

**FY 2021 NEW YORK STATE EXECUTIVE BUDGET**

**HEALTH AND MENTAL HYGIENE  
ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in  
Accordance with Article VII of the Constitution

AN ACT to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the public health law, in relation to health care initiative pool distributions; 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 and the state financial law in relation to eliminating programs that do not support the department of health's core mission; to amend the public health law, in relation to payments for uncompensated care to certain voluntary non-profit diagnostic and treatment centers; to amend the public health law, in relation to the distribution pool allocations and graduate medical education; to amend the public health law, in relation to the assessments on covered lives; to amend the public health law, in relation to tobacco control and insurance initiatives pool distributions; to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend the public health law, in relation to extending payment provisions for certain medical assistance rates for certified home

health agencies; to amend the social services law, in relation to extending payment provisions for certain personal care services medical assistance rates; to amend chapter 517 of the laws of 2016 amending the public health law relating to payments from the New York state medical indemnity fund, in relation to the effectiveness thereof; and to repeal certain provisions of the public health law relating to funding for certain programs (Part A); to repeal subdivision 9 of section 2803 of the public health law, relating to the department of health's requirement to audit the number of working hours for hospital residents (Part B); to amend the insurance law, in relation to creating a pay and pursue model within the early intervention program (Part C); to amend the social services law, in relation to limiting the availability of enhanced quality of adult living program ("EQUAL") grants (Part D); to amend the public health law, in relation to eliminating programs that do not support the department of health's core mission; to amend the state finance law, in relation to transferring responsibility for the autism awareness and research fund to the office for people with developmental disabilities; to amend the public health law, the mental hygiene law, the insurance law and the labor law, in relation to transferring responsibility for the comprehensive care centers for eating disorders to the office of mental health; and to repeal certain provisions of the public health law relating to funding for certain programs (Part E); to amend chapter 59 of the laws of 2016 amending the public health law and other laws relating to electronic prescriptions, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the

medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to extending the provisions thereof; to amend chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research cooperative system and general powers and duties, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof; to amend the public health law, in relation to issuance of certificates of authority to accountable care organizations; to amend chapter 59 of the laws of 2016, amending the social services law and other laws relating to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data, in relation to the effectiveness of certain provisions of such chapter; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in

relation to the effectiveness thereof; to amend chapter 57 of the laws of 2019, amending the public health law relating to waiver of certain regulations, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to extending the date of the expiration of certain provisions thereof; and to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates; in relation to the effectiveness thereof (Part F); to amend the insurance law, in relation to prescription drug pricing and creating a drug accountability board (Part G); to amend the education law, in relation to clarifying the tasks that can be performed by a licensed pharmacy technician (Part H); to amend the education law, in relation to orders or non-patient specific regimens to pharmacists for administering immunizations; to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists, in relation to making the provisions permanent; to amend chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing

agents, in relation to making certain provisions permanent; to amend chapter 274 of the laws of 2013, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer meningococcal disease immunizing agents, in relation to the effectiveness thereof; and to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to making certain provisions permanent (Part I); to amend the insurance law, in relation to denial of payment for certain medically necessary hospital services, claims payment timeframes and payment of interest, payment and billing for out-of-network hospital emergency services, claims payment performance and creation of a workgroup to study health care administrative simplification; to amend the public health law, the insurance law, the financial services law and the civil practice law and rules, in relation to provisional credentialing of physicians and utilization review determinations and prior authorization; and to repeal certain provisions of the financial services law relating thereto (Part J); to amend the public health law, in relation to the state's physician profiles (Part K); to amend the education law and the public health law, in relation to enhancing the ability of the department of education to investigate, discipline, and monitor licensed physicians, physician assistants, and specialist assistants (Part L); to amend the public health law, in relation to the state's schedules of controlled substances (Part M); to amend the public health law, in relation to general hospital and nursing home requirements to establish antibiotic stewardship programs and antimicrobial resistance and infection prevention

training programs (Part N); to amend the public health law, in relation to expanding the Sexual Assault Forensic Examiner (SAFE) Program to all New York state hospitals with an emergency department (Part O); to amend the public health law and the labor law, in relation to the state's modernization of environmental health fee (Part P); to amend the public health law, the education law, the general business law and the tax law, in relation to the tobacco and electronic cigarette omnibus state of the state proposal; and to repeal certain provisions of the public health law relating thereto (Part Q); to amend the social services law, in relation to certain Medicaid management; authorizing the director of the division of the budget to direct the commissioner of health to distribute enhanced federal match assistance percentage payments to social services districts; and relating to state expenditures (Part R); to amend the public health law, in relation to adding a three percent surcharge to construction approval applications (Part S); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to excess insurance coverage and extending the effectiveness of certain provisions thereof; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part T); to amend the insurance law, in relation to the licensing of pharmacy benefit managers (Part U); to amend the mental hygiene law, in relation to admission to residential treatment facilities (RTF) for children and youth (Part V); to amend the criminal procedure law, in relation to including

mental health units operating within a local correctional facility within the definition of "appropriate institution" under certain circumstances (Part W); to authorize the transfer of certain office of mental health employees to the secure treatment rehabilitation center (Part X); to amend the mental hygiene law, in relation to the amount of time an individual may be held for emergency observation, care, and treatment in CPEP and the implementation of satellite sites, to amend chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to comprehensive psychiatric emergency programs, in relation to the effectiveness of certain provisions thereof; and to repeal paragraphs 4 and 8 of subdivision (a), and subdivision (i) of section 31.27 of the mental hygiene law, relating thereto (Part Y); to amend the insurance law, in relation to promulgating rules and regulations to establish mental health and substance use disorder parity compliance requirements; and to amend the state finance law and public health law, in relation to establishing the behavioral health parity compliance fund (Part Z); to amend the social services law, in relation to the requirement to check the statewide central register of child abuse and maltreatment for every subject of a reported allegation of abuse or neglect (Part AA); and to amend the mental hygiene law, the social services law and the public health law, in relation to providers of service (Part BB)

## **PURPOSE:**

This bill contains provisions needed to implement the Health and Mental Hygiene portion of the FY 2021 Executive Budget.

This memorandum describes Parts A through BB of the bill which are described wholly within the parts listed below.

### **Part A – Reauthorize the Health Care Reform Act (HCRA) for Three-Years**

#### **Purpose:**

This bill would extend the provisions of the Health Care Reform Act (HCRA), which plays a significant role in governing the financing of health care services, through March 31, 2023. Currently, HCRA is scheduled to sunset on March 31, 2020.

