

**FY 2023 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 public health law, in relation to the implementation of the Nurses Across New York (NANY) program (Part A); to amend the education law, in relation to enacting the interstate medical licensure compact; and to amend the education law, in relation to enacting the nurse licensure compact (Part B); to amend the public health law and the education law, in relation to allowing pharmacists to direct limited service laboratories and order waived tests and modernizing nurse practitioners and, in relation to regulations for medication-related tasks provided by certified medical aides; to amend the education law, in relation to allowing for certain individuals to administer tests to determine the presence of SARS-CoV-2 or its antibodies, influenza virus or respiratory syncytial virus in certain situations; to amend part D of chapter 56 of the laws of 2014, amending the education law relating to enacting the "nurse practitioners modernization act", in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon the expiration thereof (Part C); to amend the social services law, in relation to establishing the health care and mental hygiene worker bonuses (Part D); to amend the public health law, in relation to increasing general public health work base grants for both full-service and partial-service counties and allow for local health departments to claim up to fifty percent of personnel service costs (Part E); to amend the public health law, in relation to the modernization of the emergency medical system (Part F); to repeal articles governing healthcare

professions in the education law and adding such laws to the public health law and transferring all functions, powers, duties and obligations relating thereto (Part G); 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 the cap on local Medicaid expenditures (Part H); relating to provide a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates (Part I); to amend the public health law, in relation to extending the statutory requirement to reweight and rebase acute hospital rates (Part J); to amend the public health law, in relation to the creation of a new statewide health care facility transformation program (Part K); to amend the public health law, in relation to streamlining and adding criteria to the certificate of need process (Part L); to amend the public health law, in relation to the definition of revenue in the minimum spending statute for nursing homes and the rates of payment and rates of reimbursement for residential health care facilities, and in relation to making a temporary payment to facilities in severe financial distress (Part M); to amend the social services law, in relation to Medicaid eligibility requirements for seniors and disabled individuals; and to repeal certain provisions of such law relating thereto (Part N); to amend the social services law, in relation to private duty nursing services reimbursement for nurses servicing adult members; to amend part MM of chapter 56 of the laws of 2020 directing the department of health to establish or procure the services of an independent panel of clinical professionals and to develop and implement a uniform task-based assessment tool, in relation to

directing the department of health to develop guidelines and standards for the use of tasking tools; and to amend the public health law, in relation to establishing programs of all-inclusive care for the elderly (Part O); to amend the social services law and the public health law, in relation to providing authority for the department of health to competitively procure managed care organizations and requiring Medicaid managed care organizations, the essential plan and qualified health plans to contract with national cancer institute-designated cancer centers, where such centers agree to certain terms and conditions; and to repeal certain provisions of the social services law relating thereto (Part P); to amend the public health law and the social services law, in relation to permitting the commissioner of health to submit a waiver that expands eligibility for New York's basic health program and increases the federal poverty limit cap for basic health program eligibility from two hundred to two hundred fifty percent; to amend the social services law, in relation to allowing pregnant individuals to be eligible for the basic health program and maintain coverage in the basic health program for one year post pregnancy and to deem a child born to an individual covered under the basic health program to be eligible for medical assistance; and providing for the repeal of certain provisions upon the expiration thereof (Part Q); to amend the insurance law, in relation to requiring private insurance plans to cover abortion services without cost-sharing (Part R); to amend the social services law, in relation to including expanded pre-natal and post-partum care as standard coverage when determined to be necessary and the continuance of eligibility for pregnant individuals to receive medical assistance in certain situations; and to

repeal section 369-hh of the social services law (Part S); to amend the public health law, in relation to requiring third trimester syphilis testing (Part T); to amend the public health law, in relation to expanding benefits in the Child Health Plus Program, eliminating the premium contribution for certain households and transferring Child Health Plus rate setting authority from the Department of Financial Services to the Department of Health (Part U); to amend the public health law and the insurance law, in relation to reimbursement for commercial and Medicaid services provided via telehealth (Part V); to amend the social services law, in relation to eliminating unnecessary requirements from the utilization threshold program (Part W); to amend the public health law, in relation to redefining the duties and renaming the office of minority health to the office of health equity and renaming the minority health council to the health equity council (Part X); to amend the domestic relations law, in relation to marriage certificates (Part Y); 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 the purchase of excess coverage by physicians and dentists and reimbursement of costs therefor, and to extending the physicians medical malpractice program; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care



Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part Z); to amend the financial services law, the insurance law and the public health law, in relation to clarifying provisions regarding emergency medical services and surprise bills; and to repeal certain provisions of such law relating thereto (Subpart A); to amend the insurance law and the public health law, in relation to the federal no surprises act (Subpart B); and to amend the insurance law and the public health law, in relation to administrative simplification (Subpart C) (Part AA); to amend the public health law, in relation to prescriber prevails; and to repeal certain provisions of the social services law relating to coverage for certain prescription drugs (Part BB); to amend the social services law, the executive law and the public health law, in relation to extending various provisions relating to health and mental hygiene; to amend chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend 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 the effectiveness thereof; to amend chapter 54 of the laws of 2016, amending part C

of chapter 58 of the laws of 2005 relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2020, amending the tax law and the social services law relating to certain Medicaid management, in relation to the effectiveness thereof; to amend chapter 74 of the laws of 2020, relating to directing the department of health to convene a work group on rare diseases, in relation to the effectiveness thereof; and to amend chapter 414 of the laws of 2018, creating the radon task force, in relation to the effectiveness thereof (Part CC); in relation to establishing a cost of living adjustment for designated human services programs (Part DD); to amend the mental hygiene law, in relation to a 9-8-8 suicide prevention and behavioral health crisis hotline system (Part EE); to amend the social services law, in relation to reinvesting savings recouped from behavioral health transition into managed care back into behavioral health services (Part FF); 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 (Part GG); to amend the public health law, in relation to requiring a stock of opioid agonist medication for the treatment of an opioid use disorder (Part HH); to amend the mental hygiene law, in relation to community residences for addiction (Part II); to amend the mental hygiene law, in relation to expanding the scope of the alcohol awareness program to become the substance use awareness program (Part JJ); to amend the facilities development corporation act in relation to authorizing the

facilities development corporation to acquire, improve and lease mental health facilities providing services for the treatment of addiction (Part KK); to amend chapter 56 of the laws of 2013 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and referencing the office of addiction services and supports; to amend part H of 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 referencing the office of addiction services and supports and in relation to the effectiveness thereof (Part LL); to amend Kendra's law, in relation to extending the expiration thereof; and to amend the mental hygiene law, in relation to extending Kendra's law and assisted outpatient treatment (Part MM); to amend the mental hygiene law, in relation to rental and mortgage payments for the mentally ill (Part NN); and to amend part L of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the appointment of temporary operators for the continued operation of programs and the provision of services for persons with serious mental illness and/or developmental disabilities and/or chemical dependence, in relation to the effectiveness thereof (Part OO)

**PURPOSE:**

This bill contains provisions needed to implement the Health and Mental Hygiene portion of the FY 2023 Executive Budget.

