

STATE OF NEW YORK

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IN SENATE

January 19, 2022

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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); intentionally omitted (Part C); to amend the social services law, in relation to establishing 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 seventy-five 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); intentionally omitted (Part G); to repeal sections 91 and 92 of part H of chapter 59 of the laws of 2011 relating to the year to year rate of growth of Department of Health state funds and Medicaid funding, relating to the state Medicaid spending cap and related processes (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

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

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thereto (Part N); to amend the social services law and the public health law, in relation to providing increased rates for private duty nursing services that are provided to medically fragile adults (Subpart A); to amend the public health law, in relation to establishing a state-level program of all-inclusive care for the elderly; to amend the social services law, in relation to making technical corrections to such law; and repealing certain provisions of the social services law relating thereto (Subpart B); to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws, relating to general hospital inpatient reimbursement for annual rates, in relation to supplemental Medicaid managed care payments (Subpart C) (Part O); to amend the public health law and the social services law, in relation to 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 providing for the repeal of certain provisions upon expiration thereof (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 that provision be made for pregnancy termination procedures in every individual or group policy or contract which provides coverage or indemnity for hospital, surgical or medical care and which offers maternity care coverage (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); intentionally omitted (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, in relation to the delivery of health care services via telehealth and modifying the definition of telehealth provider (Part V); intentionally omitted (Part W); intentionally omitted (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 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); intentionally omitted (Part AA); intentionally omitted (Part BB); 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; (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); intentionally omitted (Part JJ); intentionally omitted (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 (Part MM); to amend the mental hygiene law, in relation to rental and mortgage payments for the mentally ill (Part NN); intentionally omitted (Part OO); to amend the social services law and the public health law, in relation to protecting access to pharmacy services (Part PP); to amend the social services law, in relation to removing certain restrictions on access to home care services; and to repeal certain provisions of such law relating thereto (Part QQ); to amend the public health law, the state finance law and 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 fair pay for home care aides (Part RR); to amend the public health law, in relation to enacting the quality incentive vital access provider program act (Part SS); relating to exemptions from certain provisions of the state finance law and the economic development law (Part TT); to amend the mental hygiene law, in relation to funding for services of the office of addiction services and supports (Part UU); to amend the mental hygiene law, in relation to creating the office of addiction and mental health services (Part VV); to amend the mental hygiene law, the state finance law and the general municipal law, in relation to establishing a state crisis intervention demonstration program and a crisis intervention team training fund (Part WW); and to direct the department of health to conduct a statewide study on the support and administration needs of the consumer-directed personal care program (Part XX)

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

1 Section 1. This act enacts into law major components of legislation
2 necessary to implement the state health and mental hygiene budget for
3 the 2022-2023 state fiscal year. Each component is wholly contained
4 within a Part identified as Parts A through XX. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes a refer-
8 ence to a section "of this act", when used in connection with that
9 particular component, shall be deemed to mean and refer to the corre-
10 sponding section of the Part in which it is found. Section three of this
11 act sets forth the general effective date of this act.

12 PART A

13 Section 1. Short title. This act shall be known and may be cited as
14 the "nurses across New York (NANY) program".

15 § 2. The public health law is amended by adding a new section 2807-aa
16 to read as follows:

17 § 2807-aa. Nurse loan repayment program. 1.(a) Monies shall be made
18 available, subject to appropriations, for purposes of loan repayment in
19 accordance with the provisions of this section for registered profes-
20 sional nurses and licensed practical nurses licensed to practice pursu-
21 ant to title eight of the education law. Notwithstanding sections one
22 hundred twelve and one hundred sixty-three of the state finance law and
23 sections one hundred forty-two and one hundred forty-three of the
24 economic development law, or any other contrary provision of law, such
25 funding shall be allocated regionally with one-third of available funds
26 going to New York city and two-thirds of available funds going to the
27 rest of the state and shall be distributed in a manner to be determined
28 by the commissioner without a competitive bid or request for proposals.

29 (i) Funding awarded pursuant to this section shall be awarded to repay
30 loans of nurses who work in areas determined to be underserved communi-
31 ties by the commissioner and who agree to work in such areas for a peri-
32 od of three consecutive years. A nurse may be deemed to be practicing in
33 an underserved area if they practice in a facility or physician's office
34 that primarily serves an underserved population as determined by the
35 commissioner, without regard to whether the population or the facility
36 or physician's office is located in an underserved area.

37 (ii) Funding awarded pursuant to this section shall not exceed the
38 total qualifying outstanding debt of the nurse from student loans to
39 cover tuition and other related educational expenses, made by or guaran-
40 teed by the federal or state government, or made by a lending or educa-
41 tional institution approved under title IV of the federal higher educa-
42 tion act. Loan repayment awards shall be used solely to repay such
43 outstanding debt.

44 (iii) A nurse receiving funds pursuant to this section shall be eligi-
45 ble for a loan repayment award to be determined by the commissioner over
46 a three-year period distributed as follows: thirty percent of total
47 award for the first year; thirty percent of total award for the second
48 year; and any unpaid balance of the total award not to exceed the maxi-
49 mum award amount for the third year.

50 (iv) In the event that a three-year commitment pursuant to the agree-
51 ment referenced in subparagraph (i) of this paragraph is not fulfilled,

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1 the recipient shall be responsible for repayment of amounts paid which
 2 shall be calculated in accordance with the formula set forth in subdivi-
 3 sion (b) of section two hundred fifty-four-o of title forty-two of the
 4 United States Code, as amended.

5 (b) The commissioner may postpone, change or waive the service obli-
 6 gation and repayment amounts set forth in subparagraphs (i) and (iv) of
 7 paragraph (a) of this subdivision in individual circumstances where
 8 there is compelling need or hardship.

9 2. To develop a streamlined application process for the nurse loan
 10 repayment program set forth in subdivision one of this section, the
 11 department shall appoint a work group from recommendations made by asso-
 12 ciations representing nurses, general hospitals and other health care
 13 facilities. Such recommendations shall be made by September thirtieth,
 14 two thousand twenty-two.

15 3. In the event there are undistributed funds within amounts made
 16 available for distributions pursuant to this section, such funds may be
 17 reallocated and distributed in current or subsequent distribution peri-
 18 ods in a manner determined by the commissioner for the purpose set forth
 19 in this section.

20 § 3. This act shall take effect immediately; provided, however, that
 21 section two of this act shall be deemed to have been in full force and
 22 effect on and after April 1, 2022.

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PART B

24 Section 1. The education law is amended by adding a new article 169 to
 25 read as follows:

ARTICLE 169INTERSTATE MEDICAL LICENSURE COMPACTSection 8860. Short title.8861. Purpose.8862. Definitions.8863. Eligibility.8864. Designation of state of principal license.8865. Application and issuance of expedited licensure.8866. Fees for expedited licensure.8867. Renewal and continued participation.8868. Coordinated information system.8869. Joint investigations.8870. Disciplinary actions.8871. Interstate medical licensure compact commission.8872. Powers and duties of the interstate commission.8873. Finance powers.8874. Organization and operation of the interstate commission.8875. Rulemaking functions of the interstate commission.8876. Oversight of interstate compact.8877. Enforcement of interstate compact.8878. Default procedures.8879. Dispute resolution.8880. Member states, effective date and amendment.8881. Withdrawal.8882. Dissolution.8883. Severability and construction.8884. Binding effect of compact and other laws.