#### **Summary of Provisions and Statement in Support:**

In 1996, New York enacted the Health Care Reform Act (HCRA) legislation, which replaced the hospital reimbursement system in existence since 1983 with a deregulated system. This Act was designed to improve the fiscal health of hospitals and support critical public health programs. It was subsequently extended and modified several times, most recently Part H of chapter 57 of the laws of 2017 reauthorized HCRA through March 31, 2020.

This bill would extend HCRA through March 31, 2023 and amends provisions in order to maximize the use of available revenue sources, modify programs, and secure the fiscal viability of HCRA through its proposed extension period. Specifically:

Section one would amend Public Health Law to extend dedicated revenue for program administration through March 31, 2023.

Section two would amend Public Health Law to extend authorization to allocate surcharge funds between various financing pools through March 31, 2023.

Sections three and four would amend Public Health Law to extend the continuation of the Medicaid inpatient hospital reimbursement methodology and collection of HCRA surcharges and assessments through December 31, 2023.

Section five would amend Public Health Law to extend Health Care Initiatives allocations through March 31, 2023.

Sections six through nine would amend certain sections of Public Health Law and State Finance Law as necessary to discontinue select DOH public health programs, including Empire Clinical Research Program (ECRIP) Program, Graduate Medical Education (GME) Doctors Across NY (DANY) Diversity in Medicine Program, GME DANY

Ambulatory Training Program, and the Area Health Education Center public health program.

Section ten would amend Public Health Law to extend authorization for clinic bad debt and charity care payments through March 31, 2023.

Sections eleven and twelve would amend Public Health Law to extend authorization for the collection of the Covered Lives Assessment through December 31, 2023.

Section thirteen would amend Public Health Law to modify the reconciliation of collections for the Covered Lives Assessment in excess of one billion forty-five million dollars through December 31, 2023.

Section fourteen would amend Public Health Law to extend various tobacco initiative allocations through March 31, 2023.

Section fifteen would extend the authorization for certain hospital billing requirements, historically extended with HCRA, through March 31, 2023.

Section sixteen would extend the Home Care Workforce Recruitment and Retention Program through March 31, 2023.

Section seventeen would extend the Personal Care Workforce Recruitment and Retention Program through March 31, 2023.

Section eighteen would extend the increased reimbursement rates for the Medical Indemnity Fund through December 31, 2021.

Section nineteen would repeal certain section of Public Health Law to discontinue the Health Workforce Retraining Initiative program.

Section twenty would set the effective date.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and the State's multi-year Financial Plan, which reflects the continuation of HCRA funding for a number of important health programs and revenue sources and would achieve a total net savings of \$17 million in Fiscal Year 2021 and \$17 million when fully annualized.

#### Effective Date:

This bill would take effect April 1, 2020.

### **Part B – Discontinue Hospital Resident Compliance Audits**

Purpose:

This bill would allow hospitals to attest to compliance with applicable NYS rules, regulations and statute rather than potentially be subject to annual audits (not all hospitals audited annually).

Summary of Provisions and Statement in Support:

Section one of this bill would repeal subdivision 9 of §2803 of the Public Health Law to discontinue the requirement for hospital resident working hour audits to be performed annually.

The Department of Health will administratively substitute an annual attestation requirement going forward wherein hospitals certify that they are in compliance with applicable working hour and working condition requirements.

The discontinuation of this program will not prohibit the State from performing targeted investigations into hospital compliance if necessary.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget because it achieves \$850,000 annually in Financial Plan savings.

Effective Date:

This bill would take effect immediately.

**Part C – Early Intervention Pay and Pursue**

Purpose:

This bill would create a pay and pursue model for the Early Intervention (EI) program.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Insurance Law as necessary to create a pay and pursue model for the program that stipulates insurers must pay an early intervention program service claim to a provider that participates in the insurer's provider network where the insurer's obligation to pay is reasonably clear, even though there may be a disagreement about whether the early intervention program service was medically necessary. Section one also allows insurers to initiate a non-expedited external appeal following payment of the early intervention program service claim to determine whether the early intervention program service was medically necessary. Finally, section one

also provides that none of the Pay and Pursue changes prohibit an insurer from requiring pre-authorization for EI services.

Commercial insurance funds less than 2 percent of total EI costs, although 42 percent of children have commercial insurance (around 25,400 children). This suggests that commercial insurers are approving 15 percent of provider claims. This proposal seeks to increase the percentage of total EI costs that commercial insurance funds.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and would achieve a total net savings of \$400,000 when fully annualized.

Effective Date:

This act shall take effect on January 1, 2021 and shall apply to health care services provided on and after such date.

**Part D – Redirect Enhanced Quality of Adult Living Funding**

Purpose:

This bill would restructure the Enhanced Quality of Adult Living (EQUAL) Program and limit the use of the grants to support independent skills trainings, mental hygiene staff trainings, and capital improvement projects.

Summary of Provisions and Statement in Support:

Section one of this bill would amend the Social Services law to eliminate the current approved purposes for EQUAL grant funding and establishes new statutory purposes for the program. For adult care facilities in which at least twenty-five percent of the resident population or twenty-five residents, whichever is less, are persons with serious mental illness, grants will be targeted at supporting mental hygiene training of staff and independent skills training for residents. For adult care facilities with the highest populations of residents who receive supplemental security income, grants will be targeted at supporting capital improvement projects that will enhance the physical environment of the facility.

Where a facility is eligible to apply for funds pursuant to both purposes, such facility shall only be authorized to apply for the funds set forth for adult care facilities in which at least twenty-five percent of the resident population or twenty-five residents, whichever is less, are persons with serious mental illness.

Section two of this bill would establish the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and would achieve a total net savings of \$3.27 million in FY 2021 and \$3.27 million when fully annualized.

Effective Date:

This bill would take effect immediately and would be deemed to have been in full force and effect on and after April 1, 2020.

**Part E – Miscellaneous Public Health Recommendations**

Purpose:

This bill would discontinue select Department of Health (DOH) public health programs to align resources with core mission programs, as well as make statutory changes necessary to transfer responsibility for the autism awareness and research fund from DOH to the Office for People with Developmental Disabilities (OPWDD) and the Eating Disorder and the Comprehensive Care Centers for Eating Disorders program from the DOH to the Office of Mental Health (OMH).

Summary of Provisions and Statement in Support:

Sections one through four of this bill would repeal certain sections of Public Health Law as necessary to discontinue the Health Occupation Development and Workplace Demonstration program. This program is no longer necessary with the elimination of Health Workforce Retraining Initiative (HWRI) under HCRA, as its sole purpose was to support administration, including the development, implementation, and monitoring of the HWRI program.

Section five of this bill would repeal Article 27-G of Public Health Law to discontinue the Adult Cystic Fibrosis Assistance Program.