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

**Part A – Nurses Across New York (NANY)**

Purpose:

This bill would make statutory changes necessary to implement workforce initiatives to rebuild and grow the healthcare workforce, including to establish the Nurses Across New York (NANY) loan repayment program.

Summary of Provisions and Statement in Support:

Sections one and two of this bill would amend Public Health Law to establish the NANY program, which would reimburse nurses working in underserved communities for loan repayment over three years. A work group would be appointed from associations representing nurses, hospitals, and other healthcare providers to streamline the application process.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget. The State will invest \$2.5 million in FY 2023 and \$3.0 million in FY 2024.

Effective Date:

This act would take effect immediately, however section two of the bill will be deemed to take effect on April 1, 2022.

**Part B – Interstate Medical Licensure Compact**

Purpose:

This bill would make statutory changes necessary to allow New York to join the Interstate Medical Licensure Compact and Nurse Licensure Compact in order to allow doctors and nurses to easily relocate to and practice in New York.

Summary of Provisions and Statement in Support:

Sections one and two of this bill would allow New York to join the Interstate Medical Licensure Compact, enabling doctors and nurses to relocate to New York and use their existing license to practice in the State.

Section three of this bill would authorize issuance of a temporary permit to practice while a licensing application is pending for individuals licensed in another state who seek licensure in New York State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan and would not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

Sections one and two of this bill would take effect April 1, 2022, while section three of the bill would take effect on the ninetieth day after it shall have become a law.

**Part C – Scope of Practice**

Purpose:

This proposal expands pharmacists' role in support of public health by providing authorization to be designated as a qualified healthcare professional for the purpose of directing a limited-service laboratory for point of care testing. This proposal also waives requirements for experienced Nurse Practitioners in certain healthcare fields to have a written practice agreement with a physician, makes Nurse Practitioners Modernization Act permanent, and expands the nurse aide scope of practice to include the administration of medication in skilled nursing facilities.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health Law to add pharmacists as qualified healthcare professionals to perform non-invasive tests.

Section two of this bill would add a new subdivision to education law that qualifies a pharmacist as a healthcare professional to direct limited-service laboratory, ordering and administering tests

Section three of this bill would define 3,600 hours as a threshold for nurse practitioners to require collaborative agreements, with nurse practitioners under the 3,600-hour threshold required to enter into an agreement with a physician.

Section four of this bill would remove language requiring nurse practitioners with over 3,600 hours practicing hours in primary care to enter into a collaborative agreement with a physician, and re-letter subsequent paragraphs.

Section five of this bill eliminates an expirations clause contained in the Nurse Practitioners Modernization Act.

Sections six through eight of this bill would amend Education Law and Public Health Law to authorize certified medication aides to administer routine and prefilled medications in residential health care facilities.

Section nine of this bill would amend education law to allow a physician to order non-patient specific standing regimens for the use of such regimen for the testing of patients for COVID-19, influenza and other upper respiratory illnesses.

Section ten of this bill would amend education law to allow a nurse practitioner to order a non-patient specific standing regimen for the use of such regimen for the testing of patients for COVID-19, influenza and other upper respiratory illnesses.

Section eleven of this bill would amend education law to allow any individual to collect specimen from patients for COVID-19 or influenza testing but under the supervision and training of a registered nurse or nurse practitioner.

Section twelve of this bill would amend education law to allow any individual to collect specimen from patients for COVID-19 or influenza testing but under the supervision and training of a physician.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

This bill will take effect immediately upon enactment. Sections six through eight of this bill will expire two years after the effective date.

**Part D – Healthcare Workforce Bonuses**

Purpose:

This bill would make statutory changes necessary to implement the health care workforce bonuses.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Social Services Law to establish section 367-w, Healthcare Workforce Bonuses, which would provide health and mental hygiene workers earning up to \$100,000 annually with a one-time bonus of up to \$3,000.

Section two of this bill would amend Social Services Law to conform to section 367-w, requiring medical assistance providers to identify, claim, and pay healthcare workforce bonuses.

Section three of this bill would amend Social Services Law to establish monetary penalties for failure to identify, claim and pay a bonus for each employee. Section four of this bill would amend establish health care worker bonuses for state employees.

Section five of this bill would establish that the maximum bonus per employee is \$3,000.

Section six of this bill would establish that this bonus shall not be subject to state or local income tax.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, and is estimated to result in a \$1.2 billion state share expense in FY 2023.

Effective Date:

This act would take effect immediately.

**Part E – General Public Health Work County Support**

Purpose:

This bill would allow DOH to increase annual base grant funding to full-service Local Health Departments (LHDs) to \$750,000 (\$1.30 per capita for larger counties) and to all partial-service to \$577,500. This bill would also allow all LHDs to claim up to 50 percent of personnel services costs for State Aid reimbursement.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Public Health law to increase base grant funding to full service LHDs to \$750,000, or \$1.30 per capita. It would also increase base grant funding to partial-service LHDs to \$577,500. Full-service LHDs currently receive a base grant of \$650,000, or \$0.65 per person if the population is over 1 million, and partial-service LHDs receive a base grant of \$500,000. This will allow LHDs to better respond to new and emerging public health threats.