53 § 8860. Short title. This article shall be known and may be cited as
 54 the "interstate medical licensure compact".

1 § 8861. Purpose. In order to strengthen access to health care, and in
2 recognition of the advances in the delivery of health care, the member
3 states of the interstate medical licensure compact have allied in common
4 purpose to develop a comprehensive process that complements the existing
5 licensing and regulatory authority of state medical boards, provides a
6 streamlined process that allows physicians to become licensed in multi-
7 ple states, thereby enhancing the portability of a medical license and
8 ensuring the safety of patients. The compact creates another pathway
9 for licensure and does not otherwise change a state's existing medical
10 practice act. The compact also adopts the prevailing standard for licen-
11 sure and affirms that the practice of medicine occurs where the patient
12 is located at the time of the physician-patient encounter, and there-
13 fore, requires the physician to be under the jurisdiction of the state
14 medical board where the patient is located. State medical boards that
15 participate in the compact retain the jurisdiction to impose an adverse
16 action against a license to practice medicine in that state issued to a
17 physician through the procedures in the compact.

18 § 8862. Definitions. In this compact:

19 1. "Bylaws" means those bylaws established by the interstate commis-
20 sion pursuant to section eighty-eight hundred seventy-one of this arti-
21 cle for its governance, or for directing and controlling its actions and
22 conduct.

23 2. "Commissioner" means the voting representative appointed by each
24 member board pursuant to section eighty-eight hundred seventy-one of
25 this article.

26 3. "Conviction" means a finding by a court that an individual is guil-
27 ty of a criminal offense through adjudication, or entry of a plea of
28 guilt or no contest to the charge by the offender. Evidence of an entry
29 of a conviction of a criminal offense by the court shall be considered
30 final for purposes of disciplinary action by a member board.

31 4. "Expedited license" means a full and unrestricted medical license
32 granted by a member state to an eligible physician through the process
33 set forth in the compact.

34 5. "Interstate commission" means the interstate commission created
35 pursuant to section eighty-eight hundred seventy-one of this article.

36 6. "License" means authorization by a state for a physician to engage
37 in the practice of medicine, which would be unlawful without the author-
38 ization.

39 7. "Medical practice act" means laws and regulations governing the
40 practice of allopathic and osteopathic medicine within a member state.

41 8. "Member board" means a state agency in a member state that acts in
42 the sovereign interests of the state by protecting the public through
43 licensure, regulation, and education of physicians as directed by the
44 state government.

45 9. "Member state" means a state that has enacted the compact.

46 10. "Practice of medicine" means the clinical prevention, diagnosis,
47 or treatment of human disease, injury, or condition requiring a physi-
48 cian to obtain and maintain a license in compliance with the medical
49 practice act of a member state.

50 11. "Physician" means any person who:

51 (a) Is a graduate of a medical school accredited by the Liaison
52 Committee on Medical Education, the Commission on Osteopathic College
53 Accreditation, or a medical school listed in the International Medical
54 Education Directory or its equivalent;

55 (b) Passed each component of the United States Medical Licensing Exam-
56 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-

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1 ination (COMLEX-USA) within three attempts, or any of its predecessor
2 examinations accepted by a state medical board as an equivalent examina-
3 tion for licensure purposes;

4 (c) Successfully completed graduate medical education approved by the
5 Accreditation Council for Graduate Medical Education or the American
6 Osteopathic Association;

7 (d) Holds specialty certification or a time-unlimited specialty
8 certificate recognized by the American Board of Medical Specialties or
9 the American Osteopathic Association's Bureau of Osteopathic Special-
10 ists;

11 (e) Possesses a full and unrestricted license to engage in the prac-
12 tice of medicine issued by a member board;

13 (f) Has never been convicted, received adjudication, deferred adjudi-
14 cation, community supervision, or deferred disposition for any offense
15 by a court of appropriate jurisdiction;

16 (g) Has never held a license authorizing the practice of medicine
17 subjected to discipline by a licensing agency in any state, federal, or
18 foreign jurisdiction, excluding any action related to non-payment of
19 fees related to a license;

20 (h) Has never had a controlled substance license or permit suspended
21 or revoked by a state or the United States drug enforcement adminis-
22 tration; and

23 (i) Is not under active investigation by a licensing agency or law
24 enforcement authority in any state, federal, or foreign jurisdiction.

25 12. "Offense" means a felony, gross misdemeanor, or crime of moral
26 turpitude.

27 13. "Rule" means a written statement by the interstate commission
28 promulgated pursuant to section eighty-eight hundred seventy-two of this
29 article that is of general applicability, implements, interprets, or
30 prescribes a policy or provision of the compact, or an organizational,
31 procedural, or practice requirement of the interstate commission, and
32 has the force and effect of statutory law in a member state, and
33 includes the amendment, repeal, or suspension of an existing rule.

34 14. "State" means any state, commonwealth, district, or territory of
35 the United States.

36 15. "State of principal license" means a member state where a physi-
37 cian holds a license to practice medicine and which has been designated
38 as such by the physician for purposes of registration and participation
39 in the compact.

40 § 8863. Eligibility. 1. A physician must meet the eligibility require-
41 ments as defined in subdivision eleven of section eighty-eight hundred
42 sixty-two of this article to receive an expedited license under the
43 terms and provisions of the compact.

44 2. A physician who does not meet the requirements of subdivision elev-
45 en of section eighty-eight hundred sixty-two of this article may obtain
46 a license to practice medicine in a member state if the individual
47 complies with all laws and requirements, other than the compact, relat-
48 ing to the issuance of a license to practice medicine in that state.

49 § 8864. Designation of state of principal license. 1. A physician
50 shall designate a member state as the state of principal license for
51 purposes of registration for expedited licensure through the compact if
52 the physician possesses a full and unrestricted license to practice
53 medicine in that state, and the state is:

54 (a) the state of primary residence for the physician, or

55 (b) the state where at least twenty-five percent of the practice of
56 medicine occurs, or

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1 (c) the location of the physician's employer, or
2 (d) if no state qualifies under paragraph (a), (b), or (c) of this
3 subdivision, the state designated as state of residence for purpose of
4 federal income tax.

5 2. A physician may redesignate a member state as state of principal
6 license at any time, as long as the state meets the requirements of
7 subdivision one of this section.

8 3. The interstate commission is authorized to develop rules to facili-
9 tate redesignation of another member state as the state of principal
10 license.

11 § 8865. Application and issuance of expedited licensure. 1. A physi-
12 cian seeking licensure through the compact shall file an application for
13 an expedited license with the member board of the state selected by the
14 physician as the state of principal license.

15 2. Upon receipt of an application for an expedited license, the member
16 board within the state selected as the state of principal license shall
17 evaluate whether the physician is eligible for expedited licensure and
18 issue a letter of qualification, verifying or denying the physician's
19 eligibility, to the interstate commission.

20 (a) Static qualifications, which include verification of medical
21 education, graduate medical education, results of any medical or licens-
22 ing examination, and other qualifications as determined by the inter-
23 state commission through rule, shall not be subject to additional prima-
24 ry source verification where already primary source verified by the
25 state of principal license.

