allocated regionally with two-thirds of the available funding
4 going to New York city and one-third of the available funding going to
5 the rest of the state and shall be distributed to sponsoring insti-
6 tutions in each region pursuant to a request for application or request
7 for proposal process with preference being given to sponsoring insti-
8 tutions which provide training in sites located in underserved rural or
9 inner-city areas and those that include medical students in such train-
10 ing.

11 (d) Physician loan repayment program. One million nine hundred sixty
12 thousand dollars for the period January first, two thousand eight
13 through December thirty-first, two thousand eight, one million nine
14 hundred sixty thousand dollars for the period January first, two thou-
15 sand nine through December thirty-first, two thousand nine, one million
16 nine hundred sixty thousand dollars for the period January first, two
17 thousand ten through December thirty-first, two thousand ten, four
18 hundred ninety thousand dollars for the period January first, two thou-
19 sand eleven through March thirty-first, two thousand eleven, one million
20 seven hundred thousand dollars each state fiscal year for the period
21 April first, two thousand eleven through March thirty-first, two thou-
22 sand fourteen, [and] up to one million seven hundred five thousand
23 dollars each state fiscal year for the period April first, two thousand
24 fourteen through March thirty-first, two thousand seventeen, and within
25 amounts appropriated for each state fiscal year for periods on and after
26 April first, two thousand seventeen, shall be set aside and reserved by
27 the commissioner from the regional pools established pursuant to subdi-
28 vision two of this section and shall be available for purposes of physi-

1 cian loan repayment in accordance with subdivision ten of this section.
2 Notwithstanding any contrary provision of this section, sections one
3 hundred twelve and one hundred sixty-three of the state finance law, or
4 any other contrary provision of law, such funding shall be allocated
5 regionally with one-third of available funds going to New York city and
6 two-thirds of available funds going to the rest of the state and shall
7 be distributed in a manner to be determined by the commissioner without
8 a competitive bid or request for proposal process as follows:

9 (i) Funding shall first be awarded to repay loans of up to twenty-five
10 physicians who train in primary care or specialty tracks in teaching
11 general hospitals, and who enter and remain in primary care or specialty
12 practices in underserved communities, as determined by the commissioner.

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

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

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

27 (v) In addition to the funds allocated under this paragraph, for the
28 period April first, two thousand sixteen through March thirty-first, two

1 thousand seventeen, two million dollars shall be available for the
2 purposes described in subdivision ten of this section;

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

8 (e) Physician practice support. Four million nine hundred thousand
9 dollars for the period January first, two thousand eight through Decem-
10 ber thirty-first, two thousand eight, four million nine hundred thousand
11 dollars annually for the period January first, two thousand nine through
12 December thirty-first, two thousand ten, one million two hundred twen-
13 ty-five thousand dollars for the period January first, two thousand
14 eleven through March thirty-first, two thousand eleven, four million
15 three hundred thousand dollars each state fiscal year for the period
16 April first, two thousand eleven through March thirty-first, two thou-
17 sand fourteen, [and] up to four million three hundred sixty thousand
18 dollars each state fiscal year for the period April first, two thousand
19 fourteen through March thirty-first, two thousand seventeen, and within
20 amounts appropriated for each state fiscal year for periods on and after
21 April first, two thousand seventeen, shall be set aside and reserved by
22 the commissioner from the regional pools established pursuant to subdi-
23 vision two of this section and shall be available for purposes of physi-
24 cian practice support. Notwithstanding any contrary provision of this
25 section, sections one hundred twelve and one hundred sixty-three of the
26 state finance law, or any other contrary provision of law, such funding
27 shall be allocated regionally with one-third of available funds going to
28 New York city and two-thirds of available funds going to the rest of the

1 state and shall be distributed in a manner to be determined by the
2 commissioner without a competitive bid or request for proposal process
3 as follows:

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

9 (ii) After distributions in accordance with subparagraph (i) of this
10 paragraph, all remaining funds shall be awarded to physicians to support
11 the cost of establishing or joining practices in underserved communi-
12 ties, as determined by the commissioner, and to hospitals and other
13 health care providers to recruit new physicians to provide services in
14 underserved communities, as determined by the commissioner.

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

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

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

24 (ii) Subject to available funding, applications shall be accepted on a
25 continuous basis. The department shall provide technical assistance to
26 applicants to facilitate their completion of applications. An applicant
27 shall be notified in writing by the department within ten days of
28 receipt of an application as to whether the application is complete and

1 if the application is incomplete, what information is outstanding. The
2 department shall act on an application within thirty days of receipt of
3 a complete application.

4 (f) Study on physician workforce. Five hundred ninety thousand dollars
5 annually for the period January first, two thousand eight through Decem-
6 ber thirty-first, two thousand ten, one hundred forty-eight thousand
7 dollars for the period January first, two thousand eleven through March
8 thirty-first, two thousand eleven, five hundred sixteen thousand dollars
9 each state fiscal year for the period April first, two thousand eleven
10 through March thirty-first, two thousand fourteen, [and] up to four
11 hundred eighty-seven thousand dollars each state fiscal year for the
12 period April first, two thousand fourteen through March thirty-first,
13 two thousand seventeen, and within amounts appropriated for each state
14 fiscal year for periods on and after April first, two thousand
15 seventeen, shall be set aside and reserved by the commissioner from the
16 regional pools established pursuant to subdivision two of this section
17 and shall be available to fund a study of physician workforce needs and
18 solutions including, but not limited to, an analysis of residency
19 programs and projected physician workforce and community needs. The
20 commissioner shall enter into agreements with one or more organizations
21 to conduct such study based on a request for proposal process.

22 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
23 any inconsistent provision of section one hundred twelve or one hundred
24 sixty-three of the state finance law or any other law, one million nine
25 hundred sixty thousand dollars annually for the period January first,
26 two thousand eight through December thirty-first, two thousand ten, four
27 hundred ninety thousand dollars for the period January first, two thou-
28 sand eleven through March thirty-first, two thousand eleven, one million

1 seven hundred thousand dollars each state fiscal year for the period
2 April first, two thousand eleven through March thirty-first, two thou-
3 sand fourteen, [and] up to one million six hundred five thousand dollars
4 each state fiscal year for the period April first, two thousand fourteen
5 through March thirty-first, two thousand seventeen, and within amounts
6 appropriated for each state fiscal year for periods on and after April
7 first, two thousand seventeen, shall be set aside and reserved by the
8 commissioner from the regional pools established pursuant to subdivision
9 two of this section and shall be available for distributions to the
10 Associated Medical Schools of New York to fund its diversity program
11 including existing and new post-baccalaureate programs for minority and
12 economically disadvantaged students and encourage participation from all
13 medical schools in New York. The associated medical schools of New York
14 shall report to the commissioner on an annual basis regarding the use of
15 funds for such purpose in such form and manner as specified by the
16 commissioner.

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

22 7. Notwithstanding any inconsistent provision of section one hundred
23 twelve or one hundred sixty-three of the state finance law or any other
24 law, up to one million dollars for the period January first, two thou-
25 sand through December thirty-first, two thousand, one million six
26 hundred thousand dollars annually for the periods January first, two
27 thousand one through December thirty-first, two thousand eight, one
28 million five hundred thousand dollars annually for the periods January

1 first, two thousand nine through December thirty-first, two thousand
2 ten, three hundred seventy-five thousand dollars for the period January
3 first, two thousand eleven through March thirty-first, two thousand
4 eleven, one million three hundred twenty thousand dollars each state
5 fiscal year for the period April first, two thousand eleven through
6 March thirty-first, two thousand fourteen, [and] up to two million
7 seventy-seven thousand dollars each state fiscal year for the period
8 April first, two thousand fourteen through March thirty-first, two thou-
9 sand seventeen, and within amounts appropriated for each state fiscal
10 year for periods on and after April first, two thousand seventeen, shall
11 be set aside and reserved by the commissioner from the regional pools
12 established pursuant to subdivision two of this section and shall be
13 available for distributions to the New York state area health education
14 center program for the purpose of expanding community-based training of
15 medical students. In addition, one million dollars annually for the
16 period January first, two thousand eight through December thirty-first,
17 two thousand ten, two hundred fifty thousand dollars for the period
18 January first, two thousand eleven through March thirty-first, two thou-
19 sand eleven, and eight hundred eighty thousand dollars each state fiscal
20 year for the period April first, two thousand eleven through March thir-
21 ty-first, two thousand fourteen, shall be set aside and reserved by the
22 commissioner from the regional pools established pursuant to subdivision
23 two of this section and shall be available for distributions to the New
24 York state area health education center program for the purpose of post-
25 secondary training of health care professionals who will achieve specif-
26 ic program outcomes within the New York state area health education
27 center program. The New York state area health education center program
28 shall report to the commissioner on an annual basis regarding the use of

1 funds for each purpose in such form and manner as specified by the
2 commissioner.

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

6 (a) For the purpose of regulating cash flow for general hospitals, the
7 department shall develop and implement a payment methodology to provide
8 for timely payments for inpatient hospital services eligible for case
9 based payments per discharge based on diagnosis-related groups provided
10 during the period January first, nineteen hundred eighty-eight through
11 March thirty-first two thousand [seventeen] twenty, by such hospitals
12 which elect to participate in the system.

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

16 6. Prospective adjustments. (a) The commissioner shall annually recon-
17 cile the sum of the actual payments made to the commissioner or the
18 commissioner's designee for each region pursuant to section twenty-eight
19 hundred seven-s of this article and pursuant to this section for the
20 prior year with the regional allocation of the gross annual statewide
21 amount specified in subdivision six of section twenty-eight hundred
22 seven-s of this article for such prior year. The difference between the
23 actual amount raised for a region and the regional allocation of the
24 specified gross annual amount for such prior year shall be applied as a
25 prospective adjustment to the regional allocation of the specified gross
26 annual payment amount for such region for the year next following the
27 calculation of the reconciliation. The authorized dollar value of the
28 adjustments shall be the same as if calculated retrospectively.