Sections two and three of this bill would amend Public Health law to allow LHDs to claim up to 50 percent of personnel services costs. LHDs cannot currently claim fringe benefits for State Aid reimbursement. This would give LHDs the opportunity to increase their staffing levels to meet public health demands.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as it would expand the capabilities of Local Health Departments, resulting in a fiscal impact of \$25.7 million in FY 2023 and a full annual impact of \$51.5 million beginning in FY 2024.

Effective Date:

This bill would take effect April 1, 2022.

**Part F – Modernize Emergency Medical Services**

Purpose:

This bill would modernize statewide coordination of treatment protocols across emergency medical services agencies for basic and advanced life support.

Summary of Provisions and Statement in Support:

This bill would amend Public Health Law to streamline the process for reporting and recommendations from each regional emergency medical service council to report to the State Emergency Medical Services Council (SEMSCO), as well as the process by which SEMSCO makes recommendations to the department and the Commissioner of Health.

The bill would also create an emergency medical services quality assurance program, which would establish a statewide comprehensive emergency medical services plan and a training program, requiring that new agency licenses issued are consistent with a statewide comprehensive emergency medical services plan and would redefine emergency medical services to include new models of health care delivery, including administration of vaccination and paramedicine.

Budget Implications:

As part of the FY 2023 Executive Budget, a one-time cost of \$5 million will be provided to implement a county-wide emergency medical services overlay pilot in select New York counties.

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, 2022.

**Part G – Transfer of Oversight for Licensed Healthcare Professions**

Purpose:



This bill would amend the Education Law and Public Health Law, in relation to transfer of oversight of certain licensed professions from the State Education Department to the Department of Health.

Summary of Provisions and Statement in Support:

This bill would repeal Articles 131, 131-A, 131-B, 131-C, 132, 133, 134, 136, 137, 137-A, 139, 140, 141, 143, 144, 153, 154, 155, 156, 157, 159, 160, 162, 163, 164, 165, 166, 167, and 168 of the Education Law and replace these repealed articles and all associated powers with new titles of Public Health Law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget. Any costs will be supported within existing resources of the Department of Health and the State Education Department.

Effective Date:

This act shall take effect on January 1, 2023.

**Part H – Medicaid Global Cap Metric Modification and Extension**

Purpose:

This bill would make statutory changes necessary to modify the metric for year-to-year growth of Department of Health (DOH) State funds Medicaid spending and extend the statutory provisions of the Medicaid Global Cap.

Summary of Provisions and Statement in Support:

Section one would amend Chapter 56 of the laws of 2013 to modify the metric for year-to-year growth of DOH State funds Medicaid spending by adopting the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services.

Section two would amend Chapter 57 of the laws of 2021 to extend the two-year Medicaid Global Cap budgeting construct through FY 2024.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within the statutorily capped levels, as prescribed in the FY 2023 Executive Budget through this part.

Effective Date:

This bill would take effect April 1, 2022.

**Part I – Increase Medicaid trend factor by one percent to recognize provider labor cost increases**

Purpose:

This bill would make statutory changes necessary to allow for a payment increase of one percent across all Department of Health (DOH) Medicaid fee-for-service rates. The rate change recognizes provider cost increases to adequately respond to market needs and compete in the labor market to attract qualified workers.

Summary of Provisions and Statement in Support:

Section one of this bill would allow providers the flexibility to increase rates of payment to health care workers by providing for a one percent increase to all DOH Medicaid fee-for-service rates, consistent with Federal law and with limited exceptions.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as it would establish a rate increase to the healthcare industry with the intent of providing flexible funding for providers to respond to market needs and compete in the labor market to attract qualified workers. It would result in a fiscal impact of \$318.3 million State share in FY 2023 and FY 2024 that will be supported within Global Cap resources.

Effective Date:

This act shall take effect on April 1, 2022.

**Part J – Hospital Related Recommendations**

Purpose:

This bill would make changes necessary to extend the statutory requirement to rebase and reweight acute hospital rates to January 1, 2024 or after.

Summary of Provisions and Statement in Support:

Section one of this bill would amend the Public Health Law to extend the statutory requirement to rebase and reweight acute hospital rates from July 1, 2022, to no earlier

than January 1, 2024. Delaying rate rebasing would avoid large swings in hospital reimbursements until the industry cost base has an opportunity to normalize.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

Effective Date:

This bill would take effect April 1, 2022.

**Part K – Statewide Health Care Facility Transformation Program IV**

Purpose:

This bill would establish and implement a new \$1.6 billion Statewide Health Care Facility Transformation Program IV (Statewide IV) for the purpose of funding capital projects for eligible health care providers, building out ambulatory care infrastructure statewide, financing information technology and telehealth improvements, and implementing innovative nursing home models.

Summary of Provisions and Statement in Support:

Section one of this act would amend Public Health Law Section 2825-G, adding a new section to establish and set forth provisions of the Statewide IV Program:

- Subdivision 1 of this section would establish the Statewide IV program under the administration of the Department of Health (DOH) for the purpose of transforming, redesigning, and strengthening quality health care services in communities following the impact of the coronavirus public health emergency.
- Subdivision 2 of this section would define which entities are eligible for awards under Statewide IV and require that DOH and the Dormitory Authority of the State of New York (DASNY) enter into a formal agreement related to the joint administration of the Statewide IV program.
- Subdivision 3 of this section would authorize the use of \$450 million of the total Statewide IV funding pool to finance eligible capital projects submitted under the Statewide III program. This would include funds for community-based health care providers, behavioral health clinics and to residential health care facilities or nursing homes.

- Subdivision 4, 5, 6 and 7 would authorize funds for eligible healthcare providers for the modernization of regionally significant emergency departments, information technology and telehealth infrastructure, and innovative models in nursing homes.
- Subdivision 8 of this section would provide that the selection of awards made under Statewide IV would be contingent upon a review process developed by DOH, and subject to approval by the Director of the Division of the Budget. This subdivision also establishes that the disbursement of Statewide IV funding to successful applicants may be on dependent on achieving certain project performance metrics and development milestones.
- Subdivision 9 of this section would require DOH to submit quarterly reports on Statewide IV project status to the chairs of the senate finance, assembly ways and means, and senate and assembly health committees.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State’s multi-year Financial Plan and would result in a State Fiscal Impact of \$35 million in FY 2023, \$75 million in FY 2024, \$205 million in FY 2025, \$270 million in FY 2026, and \$265 million in FY 2027. The remaining \$750 million of the total amount appropriated will be disbursed beyond FY 2027 and is not reflected in the current five-year Financial Plan.