26 (b) The member board within the state selected as the state of princi-
27 pal license shall, in the course of verifying eligibility, perform a
28 criminal background check of an applicant, including the use of the
29 results of fingerprint or other biometric data checks compliant with the
30 requirements of the Federal Bureau of Investigation, with the exception
31 of federal employees who have suitability determination in accordance
32 with U.S. C.F.R. § 731.202.

33 (c) Appeal on the determination of eligibility shall be made to the
34 member state where the application was filed and shall be subject to the
35 law of that state.

36 3. Upon verification under subdivision two of this section, physicians
37 eligible for an expedited license shall complete the registration proc-
38 ess established by the interstate commission to receive a license in a
39 member state selected pursuant to subdivision one of this section,
40 including the payment of any applicable fees.

41 4. After receiving verification of eligibility under subdivision two
42 of this section and any fees under subdivision three of this section, a
43 member board shall issue an expedited license to the physician. This
44 license shall authorize the physician to practice medicine in the issu-
45 ing state consistent with the medical practice act and all applicable
46 laws and regulations of the issuing member board and member state.

47 5. An expedited license shall be valid for a period consistent with
48 the licensure period in the member state and in the same manner as
49 required for other physicians holding a full and unrestricted license
50 within the member state.

51 6. An expedited license obtained though the compact shall be termi-
52 nated if a physician fails to maintain a license in the state of princi-
53 pal licensure for a non-disciplinary reason, without redesignation of a
54 new state of principal licensure.

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1 7. The interstate commission is authorized to develop rules regarding
2 the application process, including payment of any applicable fees, and
3 the issuance of an expedited license.

4 § 8866. Fees for expedited licensure. 1. A member state issuing an
5 expedited license authorizing the practice of medicine in that state may
6 impose a fee for a license issued or renewed through the compact.

7 2. The interstate commission is authorized to develop rules regarding
8 fees for expedited licenses.

9 § 8867. Renewal and continued participation. 1. A physician seeking to
10 renew an expedited license granted in a member state shall complete a
11 renewal process with the interstate commission if the physician:

12 (a) Maintains a full and unrestricted license in a state of principal
13 license;

14 (b) Has not been convicted, received adjudication, deferred adjudi-
15 cation, community supervision, or deferred disposition for any offense
16 by a court of appropriate jurisdiction;

17 (c) Has not had a license authorizing the practice of medicine subject
18 to discipline by a licensing agency in any state, federal, or foreign
19 jurisdiction, excluding any action related to non-payment of fees
20 related to a license; and

21 (d) Has not had a controlled substance license or permit suspended or
22 revoked by a state or the United States drug enforcement administration.

23 2. Physicians shall comply with all continuing professional develop-
24 ment or continuing medical education requirements for renewal of a
25 license issued by a member state.

26 3. The interstate commission shall collect any renewal fees charged
27 for the renewal of a license and distribute the fees to the applicable
28 member board.

29 4. Upon receipt of any renewal fees collected in subdivision three of
30 this section, a member board shall renew the physician's license.

31 5. Physician information collected by the interstate commission during
32 the renewal process will be distributed to all member boards.

33 6. The interstate commission is authorized to develop rules to address
34 renewal of licenses obtained through the compact.

35 § 8868. Coordinated information system. 1. The interstate commission
36 shall establish a database of all physicians licensed, or who have
37 applied for licensure, under section eighty-eight hundred sixty-five of
38 this article.

39 2. Notwithstanding any other provision of law, member boards shall
40 report to the interstate commission any public action or complaints
41 against a licensed physician who has applied or received an expedited
42 license through the compact.

43 3. Member boards shall report disciplinary or investigatory informa-
44 tion determined as necessary and proper by rule of the interstate
45 commission.

46 4. Member boards may report any non-public complaint, disciplinary, or
47 investigatory information not required by subdivision three of this
48 section to the interstate commission.

49 5. Member boards shall share complaint or disciplinary information
50 about a physician upon request of another member board.

51 6. All information provided to the interstate commission or distrib-
52 uted by member boards shall be confidential, filed under seal, and used
53 only for investigatory or disciplinary matters.

54 7. The interstate commission is authorized to develop rules for
55 mandated or discretionary sharing of information by member boards.

1 § 8869. Joint investigations. 1. Licensure and disciplinary records of
2 physicians are deemed investigative.

3 2. In addition to the authority granted to a member board by its
4 respective medical practice act or other applicable state law, a member
5 board may participate with other member boards in joint investigations
6 of physicians licensed by the member boards.

7 3. A subpoena issued by a member state shall be enforceable in other
8 member states.

9 4. Member boards may share any investigative, litigation, or compli-
10 ance materials in furtherance of any joint or individual investigation
11 initiated under the compact.

12 5. Any member state may investigate actual or alleged violations of
13 the statutes authorizing the practice of medicine in any other member
14 state in which a physician holds a license to practice medicine.

15 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any
16 member board against a physician licensed through the compact shall be
17 deemed unprofessional conduct which may be subject to discipline by
18 other member boards, in addition to any violation of the medical prac-
19 tice act or regulations in that state.

20 2. If a license granted to a physician by the member board in the
21 state of principal license is revoked, surrendered or relinquished in
22 lieu of discipline, or suspended, then all licenses issued to the physi-
23 cian by member boards shall automatically be placed, without further
24 action necessary by any member board, on the same status. If the member
25 board in the state of principal license subsequently reinstates the
26 physician's license, a license issued to the physician by any other
27 member board shall remain encumbered until that respective member board
28 takes action to reinstate the license in a manner consistent with the
29 medical practice act of that state.

30 3. If disciplinary action is taken against a physician by a member
31 board not in the state of principal license, any other member board may
32 deem the action conclusive as to matter of law and fact decided, and:

33 (a) impose the same or lesser sanction or sanctions against the physi-
34 cian so long as such sanctions are consistent with the medical practice
35 act of that state; or

36 (b) pursue separate disciplinary action against the physician under
37 its respective medical practice act, regardless of the action taken in
38 other member states.

39 4. If a license granted to a physician by a member board is revoked,
40 surrendered, or relinquished in lieu of discipline, or suspended, then
41 any license or licenses issued to the physician by any other member
42 board or boards shall be suspended, automatically and immediately with-
43 out further action necessary by the other member board or boards, for
44 ninety days upon entry of the order by the disciplining board, to permit
45 the member board or boards to investigate the basis for the action under
46 the medical practice act of that state. A member board may terminate the
47 automatic suspension of the license it issued prior to the completion of
48 the ninety day suspension period in a manner consistent with the medical
49 practice act of that state.

50 § 8871. Interstate medical licensure compact commission. 1. The member
51 states hereby create the "interstate medical licensure compact commis-
52 sion".

53 2. The purpose of the interstate commission is the administration of
54 the interstate medical licensure compact, which is a discretionary state
55 function.

1 3. The interstate commission shall be a body corporate and joint agen-
2 cy of the member states and shall have all the responsibilities, powers,
3 and duties set forth in the compact, and such additional powers as may
4 be conferred upon it by a subsequent concurrent action of the respective
5 legislatures of the member states in accordance with the terms of the
6 compact.