1 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
2 sion, for covered lives assessment rate periods on and after January
3 first, two thousand fifteen through December thirty-first, two thousand
4 [seventeen] twenty, for amounts collected in the aggregate in excess of
5 one billion forty-five million dollars on an annual basis, prospective
6 adjustments shall be suspended if the annual reconciliation calculation
7 from the prior year would otherwise result in a decrease to the regional
8 allocation of the specified gross annual payment amount for that region,
9 provided, however, that such suspension shall be lifted upon a determi-
10 nation by the commissioner, in consultation with the director of the
11 budget, that sixty-five million dollars in aggregate collections on an
12 annual basis over and above one billion forty-five million dollars on an
13 annual basis have been reserved and set aside for deposit in the HCRA
14 resources fund. Any amounts collected in the aggregate at or below one
15 billion forty-five million dollars on an annual basis, shall be subject
16 to regional adjustments reconciling any decreases or increases to the
17 regional allocation in accordance with paragraph (a) of this subdivi-
18 sion.

19 § 9. This act shall take effect immediately; provided, however, that:

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

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

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

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

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

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

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

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

19 4-a. section twenty-two of this act shall take effect April 1, 2014,
20 and shall be deemed expired January 1, [2018] 2020;

21 § 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
22 2807-d of the public health law, as amended by section 3 of part D of
23 chapter 57 of the laws of 2015, is amended to read as follows:

24 (vi) Notwithstanding any contrary provision of this paragraph or any
25 other provision of law or regulation to the contrary, for residential
26 health care facilities the assessment shall be six percent of each resi-
27 dential health care facility's gross receipts received from all patient
28 care services and other operating income on a cash basis for the period

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

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

1 1. Notwithstanding any inconsistent provision of law or regulation,
2 the trend factors used to project reimbursable operating costs to the
3 rate period for purposes of determining rates of payment pursuant to
4 article 28 of the public health law for residential health care facili-
5 ties for reimbursement of inpatient services provided to patients eligi-
6 ble for payments made by state governmental agencies on and after April
7 1, 1996 through March 31, 1999 and for payments made on and after July
8 1, 1999 through March 31, 2000 and on and after April 1, 2000 through
9 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
10 on and after April 1, 2007 through March 31, 2009 and on and after April
11 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
12 March 31, 2013 and on and after April 1, 2013 through March 31, 2015,
13 and on and after April 1, 2015 through March 31, 2017, and on and after
14 April 1, 2017 through March 31, 2020 shall reflect no trend factor
15 projections or adjustments for the period April 1, 1996, through March
16 31, 1997.

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

23 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
24 of the public health law and section 21 of chapter 1 of the laws of
25 1999, as amended, and any other inconsistent provision of law or regu-
26 lation to the contrary, in determining rates of payments by state
27 governmental agencies effective for services provided beginning April 1,
28 2006, through March 31, 2009, and on and after April 1, 2009 through

1 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
2 and on and after April 1, 2013 through March 31, 2015, and on and after
3 April 1, 2015 through March 31, 2017, and on and after April 1, 2017
4 through March 31, 2020 for inpatient and outpatient services provided by
5 general hospitals and for inpatient services and outpatient adult day
6 health care services provided by residential health care facilities
7 pursuant to article 28 of the public health law, the commissioner of
8 health shall apply a trend factor projection of two and twenty-five
9 hundredths percent attributable to the period January 1, 2006 through
10 December 31, 2006, and on and after January 1, 2007, provided, however,
11 that on reconciliation of such trend factor for the period January 1,
12 2006 through December 31, 2006 pursuant to paragraph (c) of subdivision
13 10 of section 2807-c of the public health law, such trend factor shall
14 be the final US Consumer Price Index (CPI) for all urban consumers, as
15 published by the US Department of Labor, Bureau of Labor Statistics less
16 twenty-five hundredths of a percentage point.

17 § 6. Subdivision 5-a 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 11 of part D of
20 chapter 57 of the laws of 2015, is amended to read as follows:

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

1 2013 through March 31, 2015, and on and after April 1, 2015 through
2 March 31, 2017 and on and after April 1, 2017 through March 31, 2020;

3 § 7. 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 12 of part D of chapter 57 of the
6 laws of 2015, 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 on and after April 1, 2015
16 through March 31, 2017 and on and after April 1, 2017 through March 31,
17 2020.

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

22 (a) sections two, three, three-a, three-b, three-c, three-d, three-e
23 and twenty-one of this act shall take effect July 1, 2010; sections
24 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall
25 take effect January 1, 2011; and provided further that section twenty of
26 this act shall be deemed repealed [six] nine years after the date the
27 contract entered into pursuant to section 365-h of the social services
28 law, as amended by section twenty of this act, is executed; provided

1 that the commissioner of health shall notify the legislative bill draft-
2 ing commission upon the execution of the contract entered into pursuant
3 to section 367-h of the social services law in order that the commission
4 may maintain an accurate and timely effective data base of the official
5 text of the laws of the state of New York in furtherance of effectuating
6 the provisions of section 44 of the legislative law and section 70-b of
7 the public officers law;

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

14 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
15 2807-c of the public health law, section 21 of chapter 1 of the laws of
16 1999, or any other contrary provision of law, in determining rates of
17 payments by state governmental agencies effective for services provided
18 on and after January 1, [2017] 2020 through March 31, [2017] 2020, for
19 inpatient and outpatient services provided by general hospitals, for
20 inpatient services and adult day health care outpatient services
21 provided by residential health care facilities pursuant to article 28 of
22 the public health law, except for residential health care facilities or
23 units of such facilities providing services primarily to children under
24 twenty-one years of age, for home health care services provided pursuant
25 to article 36 of the public health law by certified home health agen-
26 cies, long term home health care programs and AIDS home care programs,
27 and for personal care services provided pursuant to section 365-a of the
28 social services law, the commissioner of health shall apply no greater

1 than zero trend factors attributable to the [2017] 2020 calendar year in
2 accordance with paragraph (c) of subdivision 10 of section 2807-c of the
3 public health law, provided, however, that such no greater than zero
4 trend factors attributable to such [2017] 2020 calendar year shall also
5 be applied to rates of payment provided on and after January 1, [2017]
6 2020 through March 31, [2017] 2020 for personal care services provided
7 in those local social services districts, including New York city, whose
8 rates of payment for such services are established by such local social
9 services districts pursuant to a rate-setting exemption issued by the
10 commissioner of health to such local social services districts in
11 accordance with applicable regulations, and provided further, however,
12 that for rates of payment for assisted living program services provided
13 on and after January 1, [2017] 2020 through March 31, [2017] 2020, such
14 trend factors attributable to the [2017] 2020 calendar year shall be
15 established at no greater than zero percent.

16 § 10. Subdivisions 3 and 5 of section 47 of chapter 2 of the laws of
17 1998, amending the public health law and other laws relating to expand-
18 ing the child health insurance plan, as amended by section 61 of part C
19 of chapter 60 of the laws of 2014, are amended to read as follows:

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

24 5. section twelve of this act shall take effect January 1, 1999;
25 provided, however, paragraphs (g) and (h) of subdivision 2 of section
26 2511 of the public health law, as added by such section, shall expire on
27 July 1, [2017] 2020;

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

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

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

10 (e-1) Notwithstanding any inconsistent provision of law or regulation,
11 the commissioner shall provide, in addition to payments established
12 pursuant to this article prior to application of this section, addi-
13 tional payments under the medical assistance program pursuant to title
14 eleven of article five of the social services law for non-state operated
15 public residential health care facilities, including public residential
16 health care facilities located in the county of Nassau, the county of
17 Westchester and the county of Erie, but excluding public residential
18 health care facilities operated by a town or city within a county, in
19 aggregate annual amounts of up to one hundred fifty million dollars in
20 additional payments for the state fiscal year beginning April first, two
21 thousand six and for the state fiscal year beginning April first, two
22 thousand seven and for the state fiscal year beginning April first, two
23 thousand eight and of up to three hundred million dollars in such aggre-
24 gate annual additional payments for the state fiscal year beginning
25 April first, two thousand nine, and for the state fiscal year beginning
26 April first, two thousand ten and for the state fiscal year beginning
27 April first, two thousand eleven, and for the state fiscal years begin-
28 ning April first, two thousand twelve and April first, two thousand

1 thirteen, and of up to five hundred million dollars in such aggregate
2 annual additional payments for the state fiscal years beginning April
3 first, two thousand fourteen, April first, two thousand fifteen and
4 April first, two thousand sixteen and of up to five hundred million
5 dollars in such aggregate annual additional payments for the state
6 fiscal years beginning April first, two thousand seventeen, April first,
7 two thousand eighteen, and April first, two thousand nineteen. The
8 amount allocated to each eligible public residential health care facili-
9 ty for this period shall be computed in accordance with the provisions
10 of paragraph (f) of this subdivision, provided, however, that patient
11 days shall be utilized for such computation reflecting actual reported
12 data for two thousand three and each representative succeeding year as
13 applicable, and provided further, however, that, in consultation with
14 impacted providers, of the funds allocated for distribution in the state
15 fiscal year beginning April first, two thousand thirteen, up to thirty-
16 two million dollars may be allocated in accordance with paragraph (f-1)
17 of this subdivision.