Effective Date:

This act would take effect immediately.

**Part L – Notices for Changes in Ownership of Licensed Entities**

Purpose:

This bill would clarify and strengthen the review of applicants seeking to become established operators of hospitals, including nursing homes and diagnostic and treatment centers, and of transfers of proposed interests in entities already established to operate such hospitals and to operate home care agencies and hospices.

Summary of Provisions and Statement in Support:

Section one would amend Public Health Law to add controlling persons to the list of individuals whose character and competence the public health and health planning council (PHHPC) must approve as part of a hospital establishment application, revise

the review period of an applicant's health care affiliations and clarify the types of affiliations that applicants must disclose.

Section two of the bill would amend Public Health Law to clarify the types of transfers or other dispositions of ownership interest in established operators of hospitals that do not require the prior approval of PHHPC and those transfers that may proceed upon notice.

Section three of the bill would repeal the current law to clarify the transfers or other dispositions of ownership interest that would require the prior approval of PHHPC and those that may proceed with notice.

Section four of the bill would amend Public Health Law to allow certain transfers or other dispositions of ownership interest in established operators of hospices to proceed upon notice without the prior approval of PHHPC.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and will not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

This bill would be effective immediately.

**Part M – Nursing Home Reforms**

Purpose:

This bill would make statutory changes necessary to implement various nursing home reforms.

Summary of Provisions and Statement in Support:

Section one of this bill would modify the definition of revenue to exclude provider assessment revenue for all nursing homes and to exclude the capital per diem portion of reimbursement rates for nursing homes with a Centers for Medicare and Medicaid Services (CMS) 4 or 5 star rating.

Section two of this bill would provide the Commissioner of the Department of Health with the authority to modify the definition of revenue to exclude the capital per diem portion of reimbursement rates for nursing homes that have a 3 star CMS rating, on a case-by-case basis.

Section three of this bill would expand on the funding methods of the Nursing Home Quality Pool (NHQP) by funding through state appropriations, either fully or in addition to the current funding through rate adjustments to eligible nursing homes.

Section four of this bill would amend Public Health Law Section 2826 to include financially distressed nursing homes, Adult Care Facilities (ACFs), Independent Practice Associations (IPAs), and Accountable Care Organizations (ACOs) as eligible providers of Vital Access Provider Assurance Program (VAPAP) funds. Additionally, this section would authorize for VAPAP funds to be made pursuant to an applicable evaluation process and transformation plan.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as it would support nursing homes in dedicating an appropriate level of resources to resident care and funding critical reforms in the nursing home industry. It would result in an investment of \$161.5 million State share in FY 2023 and FY 2024.

Effective Date:

This bill would take effect on April 1, 2022.

**Part N – Promote Health Equity and Continuity of Coverage for Vulnerable Seniors and Individuals with Disabilities**

Purpose:

This bill would make statutory changes necessary to eliminate the Medicaid resource test and raise the income level of the Federal Poverty Level for Vulnerable Seniors and individuals with Disabilities.

Summary of Provisions and Statement in Support:

Sections one through twenty-three of this bill would amend Social Services Law Section 366 to remove resources from consideration for Medicaid eligibility and increase the income limit of the Federal Poverty Level for seniors and the individuals with disabilities.

Section twenty-four of this bill establishes the effective date.

Budget Implications:

The proposal in this section accounts for a State share investment of \$5 million in FY 2023 growing to \$20 million in FY 2024.

Effective Date:

This bill would take effect January 1, 2023.

## **Part O – Medicaid Long Term Care Program Reforms**

### Purpose:

This bill would make statutory changes necessary to implement Medicaid long-term care program reforms.

### Summary of Provisions and Statement in Support:

Section one of this bill would amend Social Services Law Section 367 to adjust Medicaid Managed Care reimbursement to individuals providing private duty nursing services to medically fragile adults.

Section two of this bill would amend Social Services Law Section 367 to modify implementation of the uniform tasking tool and to allow the Department of Health to develop service authorization guidelines and standards for long term services and supports.

Sections three and four of this bill would amend Public Health Law to establish a separate licensure process for Programs for All-Inclusive Care for the Elderly (PACE) plans to streamline application and approval processes and expand access to health care coverage and service delivery for individuals in need of long-term care services.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

### Effective Date:

This bill would take effect on April 1, 2022.

## **Part P – Managed Care Reforms**

### Purpose:

This bill would provide authority for the Department of Health (DOH) to competitively procure Managed Care Organizations (MCOs) participating in certain Medicaid managed care programs; and ensure equitable access to cancer care.

### Summary of Provisions and Statement in Support:

This bill would provide authority for the Department of Health to competitively procure Managed Care Organizations (MCOs) participating in certain Medicaid managed care programs.

This bill would also authorize health plans offering Medicaid, Essential Plan, and Qualified Health Plan to contract with national cancer institute-designated cancer centers.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

This bill has an associated fiscal savings of \$100 million in FY 2024 and \$200 million in FY 2025.

Effective Date:

This bill would take effect on April 1, 2022.

**Part Q – Essential Plan Reforms**

Purpose:

Subject to Federal approval, this bill would expand eligibility under the New York State Essential Plan (EP) Program by increasing the Federal Poverty Level (FPL) cap from 200 percent to 250 percent for legally permanent residents. This bill would also expand Long-Term Supports and Services (LTSS) coverage to provide comparable coverage to Medicaid while utilizing Federal resources available in the Essential Plan Trust Fund.

Summary of Provisions and Statement in Support:

Section one of this bill would to authorize the Commissioner of the Department of Health to submit appropriate Federal waiver applications to expand Essential Plan eligibility. Expansion of eligibility is conditional upon Federal approval.

Sections two and three of this bill would raise the FPL cap for Essential Plan eligibility from 200 percent to 250 percent and would allow individuals and their newborns to receive coverage for one-year post-partum regardless of any change to income.

Sections four through seven of this bill would amend Social Services Law to update the "health care services" definition to cover individuals with long-term chronic illnesses.