Elimination of these DOH programs provides Financial Plan relief and allows funding to be focused on programs that provide flexibility to address new or emerging service needs, consistent with DOH's core mission.

Section six of this bill would amend State Finance Law to transfer responsibility for the autism awareness and research fund from DOH to OPWDD.

Sections seven through thirteen of this bill would repeal and amend certain sections of Public Health Law, State Finance Law and Mental Hygiene Law to transfer authority of the Eating Disorder and the Comprehensive Care Centers for Eating Disorders program from DOH to OMH.

Transferring responsibility for the Autism Awareness and Research Fund and the Comprehensive Care Centers for Eating Disorders Program is essential, as OPWDD and OMH are the agencies with the most relevant expertise to select and support autism research and awareness and those diagnosed with eating disorders, respectively.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and would achieve a total net savings of \$1.7 million in Fiscal Year 2021 and \$1.6 million in Fiscal Year 2022.

Effective Date:

This bill would take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

**Part F – Extend Various Provisions of the Public Health and Social Services Laws**

Purpose:

This bill would extend various expiring laws to maintain Financial Plan savings by continuing certain previously enacted Medicaid and health savings initiatives authorized in the Public Health and Social Services Laws.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Chapter 59 of the laws of 2016, extending provisions in relation to electronic prescriptions through June 1, 2023.

Section two of this bill would amend Chapter 57 of the laws of 2017, maintaining the limit on method of payment for prescription drugs under the medical assistance program through March 31, 2023.

Section three of this bill would amend Chapter 57 of the laws of 2017, extending the nursing home upper payment limit and intergovernmental transfer provisions through March 31, 2023.

Section four of this bill would amend Chapter 57 of the laws of 2017, extending the Comprehensive Health Services Program through March 31, 2023.

Section five of this bill would amend Chapter 57 of the laws of 2017, extending the authorization for the use of funds of the Office of Professional Medical Conduct for

activities of patient health information and quality improvement act of 2000 through March 31, 2023.

Section six of this bill would amend Chapter 57 of the laws of 2017, extending the statewide health information network and statewide planning and research cooperative system through March 31, 2023.

Section seven of this bill would amend Chapter 57 of the laws of 2017, extending the expiration of methods reimbursement to participating provider pharmacies and prescription drug coverage through March 31, 2023.

Section eight of this bill would amend Chapter 57 of the laws of 2017, extending the issuance of certificates of authority to accountable care organizations through December 31, 2024.

Section nine of this bill would amend Chapter 57 of the laws of 2018, extending the authorization of the Commissioner of Health to apply Federally established consumer price index penalties for generic drugs, through March 31, 2022.

Section ten of this bill would amend Chapter 57 of the laws of 2018, extending the Health Care Refinancing Shared Savings Program, through March 31, 2025.

Section eleven of this bill would amend Chapter 57 of the laws of 2019, extending regulatory waiver authority to allow providers who are involved in DSRIP projects, or who would like to scale and replicate the ideas coming out of the DSRIP program, to avoid duplicative requirements, through April 1, 2024. This bill would allow promising DSRIP approaches to be continued.

Section twelve of this bill would amend Chapter 49 of the laws of 2017, extending the Home Care Medicare Maximization program through February 1, 2023.

Sections thirteen through fifteen of this bill would amend Chapter 49 of the laws of 2017, extending the Nursing Home Medicare Maximization program through February 1, 2023.

Section sixteen of this bill would amend Chapter 49 of the laws of 2017, extending the utilization threshold exemption for Medicaid Services through July 1, 2021.

Section seventeen of this bill would amend Chapter 57 of the laws of 2018, extending the authorization of the State to negotiate supplemental rebates directly with manufacturers both inside and outside of Managed Care to leverage total Medicaid prescription brand name drug volume, through March 1, 2023. Such authority shall apply only to covered out-patient drugs for which the manufacturer already has a rebate agreement with the Federal government.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

Effective Date:

All sections of this bill would take effect immediately.

**Part G – Prescription Drug Pricing and Accountability Board**

Purpose:

This bill would make statutory changes necessary to implement investigations with respect to prescription drug pricing, and the creation of the drug accountability board to assist with such investigations.

Summary of Provisions and Statement in Support:

Section one of this bill would add a new section to Insurance Law to allow the Superintendent of Financial Services to investigate when the price of a prescription drug has increased by more than 100 percent within a one-year time period. It also provides the Superintendent with the power of subpoena, as well as a means of imposing a civil penalty and injunction to restrain violations.

Section two of this bill would add a new section to Insurance Law to create a drug accountability board within the Department to aid in prescription drug investigations.

Section three of this bill authorizes the Superintendent to promulgate any regulations necessary to interpret the provisions of this act, including regulations relating to the drug accountability board.

Section four of this bill would establish the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 State of the State Initiative and carries no Budgetary Impact for the FY 2021 Executive Budget.

Effective Date:

This bill would take effect April 1, 2020.

## **Part H – Expansion of Assistance for Licensed Pharmacists**

### Purpose:

This bill would make statutory changes to clarify the tasks that can be performed by a licensed pharmacy technician in institutional and non-institutional settings. It would also increase limits for the number of licensed pharmacy technicians and unlicensed assistants that may provide services to assist pharmacists in their performance of duties.

### Summary of Provisions and Statement in Support:

Section one of this bill would amend Education Law to add to the definition of practice for a registered pharmacy technician by clarifying that those employed by a facility, or a pharmacy owned and operated by a facility, as settings a pharmacy technician can assist a licensed pharmacist. Additionally, language is added amending the amount of registered pharmacy technicians who can assist a licensed pharmacist from two to four and changes the number of unlicensed persons who can assist a licensed pharmacist in the performance of activities that do not require a license from four to six.

Section two of this bill would amend Education Law to clarify that a licensed pharmacist shall not obtain the assistance of more than four registered pharmacy technicians or six unlicensed persons, the total of which can not exceed six individuals at one time.

Section three establishes the effective date of this bill.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources.

### Effective Date:

This act will take effect in the same manner as chapter 414 of the laws of 2019.

## **Part I – Pharmacy Adult Immunization Expansion and Collaborative Drug Therapy Management**

### Purpose:

This bill would expand the list of adult immunizations that pharmacists can administer to include other Advisory Committee on Immunization Practices (ACIP) approved immunizations, and extend and expand provisions that authorize pharmacists to perform collaborative drug therapy management.

### Summary of Provisions and Statement in Support:

Section one and two of this bill would amend Education Law to allow pharmacists and nurse practitioners to administer recommended immunizations, as determined by the advisory committee on immunizations, to patients 18 years or older.