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

22 § 18. This act shall take effect immediately, except that sections
23 six, nine, ten and eleven of this act shall take effect on the sixtieth
24 day after it shall have become a law, [sections two, three, four and
25 nine of this act shall expire and be of no further force or effect on or
26 after March 31, 2017,] section two of this act shall take effect on
27 April 1, 1985 or seventy-five days following the submission of the
28 report required by section one of this act, whichever is later, and

1 sections eleven and thirteen of this act shall expire and be of no
2 further force or effect on or after March 31, 1988.

3 § 14. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
4 the public health law relating to allowing for the use of funds of the
5 office of professional medical conduct for activities of the patient
6 health information and quality improvement act of 2000, as amended by
7 section 4-b of part A of chapter 57 of the laws of 2015, is amended to
8 read as follows:

9 § 4. This act shall take effect immediately; provided that the
10 provisions of section one of this act shall be deemed to have been in
11 full force and effect on and after April 1, 2003, and shall expire March
12 31, [2017] 2020 when upon such date the provisions of such section shall
13 be deemed repealed.

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

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

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

27 § 32. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2008; provided

1 however, that sections one, six-a, nineteen, twenty, twenty-four, and
2 twenty-five of this act shall take effect July 1, 2008; provided however
3 that sections sixteen, seventeen and eighteen of this act shall expire
4 April 1, [2017] 2020; provided, however, that the amendments made by
5 section twenty-eight of this act shall take effect on the same date as
6 section 1 of chapter 281 of the laws of 2007 takes effect; provided
7 further, that sections twenty-nine, thirty, and thirty-one of this act
8 shall take effect October 1, 2008; provided further, that section twen-
9 ty-seven of this act shall take effect January 1, 2009; and provided
10 further, that section twenty-seven of this act shall expire and be
11 deemed repealed March 31, [2017] 2020; and provided, further, however,
12 that the amendments to subdivision 1 of section 241 of the education law
13 made by section twenty-nine of this act shall not affect the expiration
14 of such subdivision and shall be deemed to expire therewith and provided
15 that the amendments to section 272 of the public health law made by
16 section thirty of this act shall not affect the repeal of such section
17 and shall be deemed repealed therewith.

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

20 PART J

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

23 ARTICLE 29

24 PHARMACY BENEFIT MANAGERS

25 Section 2901. Definitions.

26 2902. Acting without a registration.

- 1 2903. Registration requirements for pharmacy benefit managers.
- 2 2904. Reporting requirements for pharmacy benefit managers.
- 3 2905. Acting without a license.
- 4 2906. Licensing of a pharmacy benefit manager.
- 5 2907. Revocation or suspension of a registration or license of a
6 pharmacy benefit manager.
- 7 2908. Penalties for violations.
- 8 2909. Stay or suspension of superintendent's determination.
- 9 2910. Revoked registrations.
- 10 2911. Change of address.
- 11 2912. Assessment.
- 12 2913. Applicability of other laws.
- 13 § 2901. Definitions. For purposes of this article:
- 14 (a) "Controlling person" is any person or other entity who or which
15 directly or indirectly has the power to direct or cause to be directed
16 the management, control or activities of a pharmacy benefit manager.
- 17 (b) "Health insurer" means an insurance company authorized in this
18 state to write accident and health insurance, a company organized pursu-
19 ant to article forty-three of this chapter, a municipal cooperative
20 health benefit plan established pursuant to article forty-seven of this
21 chapter, a health maintenance organization certified pursuant to article
22 forty-four of the public health law, an institution of higher education
23 certified pursuant to section one thousand one hundred twenty-four of
24 this chapter, or the New York state health insurance plan established
25 under article eleven of the civil service law.
- 26 (c) "Pharmacy benefit management services" means directly or through
27 an intermediary, managing the prescription drug coverage provided by a
28 health insurer under a policy delivered or issued for delivery in this

1 state or an employer that has its principal place of business in this
2 state, including the processing and payment of claims for prescription
3 drugs, the performance of drug utilization review, the processing of
4 drug prior authorization requests, the adjudication of appeals or griev-
5 ances related to prescription drug coverage, contracting with network
6 pharmacies, and controlling the cost of covered prescription drugs. The
7 term "pharmacy benefit management services" shall not include services
8 provided to a plan subject to section three hundred sixty-four-j of the
9 social services law.

10 (d) "Pharmacy benefit manager" means a person, firm, association,
11 corporation or other entity that, pursuant to a contract with a health
12 insurer or an employer that has its principal place of business in this
13 state and establishes or maintains an employee benefit plan, as defined
14 by the federal Employee Retirement Income Security Act of 1974, provides
15 pharmacy benefit management services, except that term shall not
16 include:

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

19 (2) a health insurer, or any manager thereof, individual or corporate,
20 or any officer, director or regular salaried employee thereof, providing
21 pharmacy benefit management services under a policy or contract issued
22 by the health insurer; or

23 (3) an employer or its employees with respect to the employee benefit
24 plan, as defined by the federal Employee Retirement Income Security Act
25 of 1974, established or maintained by the employer.

26 (e) "Principal place of business" means the state or country where an
27 employer maintains its headquarters and where the employer's high-level
28 officers direct, control, and coordinate the business activities;

1 provided, however, that if the employer's high-level officers direct,
2 control, and coordinate the business activities in more than one state
3 or country, then the state or country where the greatest number of
4 employees are located.

5 § 2902. Acting without a registration. (a) No person, firm, associ-
6 ation, corporation or other entity may act as a pharmacy benefits manag-
7 er prior to January first, two thousand nineteen without having a valid
8 registration as a pharmacy benefit manager filed with the superintendent
9 in accordance with this article and any regulations promulgated there-
10 under.

11 (b) Prior to January first, two thousand nineteen, no health insurer
12 may pay any fee or other compensation to any person, firm, association,
13 corporation or other entity for performing pharmacy benefit management
14 services unless the person, firm, association, corporation or other
15 entity is registered as a pharmacy benefit manager in accordance with
16 this article.

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

23 § 2903. Registration requirements for pharmacy benefit managers. (a)
24 Every pharmacy benefit manager that performs pharmacy benefit management
25 services prior to January first, two thousand nineteen shall register
26 with the superintendent in a manner acceptable to the superintendent,
27 and shall pay a fee of one thousand dollars for each year or fraction of
28 a year in which the registration shall be valid. Every registration will

1 expire on December thirty-first, two thousand eighteen regardless of
2 when registration was first made.

3 (b) Every pharmacy benefit manager that performs pharmacy benefit
4 management services at any time between January first, two thousand
5 seventeen and June first, two thousand seventeen, shall make the regis-
6 tration and fee payment required by subsection (a) of this section on or
7 before June first, two thousand seventeen.

8 (c) Every pharmacy benefit manager not subject to subsection (b) of
9 this section shall make the registration and fee payment required by
10 subsection (a) of this section prior to performing pharmacy benefit
11 management services.

12 (d) Each pharmacy benefit manager shall renew its registration and
13 make the required fee payment by February first, two thousand eighteen
14 for the two thousand eighteen calendar year.

15 § 2904. Reporting requirements for pharmacy benefit managers. (a)(1)
16 On or before July first of each year, beginning in two thousand seven-
17 teen, every pharmacy benefit manager shall report to the superintendent,
18 in a statement subscribed and affirmed as true under penalties of perju-
19 ry, the information requested by the superintendent. Such information
20 may include, without limitation, disclosure of any financial incentive
21 or benefit for promoting the use of certain drugs and other financial
22 arrangements affecting health insurers or their policyholders or
23 insureds.

24 (2) The superintendent also may address to any pharmacy benefit manag-
25 er or its officers any inquiry in relation to its provision of pharmacy
26 benefit management services or any matter connected therewith. Every
27 pharmacy benefit manager or person so addressed shall reply in writing
28 to such inquiry promptly and truthfully, and such reply shall be, if

1 required by the superintendent, subscribed by such individual, or by
2 such officer or officers of the pharmacy benefit manager, as the super-
3 intendent shall designate, and affirmed by them as true under the penal-
4 ties of perjury.

5 (3) In addition to the other reports required by this subsection, the
6 superintendent also may require the filing of quarterly or other state-
7 ments, which shall be in such form and shall contain such matters as the
8 superintendent shall prescribe.

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

19 (c) All information disclosed by a pharmacy benefit manager shall be
20 deemed confidential and not subject to disclosure unless the superinten-
21 dent determines that such disclosure is in the public interest, or is
22 necessary to carry out this chapter or to allow the department to
23 perform examinations or investigations authorized by law.

24 § 2905. Acting without a license. (a) No person, firm, association,
25 corporation or other entity may act as a pharmacy benefit manager on or
26 after January first, two thousand nineteen without having authority to
27 do so by virtue of a license issued in force pursuant to the provisions
28 of this chapter.

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

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

12 § 2906. Licensing of a pharmacy benefit manager. (a) The superinten-
13 dent may issue a pharmacy benefit manager's license to any person, firm,
14 association or corporation who or that has complied with the require-
15 ments of this chapter, including regulations promulgated by the super-
16 intendent. The superintendent may establish, by regulation, minimum
17 standards for the issuance of a license to a pharmacy benefit manager.