7 4. The interstate commission shall consist of two voting represen-
8 tatives appointed by each member state who shall serve as commissioners.
9 In states where allopathic and osteopathic physicians are regulated by
10 separate member boards, or if the licensing and disciplinary authority
11 is split between multiple member boards within a member state, the
12 member state shall appoint one representative from each member board. A
13 commissioner shall be a or an:

14 (a) Allopathic or osteopathic physician appointed to a member board;

15 (b) Executive director, executive secretary, or similar executive of a
16 member board; or

17 (c) Member of the public appointed to a member board.

18 5. The interstate commission shall meet at least once each calendar
19 year. A portion of this meeting shall be a business meeting to address
20 such matters as may properly come before the commission, including the
21 election of officers. The chairperson may call additional meetings and
22 shall call for a meeting upon the request of a majority of the member
23 states.

24 6. The bylaws may provide for meetings of the interstate commission to
25 be conducted by telecommunication or electronic communication.

26 7. Each commissioner participating at a meeting of the interstate
27 commission is entitled to one vote. A majority of commissioners shall
28 constitute a quorum for the transaction of business, unless a larger
29 quorum is required by the bylaws of the interstate commission. A commis-
30 sioner shall not delegate a vote to another commissioner. In the absence
31 of its commissioner, a member state may delegate voting authority for a
32 specified meeting to another person from that state who shall meet the
33 requirements of subdivision four of this section.

34 8. The interstate commission shall provide public notice of all meet-
35 ings and all meetings shall be open to the public. The interstate
36 commission may close a meeting, in full or in portion, where it deter-
37 mines by a two-thirds vote of the commissioners present that an open
38 meeting would be likely to:

39 (a) Relate solely to the internal personnel practices and procedures
40 of the interstate commission;

41 (b) Discuss matters specifically exempted from disclosure by federal
42 statute;

43 (c) Discuss trade secrets, commercial, or financial information that
44 is privileged or confidential;

45 (d) Involve accusing a person of a crime, or formally censuring a
46 person;

47 (e) Discuss information of a personal nature where disclosure would
48 constitute a clearly unwarranted invasion of personal privacy;

49 (f) Discuss investigative records compiled for law enforcement
50 purposes; or

51 (g) Specifically relate to the participation in a civil action or
52 other legal proceeding.

53 9. The interstate commission shall keep minutes which shall fully
54 describe all matters discussed in a meeting and shall provide a full and
55 accurate summary of actions taken, including record of any roll call
56 votes.

1 10. The interstate commission shall make its information and official
2 records, to the extent not otherwise designated in the compact or by its
3 rules, available to the public for inspection.

4 11. The interstate commission shall establish an executive committee,
5 which shall include officers, members, and others as determined by the
6 bylaws. The executive committee shall have the power to act on behalf of
7 the interstate commission, with the exception of rulemaking, during
8 periods when the interstate commission is not in session. When acting on
9 behalf of the interstate commission, the executive committee shall over-
10 see the administration of the compact including enforcement and compli-
11 ance with the provisions of the compact, its bylaws and rules, and other
12 such duties as necessary.

13 12. The interstate commission may establish other committees for
14 governance and administration of the compact.

15 § 8872. Powers and duties of the interstate commission. The interstate
16 commission shall have the duty and power to:

17 1. Oversee and maintain the administration of the compact;

18 2. Promulgate rules which shall be binding to the extent and in the
19 manner provided for in the compact;

20 3. Issue, upon the request of a member state or member board, advisory
21 opinions concerning the meaning or interpretation of the compact, its
22 bylaws, rules, and actions;

23 4. Enforce compliance with compact provisions, the rules promulgated
24 by the interstate commission, and the bylaws, using all necessary and
25 proper means, including but not limited to the use of judicial process;

26 5. Establish and appoint committees including, but not limited to, an
27 executive committee as required by section eighty-eight hundred seven-
28 ty-one of this article, which shall have the power to act on behalf of
29 the interstate commission in carrying out its powers and duties;

30 6. Pay, or provide for the payment of the expenses related to the
31 establishment, organization, and ongoing activities of the interstate
32 commission;

33 7. Establish and maintain one or more offices;

34 8. Borrow, accept, hire, or contract for services of personnel;

35 9. Purchase and maintain insurance and bonds;

36 10. Employ an executive director who shall have such powers to employ,
37 select or appoint employees, agents, or consultants, and to determine
38 their qualifications, define their duties, and fix their compensation;

39 11. Establish personnel policies and programs relating to conflicts of
40 interest, rates of compensation, and qualifications of personnel;

41 12. Accept donations and grants of money, equipment, supplies, materi-
42 als and services, and to receive, utilize, and dispose of it in a manner
43 consistent with the conflict of interest policies established by the
44 interstate commission;

45 13. Lease, purchase, accept contributions or donations of, or other-
46 wise to own, hold, improve, or use, any property, real, personal, or
47 mixed;

48 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
49 otherwise dispose of any property, real, personal, or mixed;

50 15. Establish a budget and make expenditures;

51 16. Adopt a seal and bylaws governing the management and operation of
52 the interstate commission;

53 17. Report annually to the legislatures and governors of the member
54 states concerning the activities of the interstate commission during the
55 preceding year. Such reports shall also include reports of financial

1 audits and any recommendations that may have been adopted by the inter-
2 state commission;

3 18. Coordinate education, training, and public awareness regarding the
4 compact, its implementation, and its operation;

5 19. Maintain records in accordance with the bylaws;

6 20. Seek and obtain trademarks, copyrights, and patents; and

7 21. Perform such functions as may be necessary or appropriate to
8 achieve the purposes of the compact.

9 § 8873. Finance powers. 1. The interstate commission may levy on and
10 collect an annual assessment from each member state to cover the cost of
11 the operations and activities of the interstate commission and its
12 staff. The total assessment must be sufficient to cover the annual budg-
13 et approved each year for which revenue is not provided by other sourc-
14 es. The aggregate annual assessment amount shall be allocated upon a
15 formula to be determined by the interstate commission, which shall
16 promulgate a rule binding upon all member states.

17 2. The interstate commission shall not incur obligations of any kind
18 prior to securing the funds adequate to meet the same.

19 3. The interstate commission shall not pledge the credit of any of the
20 member states, except by, and with the authority of, the member state.

21 4. The interstate commission shall be subject to a yearly financial
22 audit conducted by a certified or licensed public accountant and the
23 report of the audit shall be included in the annual report of the inter-
24 state commission.

25 § 8874. Organization and operation of the interstate commission. 1.
26 The interstate commission shall, by a majority of commissioners present
27 and voting, adopt bylaws to govern its conduct as may be necessary or
28 appropriate to carry out the purposes of the compact within twelve
29 months of the first interstate commission meeting.

30 2. The interstate commission shall elect or appoint annually from
31 among its commissioners a chairperson, a vice-chairperson, and a treas-
32 urer, each of whom shall have such authority and duties as may be speci-
33 fied in the bylaws. The chairperson, or in the chairperson's absence or
34 disability, the vice-chairperson, shall preside at all meetings of the
35 interstate commission.

36 3. Officers selected pursuant to subdivision two of this section shall
37 serve without remuneration from the interstate commission.

38 4. The officers and employees of the interstate commission shall be
39 immune from suit and liability, either personally or in their official
40 capacity, for a claim for damage to or loss of property or personal
41 injury or other civil liability caused or arising out of, or relating
42 to, an actual or alleged act, error, or omission that occurred, or that
43 such person had a reasonable basis for believing occurred, within the
44 scope of interstate commission employment, duties, or responsibilities;
45 provided that such person shall not be protected from suit or liability
46 for damage, loss, injury, or liability caused by the intentional or
47 willful and wanton misconduct of such person.