Section three of this bill would amend Education Law to update definitions for physician assistants and nurses. This section would further amend Education Law to require those who conduct collaborative drug therapy management to be department certified. This section would continue to amend Education Law by specifying that a certified pharmacist must have postgraduate residency, have provided clinical services, or have a practice agreement with a physician.

Sections four through six of this bill would amend Education Law to change the effective date of section one through three to ninety days after enactment and strike clauses that would cause these sections to expire.

Section seven of this bill would strike provisional language that made this section contingent upon previous amendments to subdivision seven affecting the expiration or reversion of those sections.

Section eight of this bill would establish the effective date.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resource.

### Effective Date:

The effective date of this bill is April 1, 2020. However, section three of this bill would not be in effect until one hundred and eighty days after the bill becomes law.

## **Part J – Health Related Consumer Protections**

### Purpose:

This bill would make statutory changes to the Insurance, Public Health and Financial Services Laws to eliminate administrative denials for medically necessary services and promote efficiencies; reduce friction between payers and certain providers and achieve new levels of cooperation between payers (including commercial insurers and managed care organizations) and general hospitals or other providers of health care services.

### Summary of Provisions and Statement in Support:

Section one of this bill would amend section 3217-b of the insurance law to add requirements for when an insurer may deny payment to a general hospital for medically necessary inpatient, observation, and emergency department services.

Section two of this bill would amend section 4325 of the insurance law to add requirements for when an insurer may deny payment to a general hospital for medically necessary inpatient, observation, and emergency department services.

Section three of this bill would amend section 4406-c of the public health law to add requirements for when an insurer may deny payment to a general hospital for medically necessary inpatient, observation, and emergency department services.

Section four of this bill would amend section 3224-a of the insurance law to require payers to provide product information to providers when the insurer requests documentation for payment purposes and subsequently requires payment of any due claims within 15 days or require payment of interest.

Section five of this bill would amend 3224-a of the insurance law to clarify that when payers seek to down-code claims submitted by providers, those down-coding decisions should be based on national coding guidelines accepted by the Centers for Medicare & Medicaid Services (CMS) and/or the American Medical Association (AMA), and increases the period over which a payer is required to pay interest if claims payment are not timely.

Section six of this bill would amend section 3224-a of the insurance law to require the Department of Financial Services in consultation with the Department of Health to convene a health care administrative work group to study and evaluate mechanisms to reduce health care administration costs and complexities.

Section seven of this bill would amend the insurance law by adding a new section 345 that requires plans to report to the Department of Financial Services quarterly and annually on health care claims payment performance.

Section eight of this bill would amend section 4903 of the public health law to shorten the timeframe to one business day for utilization review agents to make prior authorization determinations for inpatient rehabilitation services provided by a hospital or skilled nursing facilities.

Section nine of this bill would amend section 4903 of the insurance law to shorten the timeframe to one business day for utilization review agents to make prior authorization determinations for inpatient rehabilitation services provided by a hospital of skilled nursing facilities.

Sections ten and eleven of this bill would amend section 4904 of the public health law and section 4904 of the insurance law, respectively, to shorten the timeframe for making appeal determinations from 60 days to 30 days.

Section twelve of this bill would amend section 4803 of the insurance law to require payers to provisionally credential physicians to permit these physicians to provide services to plan members while they undergo the full plan credentialing process.

Section thirteen of this bill would amend section 4406-d of the public health law to require payers to provisionally credential physicians to permit these physicians to provide services to plan members, while they undergo the full plan credentialing process.

Sections fourteen and fifteen of this bill would amend section 605 to of the financial services law to expand the independent dispute resolution process to include inpatient services following an emergency room visit.

Section sixteen of this bill would amend section 605 of the financial services law to expand the independent dispute resolution process to all hospitals.

Section seventeen of this bill would amend section 606 of the financial services law to require payers to hold consumers harmless and pay out of network providers directly for emergency services, including any inpatient services furnished by a hospital that follow an emergency room visit, and prohibit providers from billing patients for those services, other than any applicable cost sharing.

Section eighteen of this bill would amend the civil practice law to add a new section 213-d to shorten the time frame to bring an action to collect medical debt from six years to three years.

Section nineteen of this bill would establish the effective date for this bill.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY2021 Executive Budget.

#### Effective Date:

This bill would take effect for services provided on or after January 1, 2021, with the exception of the provisions on provisional credentialing and out of network services, which will go into effect as of July 1, 2020.

### **Part K – Physician Profile Enhancements**

#### Purpose:

This bill would simplify the physician profile reporting process by linking the profile reporting process and the licensure/registration process. It would also require additional information to be reported. Further, it would allow physicians to authorize designees to maintain and update their profile.

#### Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law to require hours of operation, availability of assistive technology, and availability to take new patients as mandatory elements of a physician's profile which the physician must provide. This section allows the physician's website, social media accounts, names of physicians sharing a group practice, workforce research, and planning information to be obtained from existing plan data, but not as a responsibility of the physician to provide.

Section two of this bill would add subdivision 1-b to authorize physicians to elect an employee or contractor to be an official designee responsible for the physician profile reporting. This section outlines additional requirements of the designee role to ensure accuracy of information and notification of change in designee status.

Section three of this bill would amend time periods for when public profiles should be submitted, consistent with changes involving re-registration.

Section four of this bill would amend Public Health Law to modify the types of information a physician may omit from their profile, consistent with changes made in section one.

Section five of this bill would establish the effective date.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget because the Physician Profile is a valuable resource to the public and directly effects access to information to ensure quality care for each New Yorker. This bill will significantly broaden the scope of information available to consumers to make better decisions about their health. This bill will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources

#### Effective Date:

This bill would take effect one-hundred eighty days after enactment.

### **Part L – Enhancing Physician Integrity and Accountability**

#### Purpose:

This bill would make statutory changes necessary to achieve greater oversight of physicians, physician assistants, and specialist assistants licensed in New York.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Education Law to eliminate the indefinite licensure of physicians, requiring the maintenance of registration with the Department of Health over two consecutive registration periods.

Section two of this bill would amend Education Law to require a fingerprint-based criminal history background check prior to licensure.

Section three of this bill would amend Education Law to revise the definition of “professional medical misconduct” to include complaints that are resolved by stipulation or agreement before an adjudicatory proceeding. It also revises the definition of “professional misconduct” to clarify harassment of a patient’s caregiver or surrogate. Further, it would add a new sub-section 50 to require licensees charged with a crime or misconduct in any jurisdiction to notify the Office of Professional Medical Conduct (OPMC) within 24 hours so immediate action may be taken to protect the public.

Section four of this bill would amend Education Law to clarify the Commissioner’s authority regarding the board for professional medical conduct and the Department of Health when it comes to promulgating rules and regulations.