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

21 (1) the elimination of conflicts of interest between pharmacy benefit
22 managers and health insurers or employee benefit plans, as defined by
23 the federal Employee Retirement Income Security Act of 1974, for whom
24 they perform pharmacy benefit management services;

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

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

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

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

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

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

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

21 (2) Every pharmacy benefit manager's license issued to a business
22 entity pursuant to this section shall expire on the thirtieth day of
23 November of even-numbered years. Every license issued pursuant to this
24 section to an individual pharmacy benefit manager who was born in an
25 odd-numbered year, shall expire on the individual's birthday in each
26 odd-numbered year. Every license issued pursuant to this section to an
27 individual pharmacy benefit manager who was born in an even-numbered
28 year, shall expire on the individual's birthday in each even-numbered

1 year. Every license issued pursuant to this section may be renewed for
2 the ensuing period of twenty-four months upon the filing of an applica-
3 tion in conformity with this subsection.

4 (e)(1) If an application for a renewal license shall have been filed
5 with the superintendent before October first of the year of expiration,
6 then the license sought to be renewed shall continue in full force and
7 effect either until the issuance by the superintendent of the renewal
8 license applied for or until five days after the superintendent shall
9 have refused to issue such renewal license and given notice of such
10 refusal to the applicant.

11 (2) Before refusing to renew any license pursuant to this section, the
12 superintendent shall notify the applicant of the superintendent's inten-
13 tion so to do and shall give such applicant a hearing.

14 (f) The superintendent may refuse to issue a pharmacy benefit manag-
15 er's license if, in the superintendent's judgment, the applicant or any
16 member, principal, officer or director of the applicant, is not trust-
17 worthy and competent to act as or in connection with a pharmacy benefit
18 manager, or that any of the foregoing has given cause for revocation or
19 suspension of such license, or has failed to comply with any prerequi-
20 site for the issuance of such license.

21 (g) Licensees under this section shall be subject to examination by
22 the superintendent as often as the superintendent may deem it expedient.
23 The superintendent may promulgate regulations establishing methods and
24 procedures for facilitating and verifying compliance with the require-
25 ments of this section and such other regulations as necessary.

26 (h) The superintendent may issue a replacement for a currently
27 in-force license that has been lost or destroyed. Before the replacement
28 license shall be issued, there shall be on file in the office of the

1 superintendent a written application for the replacement license,
2 affirming under penalty of perjury that the original license has been
3 lost or destroyed, together with a fee of one hundred dollars.

4 § 2907. Revocation or suspension of a registration or license of a
5 pharmacy benefit manager. (a) The superintendent may refuse to renew,
6 revoke, or may suspend for a period the superintendent determines the
7 registration or license of any pharmacy benefit manager if, after notice
8 and hearing, the superintendent determines that the registrant or licen-
9 see or any member, principal, officer, director, or controlling person
10 of the registrant or licensee, has:

11 (1) violated any insurance laws, or violated any regulation, subpoena
12 or order of the superintendent or of another state's insurance commis-
13 sioner, or has violated any law in the course of his or her dealings in
14 such capacity;

15 (2) provided materially incorrect, materially misleading, materially
16 incomplete or materially untrue information in the registration or
17 license application;

18 (3) obtained or attempted to obtain a registration or license through
19 misrepresentation or fraud;

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

21 (B) demonstrated incompetence;

22 (C) demonstrated untrustworthiness; or

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

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

1 (6) intentionally misrepresented the terms of an actual or proposed
2 insurance contract;

3 (7) has been convicted of a felony;

4 (8) admitted or been found to have committed any insurance unfair
5 trade practice or fraud;

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

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

11 (11) ceased to meet the requirements for registration or licensure
12 under this article.

13 (b) Before revoking or suspending the registration or license of any
14 pharmacy benefit manager pursuant to the provisions of this article, the
15 superintendent shall give notice to the registrant or licensee and to
16 every sub-licensee and shall hold, or cause to be held, a hearing not
17 less than ten days after the giving of such notice.

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

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

25 (e) (1) No individual, corporation, firm or association whose registra-
26 tion or license as a pharmacy benefit manager subject to subsection (a)
27 of this section has been revoked, and no firm or association of which
28 such individual is a member, and no corporation of which such individual

1 is an officer or director, and no controlling person of the registrant
2 or licensee shall be entitled to obtain any registration or license
3 under the provisions of this chapter for a period of one year after such
4 revocation, or, if such revocation be judicially reviewed, for one year
5 after the final determination thereof affirming the action of the super-
6 intendent in revoking such license.

7 (2) If any such registration or license held by a firm, association or
8 corporation be revoked, no member of such firm or association and no
9 officer or director of such corporation or any controlling person of the
10 registrant or licensee shall be entitled to obtain any registration or
11 license, or to be named as a sub-licensee in any such license, under
12 this chapter for the same period of time, unless the superintendent
13 determines, after notice and hearing, that such member, officer or
14 director was not personally at fault in the matter on account of which
15 such registration or license was revoked.

16 (f) If any registered or licensed pharmacy benefit manager or any
17 person aggrieved shall file with the superintendent a verified complaint
18 setting forth facts tending to show sufficient ground for the revocation
19 or suspension of any pharmacy benefit manager's registration or license,
20 then the superintendent shall, after notice and a hearing, determine
21 whether such registration or license shall be suspended or revoked.

22 (g) The superintendent shall retain the authority to enforce the
23 provisions of and impose any penalty or remedy authorized by this chap-
24 ter against any person or entity who is under investigation for or
25 charged with a violation of this chapter, even if the person's or enti-
26 ty's registration or license has been surrendered, or has expired or has
27 lapsed by operation of law.

1 (h) A registrant or licensee subject to this article shall report to
2 the superintendent any administrative action taken against the regis-
3 trant or licensee in another jurisdiction or by another governmental
4 agency in this state within thirty days of the final disposition of the
5 matter. This report shall include a copy of the order, consent to order
6 or other relevant legal documents.

7 (i) Within thirty days of the initial pretrial hearing date, a regis-
8 trant or licensee subject to this article shall report to the super-
9 intendent any criminal prosecution of the registrant or licensee taken
10 in any jurisdiction. The report shall include a copy of the initial
11 complaint filed, the order resulting from the hearing and any other
12 relevant legal documents.

13 § 2908. Penalties for violations. (a) The superintendent, in lieu of
14 revoking or suspending the registration or license of a registrant or
15 licensee in accordance with the provisions of this article, may in any
16 one proceeding by order, require the registrant or licensee to pay to
17 the people of this state a penalty in a sum not exceeding the greater
18 of: (1) one thousand dollars for each offense, not exceeding twenty-five
19 hundred dollars in the aggregate for all offenses; or (2) the aggregate
20 gross receipts attributable to all offenses.

21 (b) Upon the failure of such a registrant or licensee to pay the
22 penalty ordered pursuant to subsection (a) of this section within twenty
23 days after the mailing of the order, postage prepaid, registered, and
24 addressed to the last known place of business of the licensee, unless
25 the order is stayed by an order of a court of competent jurisdiction,
26 the superintendent may revoke the registration or license of the regis-
27 trant or licensee or may suspend the same for such period as the super-
28 intendent determines.

1 § 2909. Stay or suspension of superintendent's determination. The
2 commencement of a proceeding under article seventy-eight of the civil
3 practice law and rules, to review the action of the superintendent in
4 suspending or revoking or refusing to renew any certificate under this
5 article, shall stay such action of the superintendent for a period of
6 thirty days. Such stay shall not be extended for a longer period unless
7 the court shall determine, after a preliminary hearing of which the
8 superintendent is notified forty-eight hours in advance, that a stay of
9 the superintendent's action, pending the final determination or further
10 order of the court, will not unduly injure the interests of the people
11 of the state.

12 § 2910. Revoked registrations. (a)(1) No person, firm, association,
13 corporation or other entity subject to the provisions of this article
14 whose registration or license under this article has been revoked, or
15 whose registration or license to engage in the business of pharmacy
16 benefit management in any capacity has been revoked by any other state
17 or territory of the United States, shall become employed or appointed by
18 a pharmacy benefit manager as an officer, director, manager, controlling
19 person or for other services, without the prior written approval of the
20 superintendent, unless such services are for maintenance or are clerical
21 or ministerial in nature.

22 (2) No person, firm, association, corporation or other entity subject
23 to the provisions of this article shall knowingly employ or appoint any
24 person or entity whose registration or license issued under this article
25 has been revoked, or whose registration or license to engage in the
26 business of pharmacy benefit management in any capacity has been revoked
27 by any other state or territory of the United States, as an officer,
28 director, manager, controlling person or for other services, without the

1 prior written approval of the superintendent, unless such services are
2 for maintenance or are clerical or ministerial in nature.

3 (3) No corporation or partnership subject to the provisions of this
4 article shall knowingly permit any person whose registration or license
5 issued under this article has been revoked, or whose registration or
6 license to engage in the business of pharmacy benefit management in any
7 capacity has been revoked by any other state, or territory of the United
8 States, to be a shareholder or have an interest in such corporation or
9 partnership, nor shall any such person become a shareholder or partner
10 in such corporation or partnership, without the prior written approval
11 of the superintendent.

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

15 (1) if the superintendent determines that the duties and responsibil-
16 ities of such person are subject to appropriate supervision and that
17 such duties and responsibilities will not have an adverse effect upon
18 the public, other registrants or licensees, or the registrant or licen-
19 see proposing employment or appointment of such person; or

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

27 (c) The provisions of this section shall not apply to the ownership of
28 shares of any corporation registered or licensed pursuant to this arti-

1 cle if the shares of such corporation are publicly held and traded in
2 the over-the-counter market or upon any national or regional securities
3 exchange.

4 § 2911. Change of address. A registrant or licensee under this arti-
5 cle shall inform the superintendent by a means acceptable to the super-
6 intendent of a change of address within thirty days of the change.

7 § 2912. Assessment. Pharmacy benefit managers that file a registra-
8 tion with the department or are licensed by the department shall be
9 assessed by the superintendent for the operating expenses of the depart-
10 ment that are solely attributable to regulating such pharmacy benefit
11 managers in such proportions as the superintendent shall deem just and
12 reasonable.