48 (a) The liability of the executive director and employees of the
49 interstate commission or representatives of the interstate commission,
50 acting within the scope of such person's employment or duties for acts,
51 errors, or omissions occurring within such person's state, may not
52 exceed the limits of liability set forth under the constitution and laws
53 of that state for state officials, employees, and agents. The interstate
54 commission is considered to be an instrumentality of the states for the
55 purposes of any such action. Nothing in this paragraph shall be
56 construed to protect such person from suit or liability for damage,

1 loss, injury, or liability caused by the intentional or willful and
2 wanton misconduct of such person.

3 (b) The interstate commission shall defend the executive director, its
4 employees, and subject to the approval of the attorney general or other
5 appropriate legal counsel of the member state represented by an inter-
6 state commission representative, shall defend such interstate commission
7 representative in any civil action seeking to impose liability arising
8 out of an actual or alleged act, error or omission that occurred within
9 the scope of interstate commission employment, duties or responsibil-
10 ities, or that the defendant had a reasonable basis for believing
11 occurred within the scope of interstate commission employment, duties,
12 or responsibilities, provided that the actual or alleged act, error, or
13 omission did not result from intentional or willful and wanton miscon-
14 duct on the part of such person.

15 (c) To the extent not covered by the state involved, member state, or
16 the interstate commission, the representatives or employees of the
17 interstate commission shall be held harmless in the amount of a settle-
18 ment or judgment, including attorney's fees and costs, obtained against
19 such persons arising out of an actual or alleged act, error, or omission
20 that occurred within the scope of interstate commission employment,
21 duties, or responsibilities, or that such persons had a reasonable basis
22 for believing occurred within the scope of interstate commission employ-
23 ment, duties, or responsibilities, provided that the actual or alleged
24 act, error, or omission did not result from intentional or willful and
25 wanton misconduct on the part of such persons.

26 § 8875. Rulemaking functions of the interstate commission. 1. The
27 interstate commission shall promulgate reasonable rules in order to
28 effectively and efficiently achieve the purposes of the compact.
29 Notwithstanding the foregoing, in the event the interstate commission
30 exercises its rulemaking authority in a manner that is beyond the scope
31 of the purposes of the compact, or the powers granted hereunder, then
32 such an action by the interstate commission shall be invalid and have no
33 force or effect.

34 2. Rules deemed appropriate for the operations of the interstate
35 commission shall be made pursuant to a rulemaking process that substan-
36 tially conforms to the federal Model State Administrative Procedure Act
37 of 2010, and subsequent amendments thereto.

38 3. Not later than thirty days after a rule is promulgated, any person
39 may file a petition for judicial review of the rule in the United States
40 District Court for the District of Columbia or the federal district
41 where the interstate commission has its principal offices, provided that
42 the filing of such a petition shall not stay or otherwise prevent the
43 rule from becoming effective unless the court finds that the petitioner
44 has a substantial likelihood of success. The court shall give deference
45 to the actions of the interstate commission consistent with applicable
46 law and shall not find the rule to be unlawful if the rule represents a
47 reasonable exercise of the authority granted to the interstate commis-
48 sion.

49 § 8876. Oversight of interstate compact. 1. The executive, legisla-
50 tive, and judicial branches of state government in each member state
51 shall enforce the compact and shall take all actions necessary and
52 appropriate to effectuate the compact's purposes and intent. The
53 provisions of the compact and the rules promulgated hereunder shall have
54 standing as statutory law but shall not override existing state authori-
55 ty to regulate the practice of medicine.

1 2. All courts shall take judicial notice of the compact and the rules
2 in any judicial or administrative proceeding in a member state pertain-
3 ing to the subject matter of the compact which may affect the powers,
4 responsibilities or actions of the interstate commission.

5 3. The interstate commission shall be entitled to receive all service
6 of process in any such proceeding, and shall have standing to intervene
7 in the proceeding for all purposes. Failure to provide service of proc-
8 ess to the interstate commission shall render a judgment or order void
9 as to the interstate commission, the compact, or promulgated rules.

10 § 8877. Enforcement of interstate compact. 1. The interstate commis-
11 sion, in the reasonable exercise of its discretion, shall enforce the
12 provisions and rules of the compact.

13 2. The interstate commission may, by majority vote of the commission-
14 ers, initiate legal action in the United States District Court for the
15 District of Columbia, or, at the discretion of the interstate commis-
16 sion, in the federal district where the interstate commission has its
17 principal offices, to enforce compliance with the provisions of the
18 compact, and its promulgated rules and bylaws, against a member state in
19 default. The relief sought may include both injunctive relief and
20 damages. In the event judicial enforcement is necessary, the prevailing
21 party shall be awarded all costs of such litigation including reasonable
22 attorney's fees.

23 3. The remedies herein shall not be the exclusive remedies of the
24 interstate commission. The interstate commission may avail itself of
25 any other remedies available under state law or the regulation of a
26 profession.

27 § 8878. Default procedures. 1. The grounds for default include, but
28 are not limited to, failure of a member state to perform such obli-
29 gations or responsibilities imposed upon it by the compact, or the rules
30 and bylaws of the interstate commission promulgated under the compact.

31 2. If the interstate commission determines that a member state has
32 defaulted in the performance of its obligations or responsibilities
33 under the compact, or the bylaws or promulgated rules, the interstate
34 commission shall:

35 (a) Provide written notice to the defaulting state and other member
36 states, of the nature of the default, the means of curing the default,
37 and any action taken by the interstate commission. The interstate
38 commission shall specify the conditions by which the defaulting state
39 must cure its default; and

40 (b) Provide remedial training and specific technical assistance
41 regarding the default.

42 3. If the defaulting state fails to cure the default, the defaulting
43 state shall be terminated from the compact upon an affirmative vote of a
44 majority of the commissioners and all rights, privileges, and benefits
45 conferred by the compact shall terminate on the effective date of termi-
46 nation. A cure of the default does not relieve the offending state of
47 obligations or liabilities incurred during the period of the default.

48 4. Termination of membership in the compact shall be imposed only
49 after all other means of securing compliance have been exhausted. Notice
50 of intent to terminate shall be given by the interstate commission to
51 the governor, the majority and minority leaders of the defaulting
52 state's legislature, and each of the member states.

53 5. The interstate commission shall establish rules and procedures to
54 address licenses and physicians that are materially impacted by the
55 termination of a member state, or the withdrawal of a member state.

1 6. The member state which has been terminated is responsible for all
2 dues, obligations, and liabilities incurred through the effective date
3 of termination including obligations, the performance of which extends
4 beyond the effective date of termination.

5 7. The interstate commission shall not bear any costs relating to any
6 state that has been found to be in default or which has been terminated
7 from the compact, unless otherwise mutually agreed upon in writing
8 between the interstate commission and the defaulting state.

9 8. The defaulting state may appeal the action of the interstate
10 commission by petitioning the United States District Court for the
11 District of Columbia or the federal district where the interstate
12 commission has its principal offices. The prevailing party shall be
13 awarded all costs of such litigation including reasonable attorney's
14 fees.