Section five of this bill would amend Public Health Law to be consistent with Education Law by requiring requested documents related to an investigation or inquiry under this chapter to be produced no later than ten days and stating the violations. It would add a sub-section authorizing OPMC to issue administrative inspection warrants to assist in investigations where there is probable cause that a licensee has committed misconduct.

Section six of this bill would amend Public Health Law by requiring that the Executive Secretary of the Board for Professional Medical Conduct serve at the direction of the Commissioner instead of the chairperson. The Commissioner will appoint, direct, and fix the salary of the Executive Secretary.

Section seven of this bill would amend Public Health Law to allow for immediate publication of charges upon investigative requests, and the immediate convening of an investigative committee, eliminating the current ninety-day threshold.

Section eight of this bill would amend Public Health Law to grant the Commissioner discretion to disclose information about OPMC investigations in which the public has been demanding more information, and remove language restricting such action to situations that pose a public health threat.

Section nine of this bill would amend Public Health Law to expand the delivery methods for a notice of hearing rules by allowing for personal delivery, current residential/practice mailing, or by certified mail to licensee's most recent address at least 45 days before a hearing. It would change the specification that charges will be made public from no less than five days to immediately.

Section ten of this bill would amend Public Health Law to allow for publication of Administrative Warnings and Consultations.

Section eleven of this bill would amend Public Health Law to insert language stating that a licensee must notify the Department of Health within twenty-four hours of having been charged with a crime.

Section twelve of this bill would amend Public Health Law to enable the Commissioner to take action when a licensee does not respond to the Department of Health's request for records in a timely manner. This bill extends service and hearing dates from ninety to one-hundred eighty days while extending the threshold from ten to thirty days so that the Commissioner can take summary action against a licensee who engages in conduct that is a risk to the health of the people.

Section thirteen would require hospitals to report to the Department of Health when a hospital or facility notifies a third-party contractor that an individual should not be assigned to the hospital or facility when there are quality of care concerns.

Section fourteen of this bill would establish the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources.

Effective Date:

This bill would take effect April 1, 2020.

**Part M – Combating Opioid Addiction by Banning Fentanyl Analogs**

Purpose:

This bill would make statutory changes necessary to update the State Schedule I and II lists of Controlled Substances.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law section 3306 by making grammatical corrections on the State Schedule I list of Controlled Substances and to add associated trade or other names for the chemical.

Section two of this bill would amend Public Health Law section 3306 to conform State law with Federal law by adding 24 additional Synthetic Fentanyl Analogs and other structurally related substances to the State Schedule I list of Controlled Substances.

Section three of this bill would amend Public Health Law section 3306 by adding two additional Synthetic Fentanyl Analogs to the State Schedule II list of Controlled Substances.

Section four of this bill would amend Public Health Law section 3308 by adding language authorizing the Commissioner of Health to classify any substance as a State Schedule I Controlled Substance when already listed on the Federal Schedules of Controlled Substances.

Section five of this bill provides an effective date.

Section six of this bill establishes the severability clause.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources.

Effective Date:

This bill will take effect ninety days after becoming law.

**Part N – Antimicrobial Resistance Prevention**

Purpose:

This bill would make statutory changes necessary to require general hospitals and nursing homes to establish antibiotic stewardship programs and antimicrobial resistance and infection prevention training programs.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law section 2803 to require general hospitals and nursing homes to establish antibiotic stewardship programs, as well as antimicrobial resistance and infection prevention training programs for all individuals

licensed or certified pursuant to title eight of the education law who provide direct patient care.

Section two of this bill establishes the effective date for this bill.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY21 or FY22 as the any costs will be supported within existing resources through ESDC Life Sciences.

Effective Date:

This bill would take effect 180 days after it shall have become a law; provided, however, that the commissioner shall make regulations and take other actions reasonably necessary to implement this act on such date.

**Part O – Expand the Sexual Assault Forensic Examiner (SAFE) Program**

Purpose:

This bill would expand the Sexual Assault Forensic Examiner (SAFE) Program to all New York State hospitals with an emergency department.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law as necessary to ensure that when victims of sexual assault receive hospital care, that the victim is met by a sexual assault forensic examiner, promptly examined, and a designated person provides administrative and clinical oversight.

Section one would also require that hospitals without an emergency department establish a protocol for the transfer of sexual assault victims to a hospital with an emergency department.

Finally, this section includes reporting requirements to the Department of Health (DOH).

Under this proposal, the SAFE Program will no longer be limited to specially-designated hospitals; instead, all New York State hospitals with an emergency department will be required to provide high-quality, victim-centered care to sexual assault victims seeking emergency care.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources.

Effective Date:

This act shall take effect on October 1, 2020, provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

**Part P – Modernization of Center for Environmental Health Fees**

Purpose:

This bill would update six fees administered by the Department of Health’s Center for Environmental Health.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law to increase the fee associated with the filing of realty subdivision plans from twenty-five dollars to one hundred dollars per lot.

Section two of this bill would amend Public Health Law to increase the permit fee for children’s overnight, summer day or traveling summer day camp from two hundred dollars to eight hundred dollars.

Section three of this bill would amend Public Health Law to increase the registration fee for tanning facilities from thirty dollars to one hundred twenty dollars.

Section four of this bill would amend Public Health Law to increase the inspection fee for tanning devices from fifty dollars to two hundred dollars per device.

Section five of this bill would amend Labor Law to increase the initial asbestos safety training from twenty dollars to fifty dollars, and increase the refresher asbestos safety training from twelve dollars to thirty dollars.

Section six of this bill would establish the effective date.

The modernization of CEH fees is necessary as many fees have not been updated in several decades. Aside from the children’s camp fees, all fees are contained in sections of law that have not been amended since 1989 or 1990. The changes to these fees would cover the expanded operations of the corresponding programs, that have seen a need for increased resources over the past several decades.

### Budget Implications:

Enactment of this bill is necessary to implement the FY2021 Executive Budget because additional revenue is needed to support environmental investments and other related initiatives. The proposed fee increases would generate an estimated six hundred and eighty thousand dollars in additional revenue.

### Effective Date:

This bill would take effect on April 1, 2020.