13 § 2913. Applicability of other laws. Nothing in this article shall be
14 construed to exempt a pharmacy benefit manager from complying with the
15 provisions of articles twenty-one and forty-nine of this chapter and
16 article forty-nine of the public health law or any other provision of
17 this chapter or the financial services law.

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

21 (b) "Defined violation" means the commission by a person of an act
22 prohibited by: subsection (a) of section one thousand one hundred two,
23 section one thousand two hundred fourteen, one thousand two hundred
24 seventeen, one thousand two hundred twenty, one thousand three hundred
25 thirteen, subparagraph (B) of paragraph two of subsection (i) of section
26 one thousand three hundred twenty-two, subparagraph (B) of paragraph two
27 of subsection (i) of section one thousand three hundred twenty-four, two
28 thousand one hundred two, two thousand one hundred seventeen, two thou-

1 sand one hundred twenty-two, two thousand one hundred twenty-three,
2 subsection (p) of section two thousand three hundred thirteen, section
3 two thousand three hundred twenty-four, two thousand five hundred two,
4 two thousand five hundred three, two thousand five hundred four, two
5 thousand six hundred one, two thousand six hundred two, two thousand six
6 hundred three, two thousand six hundred four, two thousand six hundred
7 six, two thousand seven hundred three, two thousand nine hundred two,
8 two thousand nine hundred five, three thousand one hundred nine, three
9 thousand two hundred twenty-four-a, three thousand four hundred twenty-
10 nine, three thousand four hundred thirty-three, paragraph seven of
11 subsection (e) of section three thousand four hundred twenty-six, four
12 thousand two hundred twenty-four, four thousand two hundred twenty-five,
13 four thousand two hundred twenty-six, seven thousand eight hundred nine,
14 seven thousand eight hundred ten, seven thousand eight hundred eleven,
15 seven thousand eight hundred thirteen, seven thousand eight hundred
16 fourteen and seven thousand eight hundred fifteen of this chapter; or
17 section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one
18 hundred five of the penal law.

19 § 3. This act shall take effect on the one hundred eightieth day after
20 it shall have become a law; provided, however, that effective immediate-
21 ly, the superintendent of financial services may repeal, amend, or
22 promulgate any rules and regulations necessary for the implementation of
23 the provisions of this act on its effective date.

24

PART K

25 Section 1. The public health law is amended by adding a new section
26 2825-e to read as follows:

1 § 2825-e. Health care facility transformation program: statewide II.

2 1. A statewide health care facility transformation program is hereby
3 established under the joint administration of the commissioner and the
4 president of the dormitory authority of the state of New York for the
5 purpose of strengthening and protecting continued access to health care
6 services in communities. The program shall provide funding in support of
7 capital projects, debt retirement, working capital or other non-capital
8 projects that facilitate health care transformation activities includ-
9 ing, but not limited to, merger, consolidation, acquisition or other
10 activities intended to create financially sustainable systems of care or
11 preserve or expand essential health care services. Grants shall not be
12 available to support general operating expenses. The issuance of any
13 bonds or notes hereunder shall be subject to section sixteen hundred
14 eighty-r of the public authorities law and the approval of the director
15 of the division of the budget, and any projects funded through the issu-
16 ance of bonds or notes hereunder shall be approved by the New York state
17 public authorities control board, as required under section fifty-one of
18 the public authorities law.

19 2. The commissioner and the president of the dormitory authority shall
20 enter into an agreement, subject to approval by the director of the
21 budget, and subject to section sixteen hundred eighty-r of the public
22 authorities law, for the purposes of awarding, distributing, and admin-
23 istering the funds made available pursuant to this section. Such funds
24 may be distributed by the commissioner for capital grants to general
25 hospitals, residential health care facilities, diagnostic and treatment
26 centers and clinics licensed pursuant to this chapter or the mental
27 hygiene law, and community-based health care providers as defined in
28 subdivision three of this section for works or purposes that support the

1 purposes set forth in this section. A copy of such agreement, and any
2 amendments thereto, shall be provided to the chair of the senate finance
3 committee, the chair of the assembly ways and means committee, and the
4 director of the division of the budget no later than thirty days prior
5 to the release of a request for applications for funding under this
6 program. Priority shall be given to projects not funded under section
7 twenty-eight hundred twenty-five-d of this article. Projects awarded, in
8 whole or part, under sections twenty-eight hundred twenty-five-a and
9 twenty-eight hundred twenty-five-b of this article shall not be eligible
10 for grants or awards made available under this section.

11 3. Notwithstanding section one hundred sixty-three of the state
12 finance law or any inconsistent provision of law to the contrary, up to
13 five hundred million dollars of the funds appropriated for this program
14 shall be awarded without a competitive bid or request for proposal proc-
15 ess for grants to health care providers (hereafter "applicants").
16 Provided, however, that a minimum of thirty million dollars of total
17 awarded funds shall be made to community-based health care providers,
18 which for purposes of this section shall be defined as a diagnostic and
19 treatment center licensed or granted an operating certificate under this
20 article; a mental health clinic licensed or granted an operating certif-
21 icate under article thirty-one of the mental hygiene law; an alcohol and
22 substance abuse treatment clinic licensed or granted an operating
23 certificate under article thirty-two of the mental hygiene law; a prima-
24 ry care provider or a home care provider certified or licensed pursuant
25 to article thirty-six of this chapter. Eligible applicants shall be
26 those deemed by the commissioner to be a provider that fulfills or will
27 fulfill a health care need for acute inpatient, outpatient, primary,
28 home care or residential health care services in a community.

1 4. Notwithstanding subdivision two of this section or any inconsistent
2 provision of law to the contrary, and upon approval of the director of
3 the budget, the commissioner may award all or a portion of the funds
4 made available pursuant to this section for unfunded project applica-
5 tions submitted in response to the request for applications number
6 1607010255 issued by the department on July twentieth, two thousand
7 sixteen pursuant to section twenty-eight hundred twenty-five-d of this
8 article, provided however that the provisions of subdivision three of
9 this section shall apply. The commissioner shall notify the chair of the
10 senate finance committee and the chair of the assembly ways and means
11 committee no later than thirty days prior to awarding funds pursuant to
12 this subdivision.

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

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

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

22 (c) Consideration of geographic distribution of funds;

23 (d) The relationship between the proposed project and identified
24 community need;

25 (e) The extent to which the applicant has access to alternative
26 financing;

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

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

3 (h) The extent to which the applicant has engaged the community
4 affected by the proposed project and the manner in which community
5 engagement has shaped such project; and

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

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

15 7. The department shall provide a report on a quarterly basis to the
16 chairs of the senate finance, assembly ways and means, and senate health
17 and assembly health committees. Such reports shall be submitted no later
18 than sixty days after the close of the quarter, and shall include, for
19 each award, the name of the applicant, a description of the project or
20 purpose, the amount of the award, disbursement date, and status of
21 achievement of process and performance metrics and milestones pursuant
22 to subdivision five of this section.

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

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

3 ARTICLE 29-H

4 HEALTH CARE REGULATION MODERNIZATION

5 Section 2999-ee. Health care regulation modernization team.

6 § 2999-ee. Health care regulation modernization team. 1. A health care
7 regulation modernization team is hereby created within the department
8 for the purpose of providing guidance for, and advice to, the governor
9 toward a fundamental restructuring of the statutes, policies and regu-
10 lations that govern the licensure and oversight of health care facili-
11 ties and home care to better align with recent and ongoing changes in
12 the health care delivery system that are designed to increase quality,
13 reduce costs and improve health outcomes.

14 2. Definitions. For the purpose of this article, unless the context
15 clearly requires otherwise:

16 (a) "State agency" or "agency" shall mean any state agency, depart-
17 ment, office, board, bureau, division, committee, council or office.

18 (b) "Public authority" or "authority" shall mean a public authority or
19 public benefit corporation created by or existing under any New York
20 state law, with one or more of its members appointed by the governor, or
21 who serve as members by virtue of holding a civil office of New York
22 state, other than an interstate or international authority or public
23 benefit corporation, and including any subsidiaries of such public
24 authority or public benefit corporation.

25 (c) "State officer or employee" shall have the meaning given in
26 section seventy-three of the public officers law.

27 (d) "Public health and health planning council" shall have the meaning
28 given in section two hundred twenty of this chapter.

1 3. (a) The governor shall appoint up to twenty-five voting members of
2 the health care regulation modernization team. The members of the health
3 care regulation modernization team shall include: state officers or
4 employees with relevant expertise; the chair and co-chair of the public
5 health and health planning council; two members of the New York state
6 assembly, one recommended by the speaker of the assembly and one recom-
7 mended by the minority leader of the assembly, or their representatives;
8 two members of the New York state senate, one recommended by the tempo-
9 rary president of the senate and one recommended by the minority leader
10 of the senate, or their representatives; and stakeholders with expertise
11 in areas, including but not limited to: inpatient and outpatient health
12 care delivery; behavioral health care delivery; home health care; commu-
13 nity based organizations; health care insurance; health care workforce;
14 health care facility design and construction; consumer rights; and other
15 relevant areas.

16 (b) Vacancies shall be filled by the governor, and the governor may
17 appoint additional voting and non-voting members to the health care
18 regulation modernization team as necessary.

19 (c) Members of the team shall serve at the pleasure of the governor.

20 (d) The governor shall designate a chair or co-chairs from among the
21 members of the health care regulation modernization team.

22 (e) The governor shall appoint a state officer or employee with rele-
23 vant experience as executive director of the health care regulation
24 modernization team.