Budget Implications:

This bill would expand eligibility under the EP Program, subject to Federal approval. These actions are financed with Federal resources through the EP Trust Fund.

Effective Date:

This act would take effect immediately; provided, however, Sections 2 and 3 would take effect on April 1, 2022; section 4 would take effect January 1, 2023; section 5 would take effect January 1, 2024; and sections 6 and 7 would take effect on January 1, 2025.

**Part R – Protect Reproductive Access for All**

Purpose:

This bill would codify individual and group private insurance coverage for abortion services which would not be subject to copayments, coinsurance, or annual deductibles.

Summary of Provisions and Statement in Support:

This bill would require every individual accident and health insurance policy that provides medical, major-medical, or similar comprehensive-type coverage in New York to provide coverage for abortions. Further, the bill would require that the coverage not be subject to copayments, coinsurance, or annual deductibles unless the policy is a high-deductible plan.

This bill would also require every group or blanket accident health insurance policy that provide medical, major-medical, or similar comprehensive-type coverage in New York to provide coverage for abortions. That coverage would not be subject to copayments, coinsurance, or annual deductibles unless the policy is a high-deductible type plan. Exemptions would be allowed for religious employers, who primarily serve and employ individuals who share the religious tenets of the employer, to exclude coverage under certain conditions, including upon annual certification by policyholder stating that it is a religious employer or issuance of riders.

Section three of this bill includes conforming changes in within the Benefits subsection of Insurance law matching the requirements in Section two.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect on the January 1<sup>st</sup> succeeding enactment.

## **Part S – Maternal Health Reforms**

### Purpose:

This bill would expand maternal health services to achieve health equity and improve birth outcomes.

### Summary of Provisions and Statement in Support:

Section one of this bill would amend Social Services Law to include prenatal and postpartum care as “standard coverage” to be reimbursed when determined to be necessary by various healthcare practitioners.

Sections two through five would extend post-partum coverage eligibility to one year following the last day of pregnancy.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and to improve and expand access to maternal health services with an investment of \$6.3 million in FY 2023 and \$18.8 million in FY 2024.

### Effective Date:

This bill would take effect immediately and would be deemed to have been in full force and effect on April 1, 2022; provided, however, that sections two, three, four and five would take effect January 1, 2023.

## **Part T – Third Trimester Syphilis Screenings**

### Purpose:

This bill would support reproductive equity and work towards eliminating congenital syphilis by requiring third trimester screening for syphilis.

### Summary of Provisions and Statement in Support:

This bill would amend Public Health Law to require syphilis testing of pregnant patients by a physician or other authorized practitioner in the third trimester consistent with any guidance and regulations issued by the Department of Health.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State’s multi-year Financial Plan and would not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

This bill would take effect one year after passage. Any rules and regulations or guidance necessary to implement the provisions are effective immediately.

**Part U – Child Health Plus Reforms**

Purpose:

This bill would make statutory changes to improve access to children’s mental and behavioral health services by aligning Child Health Plus (CHP) benefits with Medicaid benefits and transitioning the Child Health Plus rate setting authority from the Department of Financial Services (DFS) to the Department of Health (DOH) to align with Medicaid Managed Care rate setting practices.

Summary of Provisions and Statement in Support:

Section one of this bill would expand covered health care services in Child Health Plus to align the benefits with the Medicaid program.

Section two of this bill would eliminate the \$9 per month premium for eligible children whose family household income is less than two hundred twenty-three percent of the Federal Poverty Level.

Section three of this bill would allow the Commissioner of Health and DOH to assume the rate setting authority for CHP.

Section four of this bill would authorize the Commissioner of Health to modify rate setting policies in consultation with the Superintendent of Financial Services.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State’s multi-year Financial Plan by mitigating Public Health spending growth.

This proposal would create a \$10.9 million State share investment in FY 2023, with a full annual impact of \$48.8 million in FY 2024.

Effective Date:

Sections one, three, and four of this bill would take effect on January 1, 2023 and section two of this bill would take effect on April 1, 2022.

**Part V – Establish Telehealth Reimbursement Parity**

Purpose:

This bill would make statutory changes necessary to establish reimbursement parity for telehealth services by requiring health plans, including those in Medicaid, to reimburse providers for services delivered through telehealth on the same basis, and at the same rate, as services delivered in person.

Summary of Provisions and Statement in Support:

Sections one through four of this bill would amend Public Health Law Sections 2999-dd and 4406-g, and Insurance Law Sections 3217-h and 4306-g to require that health care services delivered by means of telehealth are reimbursed on the same basis, at the same rate, and to the same extent as services delivered in person.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and will not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

This bill would take effect on April 1, 2022.

**Part W – Eliminate Unnecessary Requirements from the Utilization Threshold (UT) Program**

Purpose:

The purpose of this bill is to reduce administrative burden from the Utilization Threshold program for fee-for-service (FFS) providers.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Social Services Law §365-g to move monitoring service utilization from a prospective to a retrospective function and would remove the requirement for provider-submitted increase requests. This would eliminate the current administrative burden of requesting increases to benefit limits for members and providers.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

This proposal accounts for \$230,000 in State savings in FY 2023 and the out years.

Effective Date:

This act shall take effect on July 1, 2022.

**Part X – Rename the Office of Minority Health**

Purpose:

This bill would rename the Office of Minority Health under the Department of Health to the Office of Health Equity, and redefine the mission and scope for the office.

Summary of Provisions and Statement in Support:

Sections one through five of this bill would amend Public Health Law to change the name of the Office of Minority Health to the Office of Health Equity to further the Department's efforts to advance health equity and for the office to amend the purpose and scope of work.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and will not result in any fiscal impacts during FY 2023 or FY 2024, as any costs will be supported within existing resources.

Effective Date:

This bill would take effective immediately.

**Part Y – Marriage Certificates**

Purpose:

This bill would amend domestic relations law to allow for changes in name or gender to make it easier for New Yorkers to accurately express their gender identity.

Summary of Provisions and Statement in Support:

This bill would allow name and gender changes on marriage certificates upon receipt of proper proof and would make other changes to the law related to record keeping fees and authority for the Attorney General to compel local government compliance with the law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and would not result in any fiscal impacts during FY 2023 or FY 2024, as any costs would be supported within existing resources.