## **Part Q – Implement Various Tobacco Control Policies**

### Purpose:

This bill would effectuate the following:

- Prohibition of the sale of any flavored electronic cigarettes, liquid nicotine, or vapor products, except for tobacco flavored;
- Clarification that the Clean Indoor Air Act's prohibition on smoking in places of employments covers all roofed areas;
- Prohibition of the sale of tobacco products, herbal cigarettes, vapor product or electronic cigarettes in a pharmacy or in a retail establishment that contains a pharmacy;
- Prohibition of the acceptance of price reduction instruments for both tobacco products and e-cigarette;
- Prohibition on vapor products from being shipped to anyone in the state other than a registered vapor products dealer;
- Clarification that the Department has the authority to promulgate regulations that prohibit or restrict the sale or distribution carrier oils;
- Prohibition of the display of tobacco products or electronic cigarettes in stores;
- Prohibition of vapor product advertisements targeted at youth; and
- Require manufacturers of vapor products to submit a list of ingredients to the Commissioner for publication.
- Increasing the penalties that may be assessed against retailers selling tobacco products to minors. Also, increases the penalties for retailers facing suspension to one year, increased from a current suspension period of six months.

### Summary of Provisions and Statement in Support:

This bill would protect the health of New Yorkers from the health impacts associated with tobacco usage by: (1) prohibiting the sale of any flavored electronic cigarettes, liquid nicotine, or vapor products, except for tobacco flavored; (2) clarifying that the Clean Indoor Air Act's prohibition on smoking in places of employments covers all

roofed areas; (3) prohibiting the sale of tobacco products, herbal cigarettes, vapor product or electronic cigarettes in a pharmacy or in a retail establishment that contains a pharmacy; (4) prohibiting the acceptance of price reduction instruments for both tobacco products and e-cigarette; (5) prohibiting vapor products from being shipped to anyone in the state other than a registered vapor products dealer; (6) clarifying that the Department has the authority to promulgate regulations that prohibit or restrict the sale or distribution carrier oils; (7) prohibiting the display of tobacco products or electronic cigarettes in stores; (8) prohibiting vapor product advertisements targeted at youth; (9) requires manufacturers of vapor products to submit a list of ingredients to the Commissioner for publication.

New York has a comprehensive Clean Indoor Air law, high state cigarette tax (\$4.35 per pack) and a comprehensive tobacco control program that uses paid media and community action to build support for strong policies and improved treatment delivery.

In addition to combustible tobacco products, electronic cigarettes (referred to as e-cigarettes, vapor products) are emerging as a public health threat to youth and young adults. Uptake of vapor products by youth is doubling or tripling each year and more high school age youth are now using vapor products than smoking combustible cigarettes. Dual use by youth and adults is common, showing that they are not substituting vapor products for cigarettes but using both to maintain and strengthen addiction.

This bill would enact various tobacco control policies that would positively impact the health of New Yorkers.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY2021 Executive Budget and results in a reduction in vapor tax revenue of \$25 million in Fiscal Year 2021 and \$33 million in Fiscal Year 2022.

#### Effective Date:

This act shall take effect on July 1, 2020, with the exception of section one which shall take effect 30-days after enactment, provided that, effective immediately, the commissioner of health shall be authorized to promulgate any and all rules and regulations necessary to implement the provisions of this act on its effective date.

### **Part R – Medicaid Local District Spending Reforms**

#### Purpose:

Although the State shoulders the over \$20 billion cost of Medicaid, local governments are responsible for determining eligibility and administering certain programs. Because

local governments are no longer responsible for the cost of their programs, there is no financial incentive to control costs and localities have failed to adequately monitor their programs, leading to overspending. This bill ensures that counties that adhere to the two percent property tax growth cap continue to receive Medicaid local takeover support while penalizing those that don't and limits the State's financing of growth in Local Medicaid expenditures to three percent annually.

Summary of Provisions and Statement in Support:

Section one of this bill would authorize the Department of Health (DOH) to share enhance Federal Matching Percentage (eFMAP) with counties only in such amounts such that the counties, in aggregate, do not pay a greater percentage of the non-Federal share of expenditures compared to the base year of calendar year 2009.

Section two of this bill would limit the growth of Medicaid takeover savings counties receive to two percent annually for counties that do not adhere to the two percent property tax levy cap or in the case of New York City, the tax cap if it had applied to the City. Additionally, in evaluating an application for a financial hardship waiver, the director of the Division of the Budget (DOB) shall consider changes in State or Federal aid payments, and other extraordinary costs including the occurrence of a disaster, repair and maintenance of infrastructure, annual growth in tax receipts, prepayment of debt service and other expenses, or such other factors as determined by the director.

Section three of this bill would amend section 363-c of the social services law to require all social services districts, providers and other recipients of the Medicaid program funds to share with the DOH or the DOB all fiscal and statistical records or reports demonstrating their right to receive payment and all other underlying records or documentation which may be requested by the DOH or DOB as may be necessary to oversee and manage the Medicaid program. Furthermore, section three would also limit the growth in Local Medicaid expenditures to three percent annually and would require local districts to remit to the State the non-federal share of those expenditures.

Section four of this bill establishes an effective date.

Budget Implications:

The local Medicaid contribution proposals in this section accounts for \$150 million State share savings in FY 2021 and FY 2022.

Effective Date:

This bill will take effect on April 1, 2020.

**Part S – Certificate of Need Surcharge**

Purpose:

This bill would impose a surcharge on Public Health Article 28 Certificate of Need construction project applications submitted by healthcare providers for Commissioner approval.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law to add a three percent surcharge on Certificate of Need construction projects.

Section two of this bill would amend Public Health Law to specify that the three percent surcharge on Certificate of Need construction projects would be exempted for projects funded solely from State grant funding. Furthermore, payment of the fee would not be reimbursable by the State, including the State Medicaid program.

Section three of this bill would establish the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY2021 Executive Budget. The surcharge is anticipated to generate an estimated seventy million dollars in additional revenue.

Effective Date:

This bill would take effect on April 1, 2020.

**Part T – Extends Physicians Excess Medical Malpractice**

Purpose:

This bill would extend existing provisions of law regarding rate-setting authority and the Health Care Reform Act through June 30, 2021.

Summary of Provisions and Statement in Support:

Sections one of this bill would amend chapter 266 of the laws of 1986 to extend the authority of the Department of Financial Services to set rates for medical malpractice insurance through June 30, 2021.

Section two of this bill would amend New York's Health Care Reform Act of 1996 to extend the hospital excess liability pool by one year through June 30, 2020 in order to reimburse current year premiums.

Section three would set the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget in order to continue the Excess Medical Malpractice program.

Effective Date:

This act shall take effect immediately.

**Part U – Authorize the Regulation of Pharmacy Benefit Managers**

Purpose:

This bill would make statutory changes necessary to regulate the registration and licensure of Pharmacy Benefit Managers.

Summary of Provisions and Statement in Support:

Sections 1 and 2 of this bill would amend the Insurance Law to regulate Pharmacy Benefit Managers (PBMs) through registration, licensure, examination and disclosure requirements.