25 (f) A majority of the total members of the health care regulation
26 modernization team who have been appointed shall constitute a quorum,
27 and all recommendations of the health care regulation modernization team
28 shall require approval of a majority of its total members.

1 (g) The health care regulation modernization team shall attempt to
2 engage and solicit the input of a broad and diverse range of groups,
3 organizations and individuals.

4 4. Every agency or authority of New York state shall provide the
5 health care regulation modernization team with assistance and cooper-
6 ation which may be necessary or desirable to fulfill the purposes of
7 this article, including the use of New York state facilities. Staff
8 support necessary for the conduct of the work of the health care modern-
9 ization team may be furnished by agencies and authorities, subject to
10 the approval of the boards of directors of such authorities.

11 5. The health care regulation modernization team shall deliberate and
12 engage health care industry stakeholders for the purpose of conducting a
13 comprehensive review of and making recommendations to address matters
14 that may include, but are not limited to:

15 (a) streamlining state agency certificate of need and other licensure
16 or construction approval processes to support system-level planning and
17 restructuring activities, including reviewing the applicability of
18 current health care service and facility need methodologies in the
19 context of ongoing changes in the health care system delivery system;

20 (b) identifying, streamlining, and aligning statutes, regulations and
21 policies where there is duplication and inconsistency in federal and
22 state standards for physical environment, quality of care, information
23 technology, reporting, surveillance, and licensure;

24 (c) creating more flexible rules on licensing and scope of practice
25 for clinicians and caregivers, which shall be considered in collab-
26 oration with the workforce workgroup convened by the department in
27 relation to the state health innovation plan and the delivery system
28 reform incentive payment program;

1 (d) streamlining and simplifying the provision of primary care, mental
2 health and substance use disorder services in an integrated clinic
3 setting;

4 (e) integrating, standardizing and increasing flexibility of state
5 agency regulations governing the delivery of and reimbursement for tele-
6 health programs;

7 (f) allowing more flexible use of observation beds, ambulatory surgery
8 centers, diagnostic and treatment centers, nursing homes, assisted
9 living, home health care, off campus emergency departments, community
10 paramedicine and other models of delivering health care services;

11 (g) modernizing the licensing and regulation of services provided in
12 the home, including home care, care management and other services to
13 better support the adoption of new models of care;

14 (h) aligning care models around home and community based services
15 consistent with the report issued by the Olmstead Development and Imple-
16 mentation Cabinet;

17 (i) exploring circumstances where statewide regulatory requirements
18 may not be appropriate for regions or communities characterized by
19 isolation, poverty, or other factors impacting access;

20 (j) calibrating facility and home care inspections and the scope of
21 certificate of need reviews based on provider performance on quality and
22 other outcome metrics;

23 (k) increasing the opportunities for public notification, consumer
24 education and community engagement prior to major community health
25 system changes;

26 (l) evaluating where changes in statute, regulation and policy can
27 support timely and effective emergency medical services and pre-hospital
28 care throughout the state; and

1 (m) notwithstanding any other provision of law, where permanent chang-
2 es in statute or regulation may not yet be appropriate, authorizing the
3 commissioner, the commissioner of mental health, and the commissioner of
4 the office of alcoholism and substance abuse services to implement time-
5 limited demonstration programs to test and evaluate new and innovative
6 procedures and processes for organizing, financing and delivering health
7 care services that are not permissible under current statute or regu-
8 lation, provided that no such demonstration program shall be implemented
9 without prior public notice and a thirty day period of comment.

10 6. At the direction of the health care regulation modernization team,
11 the executive director shall notify stakeholders of the purposes of the
12 health care regulation modernization team, the opportunities for stake-
13 holder participation and the means and schedule for such participation.
14 Meetings with stakeholders shall be held in various regions of the
15 state. Participating stakeholders may be assigned to specific working
16 groups, consistent with their areas of expertise and interest.

17 7. The health care regulation modernization team shall commence its
18 work no later than July first, two thousand seventeen and shall submit a
19 report to the governor of its findings and recommendations no later than
20 December thirty-first, two thousand seventeen. A copy of such report
21 shall be provided to the chair of the senate health committee and the
22 chair of the assembly health committee.

23 8. No later than January thirty-first, two thousand eighteen, the
24 commissioner shall recommend to the governor whether the health care
25 regulation modernization team should continue or terminate its duties
26 and responsibilities pursuant to this article.

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

1

PART M

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

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

6 § 1112. Emerging contaminant monitoring. 1. Industry and modern tech-
7 nology have created thousands of new chemicals that would not otherwise
8 exist in nature. Although some of these chemicals have proven benefits,
9 the effect of many such chemicals on human health is unknown or not
10 fully understood. Furthermore, with the advance of science and technolo-
11 gy, public health scientists and experts are able to identify naturally
12 occurring contaminants that pose previously unknown hazards to human
13 health. Where these chemicals or contaminants, collectively referred to
14 as "emerging contaminants," enter drinking water supplies, they can
15 present unknown but potentially serious risks to public health. New
16 Yorkers served by public water supplies have the right to know when
17 potentially hazardous substances contaminate their drinking water and
18 the department must be equipped to monitor and protect the public from
19 these emerging contaminants.

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

23 b. "Notification level" means the concentration level of an emerging
24 contaminant in drinking water that the commissioner has determined,
25 based on available scientific information, warrants public notification
26 pursuant to this section.

1 c. "Covered public water system" shall mean a community or nontran-
2 sient noncommunity water system, as defined in the state sanitary code.

3 3. The commissioner shall promulgate regulations that list substances
4 identified as emerging contaminants that meet the following criteria:

5 a. are not subject to any other substance-specific drinking water
6 regulation of the department that establishes a maximum contaminant
7 level or other threshold concentration;

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

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

13 4. Every covered public water system shall test drinking water for the
14 presence of emerging contaminants in the state and unregulated contami-
15 nents monitored under the federal Safe Drinking Water Act as amended
16 from time to time, at least once every three years as determined by the
17 department.

18 5. Every test conducted in accordance with this section shall be
19 conducted by a laboratory certified by the department pursuant to
20 section five hundred two of this chapter. Laboratories shall submit such
21 results to the department electronically in the manner prescribed pursu-
22 ant to section five hundred two of this chapter.

23 6. The commissioner may promulgate regulations establishing notifica-
24 tion levels for any emerging contaminant listed pursuant to subdivision
25 three of this section.

26 7. The commissioner may, by declaration, add any physical, chemical,
27 microbiological or radiological substance to the list of emerging
28 contaminants established pursuant to subdivision three of this section,

1 or establish a notification level for such substance, if the commission-
2 er determines that such substance poses or has the potential to pose a
3 hazard to human health when present in drinking water, provided that the
4 commissioner must promulgate regulations adding the new emerging contam-
5 inant or establishing such notification level within one year of such
6 declaration.

7 8. Whenever a covered public water system determines or is advised by
8 the state that one or more emerging contaminants is present in drinking
9 water at concentrations above a notification level established pursuant
10 to this section:

11 a. the covered public water system shall notify the state and all
12 owners of real property served by the covered public water system in a
13 time and manner to be prescribed by the department; and

14 b. the commissioner may require that the covered public water system
15 take such actions as may be appropriate to reduce exposure to emerging
16 contaminants.

17 9. Any owner of real property, including any owner's agent, to whom a
18 covered public water system has provided notification of the exceedance
19 of a notification level established pursuant to subdivision six of this
20 section, shall take all reasonable and necessary steps to provide, with-
21 in ten days, any tenants with copies of the notification provided by the
22 covered public water system.

23 10. The commissioner may promulgate regulations pursuant to which the
24 department may provide financial assistance for compliance with the
25 testing requirements of this section, to any covered public water system
26 upon a showing that the costs associated with testing drinking water in
27 compliance with this section would impose an unreasonable financial
28 hardship.

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

3 10. The department may require an environmental laboratory to report
4 laboratory test results to the department, or to any full-time city,
5 county or part-county health department in an electronic manner
6 prescribed by the department.

7 § 4. This act shall take effect immediately.

8 PART N

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

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

13 § 1111. Testing of individual onsite water supply systems. 1. a. The
14 commissioner shall promulgate regulations establishing standards for the
15 testing of new or existing individual onsite water supply systems for
16 characteristics and contaminants, including listing the characteristics
17 and contaminants that each individual onsite water supply shall be test-
18 ed for. Such regulations may require additional testing, limit testing
19 or exclude from testing a characteristic or contaminant on a county,
20 regional or local basis if the commissioner determines that such charac-
21 teristic or contaminant is significant or not significant in that area.

22 b. The commissioner may, by declaration, add any characteristic or
23 contaminant to the list promulgated pursuant to paragraph a of this
24 subdivision, provided that the commissioner shall promulgate regulations
25 adding such characteristic or contaminant within one year of such decla-
26 ration.

1 2. a. Any real estate purchase contract for the sale of residential
2 real property, as defined in section four hundred sixty-one of the real
3 property law, which is served by an individual onsite water supply
4 system, shall include a provision requiring, prior to and as a condition
5 of sale, the testing of such individual onsite water supply system in a
6 manner that meets or exceeds the standards prescribed pursuant to this
7 section. This section shall not apply to public water systems, as
8 defined in regulations promulgated by the department.

9 b. Within one year after the effective date of this section, and at
10 least once every five years thereafter, the lessor of any residential
11 real property which is served by an individual onsite water supply
12 system shall test such water supply in accordance with this section for
13 at least the characteristics and contaminants required pursuant to this
14 section. Within thirty days after the receipt of validated test
15 results, the lessor shall provide a written copy thereof to each current
16 tenant of a rental unit on the property. The lessor shall also provide a
17 written copy of the most recent validated test results to a prospective
18 tenant prior to the signing of the lease or other agreement for the
19 rental of a residential unit on the property or to any former tenant
20 upon request. The department or the department's designee shall have the
21 authority to request and receive such test results from the lessor.