15 § 8879. Dispute resolution. 1. The interstate commission shall
16 attempt, upon the request of a member state, to resolve disputes which
17 are subject to the compact and which may arise among member states or
18 member boards.

19 2. The interstate commission shall promulgate rules providing for both
20 mediation and binding dispute resolution as appropriate.

21 § 8880. Member states, effective date and amendment. 1. Any state is
22 eligible to become a member state of the compact.

23 2. The compact shall become effective and binding upon legislative
24 enactment of the compact into law by no less than seven states. There-
25 after, it shall become effective and binding on a state upon enactment
26 of the compact into law by that state.

27 3. The governors of non-member states, or their designees, shall be
28 invited to participate in the activities of the interstate commission on
29 a non-voting basis prior to adoption of the compact by all states.

30 4. The interstate commission may propose amendments to the compact for
31 enactment by the member states. No amendment shall become effective and
32 binding upon the interstate commission and the member states unless and
33 until it is enacted into law by unanimous consent of the member states.

34 § 8881. Withdrawal. 1. Once effective, the compact shall continue in
35 force and remain binding upon each and every member state; provided that
36 a member state may withdraw from the compact by specifically repealing
37 the statute which enacted the compact into law.

38 2. Withdrawal from the compact shall be by the enactment of a statute
39 repealing the same, but shall not take effect until one year after the
40 effective date of such statute and until written notice of the with-
41 drawal has been given by the withdrawing state to the governor of each
42 other member state.

43 3. The withdrawing state shall immediately notify the chairperson of
44 the interstate commission in writing upon the introduction of legis-
45 lation repealing the compact in the withdrawing state.

46 4. The interstate commission shall notify the other member states of
47 the withdrawing state's intent to withdraw within sixty days of its
48 receipt of notice provided under subdivision three of this section.

49 5. The withdrawing state is responsible for all dues, obligations and
50 liabilities incurred through the effective date of withdrawal, including
51 obligations, the performance of which extend beyond the effective date
52 of withdrawal.

53 6. Reinstatement following withdrawal of a member state shall occur
54 upon the withdrawing state reenacting the compact or upon such later
55 date as determined by the interstate commission.

1 7. The interstate commission is authorized to develop rules to address
2 the impact of the withdrawal of a member state on licenses granted in
3 other member states to physicians who designated the withdrawing member
4 state as the state of principal license.

5 § 8882. Dissolution. 1. The compact shall dissolve effective upon the
6 date of the withdrawal or default of the member state which reduces the
7 membership in the compact to one member state.

8 2. Upon the dissolution of the compact, the compact becomes null and
9 void and shall be of no further force or effect, and the business and
10 affairs of the interstate commission shall be concluded and surplus
11 funds shall be distributed in accordance with the bylaws.

12 § 8883. Severability and construction. 1. The provisions of the
13 compact shall be severable, and if any phrase, clause, sentence, or
14 provision is deemed unenforceable, the remaining provisions of the
15 compact shall be enforceable.

16 2. The provisions of the compact shall be liberally construed to
17 effectuate its purposes.

18 3. Nothing in the compact shall be construed to prohibit the applica-
19 bility of other interstate compacts to which the states are members.

20 § 8884. Binding effect of compact and other laws. 1. Nothing contained
21 in this article shall prevent the enforcement of any other law of a
22 member state that is not inconsistent with the compact.

23 2. All laws in a member state in conflict with the compact are super-
24 seded to the extent of the conflict.

25 3. All lawful actions of the interstate commission, including all
26 rules and bylaws promulgated by the commission, are binding upon the
27 member states.

28 4. All agreements between the interstate commission and the member
29 states are binding in accordance with their terms.

30 5. In the event any provision of the compact exceeds the constitu-
31 tional limits imposed on the legislature of any member state, such
32 provision shall be ineffective to the extent of the conflict with the
33 constitutional provision in question in that member state.

34 § 2. Article 170 of the education law is renumbered article 171 and a
35 new article 170 is added to title 8 of the education law to read as
36 follows:

37 ARTICLE 170

38 NURSE LICENSURE COMPACT

39 Section 8900. Nurse licensure compact.

40 8901. Findings and declaration of purpose.

41 8902. Definitions.

42 8903. General provisions and jurisdiction.

43 8904. Applications for licensure in a party state.

44 8905. Additional authorities invested in party state licensing
45 boards.

46 8906. Coordinated licensure information system and exchange of
47 information.

48 8907. Establishment of the interstate commission of nurse licen-
49 sure compact administrators.

50 8908. Rulemaking.

51 8909. Oversight, dispute resolution and enforcement.

52 8910. Effective date, withdrawal and amendment.

53 8911. Construction and severability.

54 § 8900. Nurse licensure compact. The nurse license compact as set
55 forth in the article is hereby adopted and entered into with all party
56 states joining therein.

1 § 8901. Findings and declaration of purpose 1. Findings. The party
2 states find that:

3 a. The health and safety of the public are affected by the degree of
4 compliance with and the effectiveness of enforcement activities related
5 to state nurse licensure laws;

6 b. Violations of nurse licensure and other laws regulating the prac-
7 tice of nursing may result in injury or harm to the public;

8 c. The expanded mobility of nurses and the use of advanced communi-
9 cation technologies as part of our nation's health care delivery system
10 require greater coordination and cooperation among states in the areas
11 of nurse licensure and regulation;

12 d. New practice modalities and technology make compliance with indi-
13 vidual state nurse licensure laws difficult and complex;

14 e. The current system of duplicative licensure for nurses practicing
15 in multiple states is cumbersome and redundant for both nurses and
16 states; and

17 f. Uniformity of nurse licensure requirements throughout the states
18 promotes public safety and public health benefits.

19 2. Declaration of purpose. The general purposes of this compact are
20 to:

21 a. Facilitate the states' responsibility to protect the public's
22 health and safety;

23 b. Ensure and encourage the cooperation of party states in the areas
24 of nurse licensure and regulation;

25 c. Facilitate the exchange of information between party states in the
26 areas of nurse regulation, investigation and adverse actions;

27 d. Promote compliance with the laws governing the practice of nursing
28 in each jurisdiction;

29 e. Invest all party states with the authority to hold a nurse account-
30 able for meeting all state practice laws in the state in which the
31 patient is located at the time care is rendered through the mutual
32 recognition of party state licenses;

33 f. Decrease redundancies in the consideration and issuance of nurse
34 licenses; and

35 g. Provide opportunities for interstate practice by nurses who meet
36 uniform licensure requirements.

37 § 8902. Definitions. 1. Definitions. As used in this compact:

38 a. "Adverse action" means any administrative, civil, equitable or
39 criminal action permitted by a state's laws which is imposed by a
40 licensing board or other authority against a nurse, including actions
41 against an individual's license or multistate licensure privilege such
42 as revocation, suspension, probation, monitoring of the licensee, limi-
43 tation on the licensee's practice, or any other encumbrance on licensure
44 affecting a nurse's authorization to practice, including issuance of a
45 cease and desist action.

46 b. "Alternative program" means a non-disciplinary monitoring program
47 approved by a licensing board.

48 c. "Coordinated licensure information system" means an integrated
49 process for collecting, storing and sharing information on nurse licen-
50 sure and enforcement activities related to nurse licensure laws that is
51 administered by a nonprofit organization composed of and controlled by
52 licensing boards.