Effective Date:

This bill would take effect one year after passage.

**Part Z – This bill restructures and extends the Physicians Excess Medical Malpractice program**

Purpose:

This bill would amend Civil Practice Law to restructure Physician’s Excess Medical Malpractice payments to insurers from one annual payment to two installments split over two fiscal years, and extend provisions of the hospital excess liability pool through June 30, 2023.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Section 18 of Chapter 266 of the laws of 1986 to restructure Physician’s Excess Medical Malpractice payments to insurers from one annual payment to two installments split over two fiscal years.

Sections two through seven of this bill would amend chapter 266 of the laws of 1986 and Chapter 57 of the laws of 2021 to extend the hospital excess liability pool by one year through June 30, 2023.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget in order to continue the Excess Medical Malpractice program and achieve a total savings of \$51.1 million in FY 2023.

Effective Date:

This act shall take effect immediately.

**Part AA – Clarifying provisions regarding emergency medical services and surprise bills**

Purpose:

The 2020 Federal No Surprises Act (NSA) included in the Federal Consolidated Appropriations Act of 2021. The NSA provides federal consumer protections against surprise billing, limits out of network cost sharing under many of the circumstances in which surprise bills arise most frequently (e.g., balance billing, provider directory inaccuracies), and establishes continuity of care and health plan ID card requirements. Most provisions are effective for plan years beginning on or after January 1, 2022. While some NSA requirements are similar to existing New York requirements, there are some that are either not addressed, or are more expansive than, existing New York law, regulations, policies, and procedures. This bill would align New York consumer protections with the NSA.

Summary of Provisions and Statement in Support:

Subpart A of the bill would clarify provisions pertaining to emergency medical services and surprise bills.

Subpart B would ensure that the State law conforms with the federal “No Surprise Act” to protect patients from surprise bills.

Subpart C would improve applications and procedures.

Budget Implications:

This would bill expand New York consumer protections to align with the Federal No Surprises Act.

Effective Date:

This bill will take effect immediately.

**Part BB – Pharmaceutical Related Recommendations**

Purpose:

This bill would make statutory changes necessary to discontinue the prescriber prevails provision.

Summary of Provisions and Statement in Support:

Sections one and two of this bill would amend Public Health §273 and Social Services Law §364-j to reduce inappropriate prescribing by eliminating the prescriber’s ability to make a final determination in both fee-for-service (FFS) and managed care when the justification for use is not clinically supported, with the exception of the nine special classes currently allowed in Managed Care.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

The proposal in this section accounts for \$41.21 million in net State savings in FY 2023 and \$49.45 million in net State savings in FY 2024.

Effective Date:

This act shall take effect on June 1, 2022.

**Part CC - 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, Social Services, Education, and Tax Laws.

Summary of Provisions and Statement in Support:

Section one of this bill would amend the Social Services Law, extending the deadline to determine the Assisted Living Program (ALP) Need Methodology through April 1, 2025.

Section two of this bill would amend Chapter 57 of the Laws of 2019, extending provisions related to the Statewide Patient Centered Medical Home program through April 1, 2025.

Section three of this bill would amend Chapter 57 of the Laws of 2019, extending authorization for temporary operators of adult homes permanently.

Section four of this bill would amend Chapter 57 of the Laws of 2019, extending the authority of the Department to make DSH/IGT payments to hospitals outside of NYC through March 31, 2025.

Section five of this bill would amend Chapter 56 of the Laws of 2020, extending authorization of pharmacists to enter into collaborative agreements with physicians in certain settings permanently.

Section six of this bill would amend Chapter 58 of the Laws of 2020, extending a Statewide Medicaid integrity and efficiency initiative for the purpose of achieving audit recoveries through March 31, 2024.



Section seven of this bill would amend Chapter 56 of Laws of 2020, extending the Distressed Provider Assistance Program permanently.

Section eight of this bill would amend the Executive Law, extending the Lyme and Tick-Borne Disease Working Group's report due date to May 1, 2023.

Section nine of this bill would amend the Public Health Law, extending the Tick-Borne Diseases and Blood-Borne Pathogen Impact Study's due date to October 1, 2022.

Section ten of this bill would amend Chapter 199 of the Laws of 2021, extending the due date for the Rare Disease Workgroup's Report to December 20, 2022, and the repeal date to December 20, 2023.

Section eleven of this bill would amend Chapter 58 of the Laws of 2020, extending the due date for the Radon Task Force's Report to November 1, 2021 and the repeal date to December 31, 2022.

Section twelve of this bill would provide for an immediate effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services.

Effective Date:

All sections of this bill would take effect immediately.

**Part DD – Human Services Cost-of-Living Adjustment**

Purpose:

This bill would provide a 5.4 percent Cost-of-Living Adjustment (COLA) in fiscal year (FY) 2022-23 for certain human services programs.

Summary of Provisions and Statement in Support:

This bill would establish a one-time COLA for FY 2022-23 at a rate of 5.4 percent, to eligible human services programs consistent with the July 2021 consumer price index. The bill would require local government units (LGUs) to account for their use of funds, and would authorize agency commissioners to recoup funding not utilized consistent with statute or appropriation.

Section two establishes an effective date of April 1, 2022.

The current Human Services COLA statute expires on March 31, 2022. Providers have cited a history of flat funding as the primary driver of staffing shortages, program reductions, and potential fiscal insolvency. A COLA would help to address increasing costs, including wages and other operating expenses needed to prevent program reductions.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because immediate fiscal relief is needed to prevent program reductions in human services. The Financial Plan had \$130.8M available for a potential COLA. The 5.4 percent COLA would cost a total of \$411M, resulting in an additional cost to the Financial Plan of \$280.2M.

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, 2022.

**Part EE – 988 Crisis Prevention and Behavioral Health Crisis Act**

Purpose:

This bill would establish the 988 Suicide Prevention and Behavioral Health Crisis Act, allowing for the creation of the 988 Suicide Prevention and Behavioral Health Crisis Hotline system.

Summary of Provisions and Statement in Support:

Section 1 of the bill would create the “988 Suicide Prevention and Behavioral Health Crisis Act”.