22 3. Every test conducted in accordance with this section shall be
23 conducted by a laboratory certified by the department pursuant to
24 section five hundred two of this chapter. Any test results provided by
25 the laboratory, pursuant to this section, shall include the maximum
26 contaminant levels or other established values, if any, prescribed by
27 the department for each characteristic or contaminant tested. Laborato-

1 ries shall submit such results to the department electronically in the
2 manner prescribed pursuant to section five hundred two of this chapter.

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

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

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

13 10. The department may require an environmental laboratory to report
14 laboratory test results to the department, or to any full-time city,
15 county or part-county health department in an electronic manner
16 prescribed by the department.

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

19 § 468. Individual onsite water supply testing requirements. 1. Every
20 real estate purchase contract for the sale of residential real property,
21 which is served by an individual onsite water supply system, shall
22 include a provision requiring as a condition of sale, the testing of
23 such water supply for at least the standards prescribed pursuant to
24 section eleven hundred eleven of the public health law. This section
25 shall not apply to property that is served by a public water system, as
26 defined in regulations promulgated by the commissioner.

27 2. Closing of title on the sale of such real property shall not occur
28 unless both the buyer and the seller have received and reviewed a copy

1 of the water test results. At closing, the buyer and seller both shall
2 certify in writing that they have received and reviewed the water test
3 results.

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

5 § 5. Subdivision 3 of section 15-1525 of the environmental conserva-
6 tion law, as amended by section 2 of part F of chapter 59 of the laws of
7 2006, is amended to read as follows:

8 3. The certificate of registration shall require that, before the
9 commencement of drilling of any well or wells, the water well driller
10 shall file a preliminary notice with the department; it shall also
11 provide that upon the completion of the drilling of any water well or
12 water wells, a completion report be filed with the department, giving
13 the log of the well, the size and depth thereof, the capacity of the
14 pump or pumps attached or to be attached thereto, the laboratory results
15 of the water sample tested in accordance with section eleven hundred
16 eleven of the public health law, and such other information pertaining
17 to the withdrawal of water and operation of such water well or water
18 wells as the department by its rules and regulations may require. The
19 water well driller shall provide a copy of such completion report to the
20 water well owner and the department of health and department of environ-
21 mental conservation. The number of the certificate of registration must
22 be displayed on the well drilling machinery of the registrant. The
23 certificate of registration shall also contain a notice to the certif-
24 icate holder that the business activities authorized by such certificate
25 are subject to the provisions of article thirty-six-A of the general
26 business law. The fee for such certificate of registration shall be ten
27 dollars annually. The commissioner shall promulgate a water well
28 completion report form which shall be utilized by all water well dril-

1 lers in satisfying the requirements of this section and any other
2 provision of state or local law which requires the submission of a water
3 well completion report or water well log.

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

10 PART O

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

14 9. "Appropriate institution" means: (a) a hospital operated by the
15 office of mental health or a developmental center operated by the office
16 for people with developmental disabilities; [or] (b) a hospital licensed
17 by the department of health which operates a psychiatric unit licensed
18 by the office of mental health, as determined by the commissioner
19 provided, however, that any such hospital that is not operated by the
20 state shall qualify as an "appropriate institution" only pursuant to the
21 terms of an agreement between the commissioner and the hospital; (c)
22 a mental health unit operating within a correctional facility or local
23 correctional facility; provided however, that any such mental health
24 unit operating within a local correctional facility shall qualify as an
25 "appropriate institution" only pursuant to the terms of an agreement
26 between the commissioner of mental health, director of community

1 services and the sheriff for the respective locality, and any such
2 mental health unit operating within a correctional facility shall quali-
3 fy as an "appropriate institution" only pursuant to the terms of an
4 agreement between the commissioner of mental health and the commissioner
5 of the department of corrections and community supervision. Nothing in
6 this article shall be construed as requiring a hospital, correctional
7 facility or local correctional facility to consent to providing care and
8 treatment to an incapacitated person at such hospital, correctional
9 facility or local correctional facility. In a city with a population of
10 more than one million, any such unit shall be limited to twenty-five
11 beds. The commissioner of mental health shall promulgate regulations for
12 demonstration programs to implement restoration to competency within a
13 correctional facility or local correctional facility. Subject to annual
14 appropriation, the commissioner of mental health may, at the commission-
15 er's discretion, make funds available for state aid grants to any county
16 that develops and operates a mental health unit within a local correc-
17 tional facility pursuant to this section. Nothing in this article shall
18 be construed as requiring a hospital, correctional facility or local
19 correctional facility to consent to providing care and treatment to an
20 incapacitated person at such hospital, correctional facility or local
21 correctional facility.

22 § 2. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2017; provided,
24 however, that this act shall expire and be deemed repealed March 31,
25 2022.

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

7 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
8 sioners of the office of alcoholism and substance abuse services and the
9 office of mental health are authorized, subject to the approval of the
10 director of the budget, to transfer to the commissioner of health state
11 funds to be utilized as the state share for the purpose of increasing
12 payments under the medicaid program to managed care organizations
13 licensed under article 44 of the public health law or under article 43
14 of the insurance law. Such managed care organizations shall utilize such
15 funds for the purpose of reimbursing providers licensed pursuant to
16 article 28 of the public health law or article 31 or 32 of the mental
17 hygiene law for ambulatory behavioral health services, as determined by
18 the commissioner of health, in consultation with the commissioner of
19 alcoholism and substance abuse services and the commissioner of the
20 office of mental health, provided to medicaid [eligible] enrolled outpa-
21 tients and for all other behavioral health services except inpatient
22 included in New York state's Medicaid redesign waiver approved by the
23 centers for medicare and Medicaid services (CMS). Such reimbursement
24 shall be in the form of fees for such services which are equivalent to
25 the payments established for such services under the ambulatory patient
26 group (APG) rate-setting methodology as utilized by the department of
27 health, the office of alcoholism and substance abuse services, or the
28 office of mental health for rate-setting purposes or any such other fees

1 pursuant to the Medicaid state plan or otherwise approved by CMS in the
2 Medicaid redesign waiver; provided, however, that the increase to such
3 fees that shall result from the provisions of this section shall not, in
4 the aggregate and as determined by the commissioner of health, in
5 consultation with the commissioner of alcoholism and substance abuse
6 services and the commissioner of the office of mental health, be greater
7 than the increased funds made available pursuant to this section. The
8 increase of such ambulatory behavioral health fees to providers avail-
9 able under this section shall be for all rate periods on and after the
10 effective date of section [1] 29 of part [C] B of chapter [57] 59 of the
11 laws of [2015] 2016 through March 31, [2018] 2020 for patients in the
12 city of New York, for all rate periods on and after the effective date
13 of section [1] 29 of part [C] B of chapter [57] 59 of the laws of [2015]
14 2016 through [June 30, 2018] March 31, 2020 for patients outside the
15 city of New York, and for all rate periods on and after the effective
16 date of such chapter through [June 30, 2018] March 31, 2020 for all
17 services provided to persons under the age of twenty-one; provided,
18 however, [eligible providers may work with managed care plans to achieve
19 quality and efficiency objectives and engage in shared savings] the
20 commissioner of health, in consultation with the commissioner of alco-
21 holism and substance abuse services and the commissioner of mental
22 health, may require, as a condition of approval of such ambulatory
23 behavioral health fees, that aggregate managed care expenditures to
24 eligible providers meet the following value based payment metrics for
25 the following periods: (i) for the period from April 1, 2017 through
26 March 31, 2018, at least ten percent of such managed care expenditures
27 are paid through level one value based payment arrangements, as such
28 level is defined in the department of health's value based payment road-

1 map (ii) for the period April 1, 2018 through March 31, 2019, at least
2 fifty percent of such managed care expenditures are paid through level
3 one value based payment arrangements and fifteen percent are paid
4 through level two value based payment arrangements, as such levels are
5 defined in the department of health's value based payment roadmap and
6 (iii) for the period April 1, 2019 through March 31, 2020, at least
7 eighty percent of such managed care expenditures are paid through level
8 one value based payment arrangements and thirty-five percent are paid
9 through level two value based payment arrangements, as such levels are
10 defined in the department of health's value based payment roadmap. The
11 commissioner of health may, in consultation with the commissioner of
12 alcoholism and substance abuse services and the commissioner of the
13 office of mental health, waive such conditions if a sufficient number of
14 providers, as determined by the commissioner, suffer a financial hard-
15 ship as a consequence of such value based payment arrangements, or if he
16 or she shall determine that such value based payment arrangements
17 significantly threaten individuals' access to ambulatory behavioral
18 health services. Such waiver may be applied on a provider specific or
19 industry wide basis. Nothing in this section shall prohibit managed
20 care organizations and providers from negotiating different rates and
21 methods of payment during such periods described above, subject to the
22 approval of the department of health. The department of health shall
23 consult with the office of alcoholism and substance abuse services and
24 the office of mental health in determining whether such alternative
25 rates shall be approved. The commissioner of health may, in consultation
26 with the commissioner of alcoholism and substance abuse services and the
27 commissioner of the office of mental health, promulgate regulations,
28 including emergency regulations promulgated prior to October 1, 2015 to

1 establish rates for ambulatory behavioral health services, as are neces-
2 sary to implement the provisions of this section. Rates promulgated
3 under this section shall be included in the report required under
4 section 45-c of part A of this chapter.