Section 3 of this bill would limit that if a determination is made that a provision of the bill is invalid, it does not affect any other provision in the bill.

Section 4 of this bill would establish the effective date for this bill.

Budget Implications:

Enactment of this bill is necessary to protect consumers and ensure that PBMs are not contributing to the rising costs of health insurance and prescription drugs through unfair business practices.

The costs associated with implementing these regulations will be supported by assessments collected from PBMs.

Effective Date:

This bill would take effect immediately upon enactment.

**Part V – Streamline the Pre-Admission Process for Residential Treatment Facilities (RTFs)**

Purpose:

This bill would make statutory changes necessary to streamline the current pre-admission process for Residential Treatment Facilities (RTFs) for children and youth.

Summary of Provisions and Statement in Support:

Section 1 of the bill would amend Section 9.51 of the Mental Hygiene Law (MHL) by removing the use of a Pre-Admission Certification Committee (PACC) as the first step for placement into an RTF. The Commissioner of OMH would be required to consult with the Council for Children and Families to establish an advisory board.

Section 2 of this bill would amend Section 31.26 of MHL by providing the Commissioner of OMH authority to develop admission standards, in consultation with the Commissioner of Education, Commissioner of Social Services and Commissioner of the Office of Children and Family Services (OCFS).

Section 3 of this bill would amend Section 9.27 of MHL by specifying the review process for involuntary admission be completed by OMH or its designee, who is qualified by their scope of practice, instead of a mandatory review by a PACC.

The transfer of admission authority from a PACC to OMH or its designee will promote a more timely, effective and appropriate placement of individuals into RTFs. Currently, the average application review period is thirty days. Without the PACC, it will be reduced to fifteen days. This amendment not only creates a shorter review timeframe, but also determines the appropriateness of admission based on standards created by OMH.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget, as it will enable more prompt and efficient review of applications for children to enter RTFs, resulting in shorter stays for patients and generating cost savings. Approximately \$2 million in savings is expected as a result of RTF restructuring, through the PACC replacement and reimbursement reforms to reduce lengths of stay.

Effective Date:

This bill would take effect July 1, 2020.

**Part W – Establish Jail-Based Restoration (JBR) Programs for County Jails**

Purpose:

This bill would authorize volunteering counties to develop residential mental health units within their local jails to house, treat and restore felony level defendants to competency as they await trial.

Summary of Provisions and Statement in Support:

Section 1 would amend Section 730.10 of the Criminal Procedure Law (CPL) by adding "local jail mental health unit" to the definition of "appropriate institution". These units require agreement between the Commissioner of Mental Health, Director of Community Mental Health Services and the local county Sheriff to be deemed appropriate institutions.

Section 2 would establish an immediate effective date.

This bill would authorize local correctional facilities located outside a city of one million or more to operate residential mental health units for the purposes of housing, treating, and restoring felony-level defendants to competency as they await trial.

OMH will work with counties on a voluntary basis to develop specialized residential treatment units within their jails, ultimately reducing the time individuals with mental illness spend in jail awaiting court proceedings. This program has been identified as a best practice by the National Judicial College and has been implemented successfully in nine other states including California, Colorado, and Virginia.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget and is expected to generate \$1.7 million in savings in FY 2021. This proposal will reduce the growth in OMH's forensic system, reducing the need for new forensic capacity to be added next year.

The fiscal impact is calculated with the assumption that only one county opens a Jail-Based Restoration unit. If two or more counties open units, then OMH would achieve additional savings. Additionally, this program would result in lower costs for participating local governments.

Effective Date:

This bill would take effect immediately.

**Part X – Create a New Program for the Sex Offender Management and Treatment Act (SOMTA) Population**

Purpose:

This bill would establish a distinct Secure Treatment and Rehabilitation Program within the Office of Mental Health (OMH) to better serve the SOMTA population.

Summary of Provisions and Statement in Support:

Section 1 of this bill would establish a separate program for the secure treatment of sex offenders under SOMTA. Currently, the SOMTA population who require secure treatment and are civilly confined under Mental Hygiene Law (MHL) Article 10 are comingled with the forensic population in OMH Forensic Psychiatric Centers (PCs). The proposal would physically separate the two populations within OMH Forensic PCs, allowing for the separate treatment of each. OMH employees who are significantly involved in the care of the SOMTA population will be reassigned in place, so that staffing for each population is also separate. Employees would remain in their current geographic locations and retain their current civil service title and status.

Under current statute, mandated psychiatric therapies and protocols for OMH inpatient hospitals are the same for both the forensic and the SOMTA populations. For the SOMTA population, these treatments are not the most effective or cost-efficient. Enactment of this bill will enable OMH to more effectively treat the SOMTA population.

Separating the two populations within forensic facilities will enable the SOMTA population to receive behaviorally-focused treatment that is specific to their needs.

Ultimately, this will result in better outcomes, improvements to program effectiveness, and shorter lengths of stay. Additionally, OMH will be able to develop a more cost-effective clinical leadership structure within the existing treatment program, shifting focus to employees who are specifically trained to treat the SOMTA population.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget. Approximately \$2.5 million in savings is expected in FY 2021 due to improved treatment outcomes for the SOMTA population that can result in shorter lengths of stay and will reduce the need for OMH to increase future forensic ward capacity.

Effective Date:

This bill would take effect immediately.

**Part Y – Extend Comprehensive Psychiatric Emergency Programs (CPEP) and Make Other Technical Amendments to Improve Operational Efficiency**

Purpose:

This bill would extend the statutory authority for CPEP until July 1, 2024. This bill would also amend various provisions of Mental Hygiene Law (MHL) to allow for the implementation of satellite sites in CPEPs, repeal outdated provisions of law and improve operational efficiency.

#### Summary of Provisions and Statement in Support:

Section 1 would amend Sections 19 and 21 of Chapter 723 of the Laws of 1989 to extend authorization for CPEP until July 1, 2024. Currently CPEP is set to expire on July 1, 2020.

Section 2 would amend Section 9.40 of MHL to extend the length of time an individual can be held for emergency observation, care, and treatment in a CPEP, from 72 hours to 96 hours. This proposed amendment also would allow triage and referral services by a physician or psychiatric nurse practitioner.

Section 3 would amend Section 31.27 of MHL to allow for the establishment of CPEP "satellite facilities".

Section 4 makes technical amendments to repeal the outdated term "rural CPEP" and remove references to "crisis residence services", which are provided elsewhere.

Section 5 would establish an immediate effective date, provided that sections 2 through 4 take effect 180 days after enactment.