Section 2 of the bill would create the 988 Suicide Prevention and Behavioral Health Crisis Hotline system. Specifically, this would establish an infrastructure for the three-digit phone number as designated by the Federal Communications Commission (FCC) for the purpose of connecting individuals experiencing a behavioral health crisis with suicide prevention and behavioral health crisis counselors, mobile crisis teams, and crisis stabilization services. The section would also authorize the Commissioners of the Office of Mental Health (OMH) and Office of Addiction Services and Supports (OASAS) to designate and provide standards for crisis hotline centers which would be responsible to provide or arrange for crisis intervention services, including follow up services as needed, to individuals accessing the hotline. Lastly, this section would provide for reporting metrics relating to the hotline’s usage, services, and impact and require the commissioners to submit an annual report to the Governor, the Temporary President of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate, and the Minority Leader of the Assembly, on such metrics.

In 2020, Congress designated the new 988 dialing code to be operated through the existing National Suicide Prevention Lifeline. The 988 dialing code will be available nationally for call, text or chat beginning in July 2022. This 988 Suicide Prevention and Behavioral Health Crisis Hotline would be an integral component of New York's crisis delivery system.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, as these amendments are necessary for OMH to properly distribute planned disbursements and implement the 988 Suicide Prevention and Behavioral Health Crisis Hotline system.

Effective Date:

This bill would take effect immediately.

**Part FF - Require reinvestment of underspending from behavioral health transition to Managed Care back into behavioral health services**

Purpose:

This bill would clarify the process for reinvesting savings realized through the transition of behavioral health services from a fee-for-service to a Managed Care model.

Summary of Provisions and Statement in Support:

Section 1 amends Section 365-m of the Social Services Law to outline appropriations for reinvestment of Managed Care savings within the Office of Mental Health (OMH) and the Office of Addiction Services and Supports (OASAS). The bill defines savings as the recovery of underspending against established premium targets from Managed Care Organizations (MCOs). These minimum spending thresholds, such as Medical Loss Ratio, define what portion of premiums must be spent on care for enrollees. Additionally, this section eliminates the requirement for the Department of Health (DOH) to issue regulations on the methodology of calculating savings and distributing funds for reinvestment. Finally, the bill clarifies annual reporting requirements.

Section 2 establishes an immediate effective date.

Enactment of this bill is necessary to ensure that resources dedicated to behavioral health services are maintained in the transition from a fee-for-service to a capitated payment structure.

These amendments will improve the administration of the resources for investment in the community-based behavioral health system and ensure funds are recovered and allocated for reinvestment in a timely manner.

Budget Implications:

The FY 2023 Executive Budget plans for the full reinvestment of the \$111M State share of FY 2022 actual and FY 2023 projected recoveries, appropriated between OMH and OASAS.

Effective Date:

This bill would take effect immediately.

**Part GG - Extend Delivery System Reform Incentive Payment Practices**

Purpose:

This bill would extend expiring law to continue regulatory flexibilities and provision of integrated physical and behavioral health delivery practices established under the Delivery System Reform Incentive Payment (DSRIP) program.

Summary of Provisions and Statement in Support:

This bill would amend Chapter 57 of the laws of 2021, extending the ability for the Department of Health (DOH), Office of Mental Health (OMH), Office for People With Developmental Disabilities (OPWDD), and Office of Addiction Services and Supports (OASAS) to waive any necessary regulatory requirements to allow providers involved in DSRIP projects, or authorized replication and scaling activities, to avoid duplicative requirements. This promotes efficient scaling and replication of practices established under the DSRIP program.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget to extend expiring law and maintain spending levels assumed in the current Financial Plan.

Effective Date:

This bill would take effect immediately.

**Part HH - Expand Access to Naloxone and Buprenorphine in Pharmacies**

Purpose:

This bill would amend the Public Health Law to require that pharmacies in New York State maintain a stock of naloxone and buprenorphine.

Summary of Provisions and Statement in Support:

Section 1 would amend Section 3309 of the Public Health Law by adding a new Subdivision 8 requiring pharmacies to maintain a stock of both an opioid antagonist medication (naloxone) and an opioid agonist medication (buprenorphine) for the treatment of an opioid use disorder.

Section 2 would establish an effective date of 60 days after enactment.

This bill would increase access to two lifesaving medications - naloxone, which reverses opioid overdoses, and buprenorphine, which is used to treat Opioid Use Disorder.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would be effective 60 days after enactment.

**Part II - Establish Certification for Recovery Residences**

Purpose:

This bill will allow for the development and implementation of a new certification process for recovery residences, also known as sober homes, which are not currently regulated by the State. This proposal will allow OASAS to create a voluntary certification process for recovery-supportive housing that provides substance-free environments and mutual support for individuals engaged in the recovery process. This voluntary certification process will incorporate inspection, record keeping and operational standards for recovery residences.

Summary of Provisions and Statement in Support:

Section 1 would amend Section 1.03 of the Mental Hygiene Law (MHL) to update the definition of alcoholism community residence to community residence for addiction.

Section 2 would amend Section 32.05 of MHL to clarify certification requirements and provide for the voluntary certification of recovery residences directly or by contract; and further provide for the structure and meaning of the certification of a recovery residence for purposes of this section.

Section 3 would amend Section 41.52 of MHL to remove stigmatizing language and update agency name.

Section 4 would establish an immediate effective date.

This new certification process for recovery residences would help to ensure there is safe housing available for individuals who have completed their substance use disorder treatment. For individuals recovering from substance use disorder, there is a lack of safe and stable housing, which can make it difficult for them to build and sustain their recovery. Individuals who want to abstain from substance use need to find living spaces which are stable and drug-free, or they remain at-risk of hindering their recovery process.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, which provides \$850,000 for 7 additional OASAS staff.

Effective Date:

This bill would take effect immediately.

**Part JJ - Modernize and expand alcohol awareness program**

Purpose:

This bill would amend the Mental Hygiene Law (MHL) to expand the Alcohol Awareness Program to cover other forms of addiction, and to expand the scope of the program to include recreational cannabis.