53 d. "Commission" means the interstate commission of nurse licensure
54 compact administrators.

55 e. "Current significant investigative information" means:

1 1. Investigative information that a licensing board, after a prelimi-
2 nary inquiry that includes notification and an opportunity for the nurse
3 to respond, if required by state law, has reason to believe is not
4 groundless and, if proved true, would indicate more than a minor infrac-
5 tion; or

6 2. Investigative information that indicates that the nurse represents
7 an immediate threat to public health and safety regardless of whether
8 the nurse has been notified and had an opportunity to respond; or

9 3. Any information concerning a nurse reported to a licensing board by
10 a health care entity, health care professional, or any other person,
11 which indicates that the nurse demonstrated an impairment, gross incom-
12 petence, or unprofessional conduct that would present an imminent danger
13 to a patient or the public health, safety, or welfare.

14 f. "Encumbrance" means a revocation or suspension of, or any limita-
15 tion on, the full and unrestricted practice of nursing imposed by a
16 licensing board.

17 g. "Home state" means the party state which is the nurse's primary
18 state of residence.

19 h. "Licensing board" means a party state's regulatory body responsible
20 for issuing nurse licenses.

21 i. "Multistate license" means a license to practice as a registered
22 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which
23 is issued by a home state licensing board, and which authorizes the
24 licensed nurse to practice in all party states under a multistate licen-
25 sure privilege.

26 j. "Multistate licensure privilege" means a legal authorization asso-
27 ciated with a multistate license permitting the practice of nursing as
28 either a RN or a LPN/VN in a remote state.

29 k. "Nurse" means RN or LPN/VN, as those terms are defined by each
30 party state's practice laws.

31 l. "Party state" means any state that has adopted this compact.

32 m. "Remote state" means a party state, other than the home state.

33 n. "Single-state license" means a nurse license issued by a party
34 state that authorizes practice only within the issuing state and does
35 not include a multistate licensure privilege to practice in any other
36 party state.

37 o. "State" means a state, territory or possession of the United States
38 and the District of Columbia.

39 p. "State practice laws" means a party state's laws, rules and regu-
40 lations that govern the practice of nursing, define the scope of nursing
41 practice, and create the methods and grounds for imposing discipline.
42 "State practice laws" shall not include requirements necessary to obtain
43 and retain a license, except for qualifications or requirements of the
44 home state.

45 § 8903. General provisions and jurisdiction. 1. General provisions and
46 jurisdiction. a. A multistate license to practice registered or licensed
47 practical/vocational nursing issued by a home state to a resident in
48 that state will be recognized by each party state as authorizing a nurse
49 to practice as a registered nurse (RN) or as a licensed
50 practical/vocational nurse (LPN/VN), under a multistate licensure privi-
51 lege, in each party state.

52 b. A state shall implement procedures for considering the criminal
53 history records of applicants for an initial multistate license or
54 licensure by endorsement. Such procedures shall include the submission
55 of fingerprints or other biometric-based information by applicants for
56 the purpose of obtaining an applicant's criminal history record informa-

1 tion from the federal bureau of investigation and the agency responsible
2 for retaining that state's criminal records.

3 c. Each party state shall require its licensing board to authorize an
4 applicant to obtain or retain a multistate license in the home state
5 only if the applicant:

6 i. Meets the home state's qualifications for licensure or renewal of
7 licensure, and complies with all other applicable state laws;

8 ii. (1) Has graduated or is eligible to graduate from a licensing
9 board-approved RN or LPN/VN prelicensure education program; or

10 (2) Has graduated from a foreign RN or LPN/VN prelicensure education
11 program that has been: (A) approved by the authorized accrediting body
12 in the applicable country, and (B) verified by an independent creden-
13 tials review agency to be comparable to a licensing board-approved prel-
14 icensure education program;

15 iii. Has, if a graduate of a foreign prelicensure education program
16 not taught in English or if English is not the individual's native
17 language, successfully passed an English proficiency examination that
18 includes the components of reading, speaking, writing and listening;

19 iv. Has successfully passed an NCLEX-RN or NCLEX-PN examination or
20 recognized predecessor, as applicable;

21 v. Is eligible for or holds an active, unencumbered license;

22 vi. Has submitted, in connection with an application for initial
23 licensure or licensure by endorsement, fingerprints or other biometric
24 data for the purpose of obtaining criminal history record information
25 from the federal bureau of investigation and the agency responsible for
26 retaining that state's criminal records;

27 vii. Has not been convicted or found guilty, or has entered into an
28 agreed disposition, of a felony offense under applicable state or feder-
29 al criminal law;

30 viii. Has not been convicted or found guilty, or has entered into an
31 agreed disposition, of a misdemeanor offense related to the practice of
32 nursing as determined on a case-by-case basis;

33 ix. Is not currently enrolled in an alternative program;

34 x. Is subject to self-disclosure requirements regarding current
35 participation in an alternative program; and

36 xi. Has a valid United States social security number.

37 d. All party states shall be authorized, in accordance with existing
38 state due process law, to take adverse action against a nurse's multi-
39 state licensure privilege such as revocation, suspension, probation or
40 any other action that affects a nurse's authorization to practice under
41 a multistate licensure privilege, including cease and desist actions. If
42 a party state takes such action, it shall promptly notify the adminis-
43 trator of the coordinated licensure information system. The administra-
44 tor of the coordinated licensure information system shall promptly noti-
45 fy the home state of any such actions by remote states.

46 e. A nurse practicing in a party state shall comply with the state
47 practice laws of the state in which the client is located at the time
48 service is provided. The practice of nursing is not limited to patient
49 care but shall include all nursing practice as defined by the state
50 practice laws of the party state in which the client is located. The
51 practice of nursing in a party state under a multistate licensure privi-
52 lege will subject a nurse to the jurisdiction of the licensing board,
53 the courts and the laws of the party state in which the client is
54 located at the time service is provided.

55 f. Individuals not residing in a party state shall continue to be able
56 to apply for a party state's single-state license as provided under the

1 laws of each party state. However, the single-state license granted to
2 these individuals will not be recognized as granting the privilege to
3 practice nursing in any other party state. Nothing in this compact shall
4 affect the requirements established by a party state for the issuance of
5 a single-state license.

6 g. Any nurse holding a home state multistate license, on the effective
7 date of this compact, may retain and renew the multistate license issued
8 by the nurse's then-current home state, provided that:

9 i. A nurse, who changes primary state of residence after this
10 compact's effective date, shall meet all applicable requirements set
11 forth in this article to obtain a multistate license from a new home
12 state.

13 ii. A nurse who fails to satisfy the multistate licensure requirements
14 set forth in this article due to a disqualifying event occurring after
15 this compact's effective date shall be ineligible to retain or renew a
16 multistate license, and the nurse's multistate license shall be revoked
17 or deactivated in accordance with applicable rules adopted by the
18 commission.

19 § 8904. Applications for licensure in a party state. 1. Applications
20 for licensure in a party state. a. Upon application for a multistate
21 license, the licensing board in the issuing party state shall ascertain,
22 through the coordinated licensure information system, whether the appli-
23 cant has ever held, or is the holder of, a license issued by any other
24 state, whether there are any encumbrances on any license or multistate
25 licensure privilege held by the applicant, whether any adverse action
26 has been taken against any license or multistate licensure privilege
27 held by the applicant and whether the applicant is currently participat-
28 ing in an alternative program.