CPEP provides psychiatric emergency services that include hospital-based crisis intervention services, extended observation beds, crisis outreach services, and crisis residential services. The proposed amendments would extend CPEP authorization while improving treatment and discharge efficiency, which will lead to more timely treatment, and allow physicians to focus on individuals with more complex symptoms. Additionally, the creation of "satellite facilities" will allow hospitals to expand services to areas that currently may not have access to the broader array of services available within CPEP.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget, as it continues essential services to at-risk individuals and provides funding for the continued improvement of licensed hospital operations providing CPEP services throughout the State.

#### Effective Date:

This bill would take effect immediately, with certain provisions of this bill taking effect 180 days after enactment.

## **Part Z – Establish the Behavioral Health Parity Compliance Fund and Strengthen Efforts to Ensure Compliance with State and Federal Behavioral Health Parity Laws**

### Purpose:

This bill would ensure health insurance plans follow existing State and federal behavioral health parity statutes by requiring the Department of Health (DOH) and the Department of Financial Services (DFS) to promulgate regulations to ensure such compliance. The bill also establishes a new special revenue fund for the penalty fines levied on insurers for violations of current law to fund the New York State Behavioral Health Ombudsman program.

### Summary of Provisions and Statement in Support:

Section 1 would add a new Section 344 to the Insurance Law (ISL), requiring DOH and DFS, in consultation with Office of Mental Health (OMH) and Office of Addiction Services and Supports (OASAS), to promulgate regulations by October 1, 2020 that require health insurance providers to provide mental health and substance use disorder coverage in a manner consistent with State and federal law. All fines levied against insurance plans for violations of existing Behavioral Health Parity statutes collected before October 1 would be deposited in the General Fund. All fine revenues collected on or after October 1 would be deposited in the Behavioral Health Parity Compliance Fund, created by Section 2 of this legislation.

Section 2 would add a new Section 99-hh to the State Finance Law (SFL) to create the Behavioral Health Parity Compliance Fund, a new Special Revenue - Other (SRO) fund for fines levied for violations of existing State and federal behavioral health parity laws. Moneys in this fund would be required to be used for initiatives supporting parity implementation and enforcement on behalf of consumers, including the New York State Behavioral Health Ombudsman Program.

Section 3 would amend Section 4414 of the Public Health Law (PHL) to add language establishing the same behavioral health parity regulation requirement in PHL that is established in ISL by Section 1 of this bill. Penalty fines collected by DOH for violations of the existing behavioral health parity laws would also be required to be deposited in the Behavioral Health Parity Compliance Fund established in Section 2.

Section 4 would establish an immediate effective date.

This bill would strengthen the State's efforts to ensure New Yorkers receive the coverage for mental health and substance use disorder services guaranteed to them by existing State and federal law. It would require the promulgation of a more forceful regulatory framework to address wrongful service claims denials by insurance companies, ensuring that coverage for physical health and behavioral health are equal.

This bill would also ensure that fines collected from insurance companies that violate State and federal behavioral health parity laws are used to help New Yorkers access the services and coverage they are legally entitled. DOH and DFS have authority under current law to issue financial penalties to insurance companies for federal or State behavioral health parity violations. This bill would direct those financial penalties to a special fund where they will be used for the existing Behavioral Health Ombudsman program and other efforts to ensure parity compliance.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget, as it would create a new dedicated fund that will be used to finance efforts to ensure New Yorkers receive insurance coverage for mental health and substance use disorder services they are legally entitled to.

Effective Date:

This bill will take effect immediately.

**Part AA – Justice Center Statewide Central Register Checks**

Purpose:

This bill would discontinue the requirement that every Justice Center investigation of abuse and neglect must also include a Statewide Central Register of Child Abuse and Maltreatment (SCR) check. However, in cases where it is deemed that the check may lead to the discovery of relevant evidence, SCR checks will continue to be done.

Summary of Provisions and Statement in Support:

Section 1 amends paragraph (c) of subdivision (4) of § 492 of Social Services Law to eliminate the requirement of SCR checks while maintaining the Justice Center's ability to conduct SCR checks when determined to be relevant to an investigation.

The Justice Center for the Protection of People with Special Needs (Justice Center) conducts about 13,000 SCR checks annually. These SCR checks for previously indicated instances of child abuse take significant time to complete. However, prior indicated SCR reports have no relevance to current Justice Center investigations, and do not inform the Justice Center's final legal determination. As a result, this requirement unnecessarily prolongs the time of Justice Center investigations.

Budget Implications:

Enactment of this bill will provide savings of approximately \$64K on an annual basis.

Effective Date:

This bill would take effect immediately.

**Part BB – Office for People With Developmental Disabilities Authority to Issue Operating Certificates**

Purpose:

The purpose of this legislation is to create more direct authority for oversight and ensure quality of services by providers of developmentally disabled services and to eliminate duplication of efforts between multiple State agencies.

Summary of Provisions and Statement in Support:

Section one amends §16.03 of the Mental Hygiene Law to add a new paragraph (5) to subdivision (a) to include State Plan services designated for persons with developmental disabilities.

Section two amends subdivision (d) of section 16.03 of the Mental Hygiene Law to add “or provision of services.”

Section three adds a new paragraph (3) to subdivision (a) of section 16.11 of the Mental Hygiene Law to require providers of services be subject to oversight by the Commissioner of OPWDD.

Section four amends paragraph (a) of subdivision (4) of Social Services Law section 488 to change the agency name to the Office of Addiction Services and Supports. It also adds “and five” to existing provisions regarding the jurisdiction of the Justice Center for providers issued operating certificates pursuant to the amendments to paragraph (5) of subdivision (a), of section 16.03 of the Mental Hygiene Law, referenced above.

Section five amends subdivision (6) of section 2899 of the Public Health Law to remove health homes authorized by the Department of Health to provide services to people with developmental disabilities from the definition of “providers” subject to the Department of Health’s criminal history record check process.

Section six amends paragraph (b) of subdivision (9) of section 2899-a of the Public Health Law to remove health homes authorized by the Department of Health to provide services to people with developmental disabilities from the provision permitting providers to claim reimbursement for the cost of the criminal history record check process.

Section seven amends subdivision (10) of section 2899-a of the Public Health Law to remove health homes authorized by the Department of Health to provide services to people with developmental disabilities from the provision requiring providers to directly observe and evaluate temporarily hired staff while the criminal history record check process is pending.

Section eight provides the effective date of 90 days after signing by the Governor.

Budget Implications:

There will be an estimated \$100,000 savings impact in FYs 2021-2024. This proposal could lead to future State funds cost avoidance by allowing OPWDD to better regulate and monitor the operations and finances of certain entities, particularly the Care Coordination Organizations (CCOs) who determine service coordination for over 100,000 individuals with I/DD.

Effective Date:

This bill would take effect 90 days after being signed by the Governor.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.