Summary of Provisions and Statement in Support:

Section 1 of this bill would amend section 19.25 of MHL to change the name of the Alcohol Awareness Program to the Substance Use Awareness Program, and to extend the scope of the program to include raising awareness of the health and social costs of cannabis use.

Section 2 would establish an immediate effective date.

There is need for a prevention program designed to address underage use of cannabis, similar to existing programs that address underage alcohol use, because recreational cannabis was legalized in New York State for those 21 and over. This legislation would allow OASAS to expand and reconfigure this program to address current needs.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, which includes \$750,000 for the development of evidence-based practices to address addiction by expanding the existing Alcohol Awareness Program to be made available to a wider range of individuals.

Effective Date:

This bill would take effect immediately.

**Part KK - OASAS Capital Program Reforms**

Purpose:

This bill would expand access to addiction services in New York State by expediting the development of capital projects to support voluntary-operated addiction services programs.

Summary of Provisions and Statement in Support:

Section 1 would amend Section 9 of Section 1 of the Facilities Development Corporation act to provide an expedited process for the development of capital projects for voluntary-operated addiction services providers. This legislation would allow the Office of Addiction Services and Supports (OASAS) and the Dormitory Authority of the State of New York (DASNY) to assume responsibility for the development of voluntary capital projects by voluntary-operated service providers from their inception to ensure projects move forward in a timely manner. In addition, this legislation would allow the State to purchase properties for development into voluntary-operated addiction service facilities and create a pathway to transfer facilities to service providers.

The FY 2023 Executive Budget makes substantial investments to expand access to addiction treatment services throughout New York State. However, the voluntary agencies which provide most addiction services in the State face significant difficulty developing the physical infrastructure they need to provide services, leading to long delays in opening of the new programs. This legislation would leverage DASNY's long experience managing complex construction projects to accelerate the development of new facilities on behalf of the voluntary agencies.

Budget Implications:

Enactment of this bill is necessary to implement capital projects investments included in the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately upon enactment.

## **Part LL - Ambulatory Patient Group (APG) Rate Methodology Extension**

### Purpose:

This bill would extend various expiring laws to continue previously enacted savings initiatives authorized in Public Health Law and Social Services Law.

### Summary of Provisions and Statement in Support:

This bill would amend Chapter 57 of the laws of 2019 and Chapter 60 of the laws of 2014, extending provisions of law to ensure adjusted rates paid to Article 31 and Article 32 providers align with the current Medicaid Ambulatory Patient Group (APG) methodology through March 31, 2027. This bill would also provide that rate provisions continue to apply to behavioral health crisis programs licensed by OMH and OASAS pursuant to Article 36 of the Mental Hygiene Law and make technical adjustments to update references to OASAS.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget and maintain spending levels assumed in the current Financial Plan.

### Effective Date:

This bill would take effect immediately.

## **Part MM - Extend Kendra's Law**

### Purpose:

This bill would extend Kendra's Law and the Assisted Outpatient Treatment (AOT) program through June 30, 2027, and make additional amendments to provide necessary clarity and streamlining to assist in the program's success.

### Summary of Provisions and Statement in Support:

Section 1 amends Section 18 of Chapter 408 of the laws of 1999 to extend to Kendra's Law and AOT through June 30, 2027.

Section 2 amends Section 9.60 of the Mental Hygiene Law to expand criteria to include individuals for whom AOT has expired within the last six months, allow an examining physician who recommends AOT to testify by videoconference at the related hearing,



and permit a Director of Community Services or designee to require a service provider to release information concerning persons receiving AOT.

Section 3 would establish an immediate effective date.

Kendra's Law was enacted in 1999, creating a statutory framework for court-ordered AOT to ensure that individuals with mental illness and a history of hospitalizations or violence participate in community-based services appropriate to their needs. Kendra's Law expires on June 30, 2022, and the efficacy of the program necessitates an extension. Additionally, amendments would provide administrative clarity to ensure more efficient and effective oversight of the program.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, as it would extend the AOT program and generate approximately \$100,000 in savings to the Financial Plan.

Effective Date:

This bill would take effect immediately.

**Part NN – Expand the Property Pass through laws which affect individuals with mental illness living in community based residential programs**

Purpose:

To allow the Commissioner of the Office of Mental Health (OMH) to reimburse supportive housing programs similarly to community residences or residential care centers for adults.

Summary of Provisions and Statement in Support:

Section 1 amends Section 41.38 of the Mental Hygiene Law to expand the allowable reimbursement to supportive housing providers for property costs such as rent, mortgage payments, principle, and interest on loans.

Section 2 provides for an effective date of April 1, 2022.

This legislation would allow OMH to assist providers in responding to annual property-related cost increases for supportive housing programs.

Budget Implications:

Enactment of this legislation is necessary to implement the FY 2023 Executive Budget, as it would allow OMH to appropriately disburse planned funding assumed in the Financial Plan.

Effective Date:

This bill would take effect April 1, 2022.

**Part OO - Permanent authority for OMH and OPWDD to appoint temporary operators**

Purpose:

This bill would amend current law to allow the Office of Mental Health (OMH) and the Office for People with Developmental Disabilities (OPWDD) the permanent authority to appoint temporary operators to operate programs and services in order to preserve limited resources; protect the health and safety of patients and individuals; and protect the State's investment in such programs, services and facilities.

Summary of Provisions and Statement in Support:

This bill would make permanent legislation originally enacted in Chapter 59, part L of the laws of 2016, and by section 1 of part U of chapter 57 of the laws of 2021, that allows OMH and OPWDD to appoint temporary operators under the Mental Hygiene Law, which will ensure the continued ability of the agencies to stabilize established programs. Additional provisions made permanent by this bill include the statutory factors used to evaluate circumstances when a temporary operator may be necessary to maintain a program's viability and protect the health and safety of patients and individuals; duties of a temporary operator; limitations on a temporary operator's liability and duration of appointment; provisions for notice to the established operator and the available review when the established operator disagrees with the relevant commissioner's intent to appoint a temporary operator; and the continuing obligations of the established operator.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, as it would extend the effective date for the availability of temporary operators under Mental Hygiene Law, providing the OMH and OPWDD the authority to ensure the appropriate use of funding for mental health and developmental disability programs.

Effective Date:

This bill would take effect immediately.

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.