5 2. Notwithstanding any contrary provision of law, the fees paid by
6 managed care organizations licensed under article 44 of the public
7 health law or under article 43 of the insurance law, to providers
8 licensed pursuant to article 28 of the public health law or article 31
9 or 32 of the mental hygiene law, for ambulatory behavioral health
10 services provided to patients enrolled in the child health insurance
11 program pursuant to title one-A of article 25 of the public health law,
12 shall be in the form of fees for such services which are equivalent to
13 the payments established for such services under the ambulatory patient
14 group (APG) rate-setting methodology or any such other fees established
15 pursuant to the Medicaid state plan. The commissioner of health shall
16 consult with the commissioner of alcoholism and substance abuse services
17 and the commissioner of the office of mental health in determining such
18 services and establishing such fees. Such ambulatory behavioral health
19 fees to providers available under this section shall be for all rate
20 periods on and after the effective date of this chapter through [June
21 30, 2018] March 31, 2020, provided, however, that managed care organiza-
22 tions and providers may negotiate different rates and methods of payment
23 during such periods described above, subject to the approval of the
24 department of health. The department of health shall consult with the
25 office of alcoholism and substance abuse services and the office of
26 mental health in determining whether such alternative rates shall be
27 approved. The report required under section 16-a of part C of chapter
28 60 of the laws of 2014 shall also include the population of patients

1 enrolled in the child health insurance program pursuant to title one-A
2 of article 25 of the public health law in its examination on the transi-
3 tion of behavioral health services into managed care.

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

9 Section 1. a. Notwithstanding any contrary provision of law, the
10 commissioners of mental health and alcoholism and substance abuse
11 services are authorized, subject to the approval of the director of the
12 budget, to transfer to the commissioner of health state funds to be
13 utilized as the state share for the purpose of increasing payments under
14 the Medicaid program to managed care organizations licensed under arti-
15 cle 44 of the public health law or under article 43 of the insurance
16 law. Such managed care organizations shall utilize such funds for the
17 purpose of reimbursing providers licensed pursuant to article 28 of the
18 public health law, or pursuant to article 31 or article 32 of the mental
19 hygiene law for ambulatory behavioral health services, as determined by
20 the commissioner of health in consultation with the commissioner of
21 mental health and commissioner of alcoholism and substance abuse
22 services, provided to Medicaid [eligible] enrolled outpatients and for
23 all other behavioral health services except inpatient included in New
24 York state's Medicaid redesign waiver approved by the centers for medi-
25 care and Medicaid services (CMS). Such reimbursement shall be in the
26 form of fees for such services which are equivalent to the payments
27 established for such services under the ambulatory patient group (APG)
28 rate-setting methodology as utilized by the department of health or by

1 the office of mental health or office of alcoholism and substance abuse
2 services for rate-setting purposes or any such other fees pursuant to
3 the Medicaid state plan or otherwise approved by CMS in the Medicaid
4 redesign waiver; provided, however, that the increase to such fees that
5 shall result from the provisions of this section shall not, in the
6 aggregate and as determined by the commissioner of health in consulta-
7 tion with the commissioners of mental health and alcoholism and
8 substance abuse services, be greater than the increased funds made
9 available pursuant to this section. The increase of such behavioral
10 health fees to providers available under this section shall be for all
11 rate periods on and after the effective date of section [2] 30 of part
12 [C] B of chapter [57] 59 of the laws of [2015] 2016 through March 31,
13 [2018] 2020 for patients in the city of New York, for all rate periods
14 on and after the effective date of section [2] 30 of part [C] B of chap-
15 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
16 2020 for patients outside the city of New York, and for all rate periods
17 on and after the effective date of section [2] 30 of part [C] B of chap-
18 ter [57] 59 of the laws of [2015] 2016 through [June 30, 2018] March 31,
19 2020 for all services provided to persons under the age of twenty-one;
20 provided, however, [eligible providers may work with managed care plans
21 to achieve quality and efficiency objectives and engage in shared
22 savings] the commissioner of health, in consultation with the commis-
23 sioner of alcoholism and substance abuse services and the commissioner
24 of mental health, may require, as a condition of approval of such ambu-
25 latory behavioral health fees, that aggregate managed care expenditures
26 to eligible providers meet the following value based payment metrics for
27 the following periods: (i) for the period from April 1, 2017 through
28 March 31, 2018, at least ten percent of such managed care expenditures

1 are paid through level one value based payment arrangements, as such
2 level is defined in the department of health's value based payment road-
3 map (ii) for the period April 1, 2018 through March 31, 2019, at least
4 fifty percent of such managed care expenditures are paid through level
5 one value based payment arrangements and fifteen percent are paid
6 through level two value based payment arrangements, as such levels are
7 defined in the department of health's value based payment roadmap and
8 (iii) for the period April 1, 2019 through March 31, 2020, at least
9 eighty percent of such managed care expenditures are paid through level
10 one value based payment arrangements and thirty-five percent are paid
11 through level two value based payment arrangements, as such levels are
12 defined in the department of health's value based payment roadmap. The
13 commissioner of health may, in consultation with the commissioner of
14 alcoholism and substance abuse services and the commissioner of the
15 office of mental health, waive such conditions if a sufficient number of
16 providers, as determined by the commissioner, suffer a financial hard-
17 ship as a consequence of such value based payment arrangements, or if he
18 or she shall determine that such value based payment arrangements
19 significantly threaten individuals' access to ambulatory behavioral
20 health services. Such waiver may be applied on a provider specific or
21 industry wide basis. Nothing in this section shall prohibit managed care
22 organizations and providers from negotiating different rates and methods
23 of payment during such periods described, subject to the approval of the
24 department of health. The department of health shall consult with the
25 office of alcoholism and substance abuse services and the office of
26 mental health in determining whether such alternative rates shall be
27 approved. The commissioner of health may, in consultation with the
28 commissioners of mental health and alcoholism and substance abuse

1 services, promulgate regulations, including emergency regulations
2 promulgated prior to October 1, 2013 that establish rates for behavioral
3 health services, as are necessary to implement the provisions of this
4 section. Rates promulgated under this section shall be included in the
5 report required under section 45-c of part A of chapter 56 of the laws
6 of 2013.

7 b. Notwithstanding any contrary provision of law, the fees paid by
8 managed care organizations licensed under article 44 of the public
9 health law or under article 43 of the insurance law, to providers
10 licensed pursuant to article 28 of the public health law or article 31
11 or 32 of the mental hygiene law, for ambulatory behavioral health
12 services provided to patients enrolled in the child health insurance
13 program pursuant to title one-A of article 25 of the public health law,
14 shall be in the form of fees for such services which are equivalent to
15 the payments established for such services under the ambulatory patient
16 group (APG) rate-setting methodology. The commissioner of health shall
17 consult with the commissioner of alcoholism and substance abuse services
18 and the commissioner of the office of mental health in determining such
19 services and establishing such fees. Such ambulatory behavioral health
20 fees to providers available under this section shall be for all rate
21 periods on and after the effective date of this chapter through [June
22 30, 2018] March 31, 2020, provided, however, that managed care organiza-
23 tions and providers may negotiate different rates and methods of payment
24 during such periods described above, subject to the approval of the
25 department of health. The department of health shall consult with the
26 office of alcoholism and substance abuse services and the office of
27 mental health in determining whether such alternative rates shall be
28 approved. The report required under section 16-a of part C of chapter

1 60 of the laws of 2014 shall also include the population of patients
2 enrolled in the child health insurance program pursuant to title one-A
3 of article 25 of the public health law in its examination on the transi-
4 tion of behavioral health services into managed care.

5 § 3. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2017; provided,
7 however, that the amendments to section 48-a of part A of chapter 56 of
8 the laws of 2013 made by section one of this act shall not affect the
9 repeal of such section and shall be deemed repealed therewith; provided
10 further, that the amendments to section 1 of part H of chapter 111 of
11 the laws of 2010 made by section two of this act shall not affect the
12 expiration of such section and shall be deemed to expire therewith.

13 PART Q

14 Section 1. Subdivisions 3-b and 3-c of section 1 and section 4 of part
15 C of chapter 57 of the laws of 2006, relating to establishing a cost of
16 living adjustment for designated human services programs, as amended by
17 section 1 of part I of chapter 60 of the laws of 2014, are amended to
18 read as follows:

19 3-b. Notwithstanding any inconsistent provision of law, beginning
20 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
21 ending March 31, 2018, the commissioners shall not include a COLA for
22 the purpose of establishing rates of payments, contracts or any other
23 form of reimbursement.

24 3-c. Notwithstanding any inconsistent provision of law, beginning
25 April 1, [2016] 2018 and ending March 31, [2019] 2021, the commissioners
26 shall develop the COLA under this section using the actual U.S. consumer

1 price index for all urban consumers (CPI-U) published by the United
2 States department of labor, bureau of labor statistics for the twelve
3 month period ending in July of the budget year prior to such state
4 fiscal year, for the purpose of establishing rates of payments,
5 contracts or any other form of reimbursement.

6 § 4. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2006; provided
8 section one of this act shall expire and be deemed repealed April 1,
9 [2019] 2021; provided, further, that sections two and three of this act
10 shall expire and be deemed repealed December 31, 2009.

11 § 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after April 1, 2017; provided,
13 however, that the amendments to subdivisions 3-b and 3-c of section 1 of
14 part C of chapter 57 of the laws of 2006, relating to establishing a
15 cost of living adjustment for designated human services programs, made
16 by section one of this act, shall not affect the repeal of such subdivi-
17 sions and shall be deemed repealed therewith.

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

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