29 b. A nurse may hold a multistate license, issued by the home state, in
30 only one party state at a time.

31 c. If a nurse changes primary state of residence by moving between two
32 party states, the nurse must apply for licensure in the new home state,
33 and the multistate license issued by the prior home state will be deac-
34 tivated in accordance with applicable rules adopted by the commission.

35 i. The nurse may apply for licensure in advance of a change in primary
36 state of residence.

37 ii. A multistate license shall not be issued by the new home state
38 until the nurse provides satisfactory evidence of a change in primary
39 state of residence to the new home state and satisfies all applicable
40 requirements to obtain a multistate license from the new home state.

41 d. If a nurse changes primary state of residence by moving from a
42 party state to a non-party state, the multistate license issued by the
43 prior home state will convert to a single-state license, valid only in
44 the former home state.

45 § 8905. Additional authorities invested in party state licensing
46 boards. 1. Licensing board authority. In addition to the other powers
47 conferred by state law, a licensing board shall have the authority to:

48 a. Take adverse action against a nurse's multistate licensure privi-
49 lege to practice within that party state.

50 i. Only the home state shall have the power to take adverse action
51 against a nurse's license issued by the home state.

52 ii. For purposes of taking adverse action, the home state licensing
53 board shall give the same priority and effect to reported conduct
54 received from a remote state as it would if such conduct had occurred
55 within the home state. In so doing, the home state shall apply its own
56 state laws to determine appropriate action.

1 b. Issue cease and desist orders or impose an encumbrance on a nurse's
2 authority to practice within that party state.

3 c. Complete any pending investigations of a nurse who changes primary
4 state of residence during the course of such investigations. The licens-
5 ing board shall also have the authority to take appropriate action or
6 actions and shall promptly report the conclusions of such investigations
7 to the administrator of the coordinated licensure information system.
8 The administrator of the coordinated licensure information system shall
9 promptly notify the new home state of any such actions.

10 d. Issue subpoenas for both hearings and investigations that require
11 the attendance and testimony of witnesses, as well as the production of
12 evidence. Subpoenas issued by a licensing board in a party state for the
13 attendance and testimony of witnesses or the production of evidence from
14 another party state shall be enforced in the latter state by any court
15 of competent jurisdiction, according to the practice and procedure of
16 that court applicable to subpoenas issued in proceedings pending before
17 it. The issuing authority shall pay any witness fees, travel expenses,
18 mileage and other fees required by the service statutes of the state in
19 which the witnesses or evidence are located.

20 e. Obtain and submit, for each nurse licensure applicant, fingerprint
21 or other biometric-based information to the federal bureau of investi-
22 gation for criminal background checks, receive the results of the feder-
23 al bureau of investigation record search on criminal background checks
24 and use the results in making licensure decisions.

25 f. If otherwise permitted by state law, recover from the affected
26 nurse the costs of investigations and disposition of cases resulting
27 from any adverse action taken against that nurse.

28 g. Take adverse action based on the factual findings of the remote
29 state, provided that the licensing board follows its own procedures for
30 taking such adverse action.

31 2. Adverse actions. a. If adverse action is taken by the home state
32 against a nurse's multistate license, the nurse's multistate licensure
33 privilege to practice in all other party states shall be deactivated
34 until all encumbrances have been removed from the multistate license.
35 All home state disciplinary orders that impose adverse action against a
36 nurse's multistate license shall include a statement that the nurse's
37 multistate licensure privilege is deactivated in all party states during
38 the pendency of the order.

39 b. Nothing in this compact shall override a party state's decision
40 that participation in an alternative program may be used in lieu of
41 adverse action. The home state licensing board shall deactivate the
42 multistate licensure privilege under the multistate license of any nurse
43 for the duration of the nurse's participation in an alternative program.

44 § 8906. Coordinated licensure information system and exchange of
45 information. 1. Coordinated licensure information system and exchange
46 of information. a. All party states shall participate in a coordinated
47 licensure information system of all licensed registered nurses (RNs) and
48 licensed practical/vocational nurses (LPNs/VNs). This system will
49 include information on the licensure and disciplinary history of each
50 nurse, as submitted by party states, to assist in the coordination of
51 nurse licensure and enforcement efforts.

52 b. The commission, in consultation with the administrator of the coor-
53 ordinated licensure information system, shall formulate necessary and
54 proper procedures for the identification, collection and exchange of
55 information under this compact.

1 c. All licensing boards shall promptly report to the coordinated
2 licensure information system any adverse action, any current significant
3 investigative information, denials of applications with the reasons for
4 such denials and nurse participation in alternative programs known to
5 the licensing board regardless of whether such participation is deemed
6 nonpublic or confidential under state law.

7 d. Current significant investigative information and participation in
8 nonpublic or confidential alternative programs shall be transmitted
9 through the coordinated licensure information system only to party state
10 licensing boards.

11 e. Notwithstanding any other provision of law, all party state licens-
12 ing boards contributing information to the coordinated licensure infor-
13 mation system may designate information that may not be shared with
14 non-party states or disclosed to other entities or individuals without
15 the express permission of the contributing state.

16 f. Any personally identifiable information obtained from the coordi-
17 nated licensure information system by a party state licensing board
18 shall not be shared with non-party states or disclosed to other entities
19 or individuals except to the extent permitted by the laws of the party
20 state contributing the information.

21 g. Any information contributed to the coordinated licensure informa-
22 tion system that is subsequently required to be expunged by the laws of
23 the party state contributing that information shall also be expunged
24 from the coordinated licensure information system.

25 h. The compact administrator of each party state shall furnish a
26 uniform data set to the compact administrator of each other party state,
27 which shall include, at a minimum:

28 i. Identifying information;
29 ii. Licensure data;
30 iii. Information related to alternative program participation; and
31 iv. Other information that may facilitate the administration of this
32 compact, as determined by commission rules.

33 i. The compact administrator of a party state shall provide all inves-
34 tigative documents and information requested by another party state.

35 § 8907. Establishment of the interstate commission of nurse licensure
36 compact administrators. 1. Commission of nurse licensure compact admin-
37 istrators. The party states hereby create and establish a joint public
38 entity known as the interstate commission of nurse licensure compact
39 administrators. The commission is an instrumentality of the party
40 states.

41 2. Venue. Venue is proper, and judicial proceedings by or against the
42 commission shall be brought solely and exclusively, in a court of compe-
43 tent jurisdiction where the principal office of the commission is
44 located. The commission may waive venue and jurisdictional defenses to
45 the extent it adopts or consents to participate in alternative dispute
46 resolution proceedings.

47 3. Sovereign immunity. Nothing in this compact shall be construed to
48 be a waiver of sovereign immunity.

49 4. Membership, voting and meetings. a. Each party state shall have and
50 be limited to one administrator. The head of the state licensing board
51 or designee shall be the administrator of this compact for each party
52 state. Any administrator may be removed or suspended from office as
53 provided by the law of the state from which the administrator is
54 appointed. Any vacancy occurring in the commission shall be filled in
55 accordance with the laws of the party state in which the vacancy exists.

1 b. Each administrator shall be entitled to one vote with regard to the
2 promulgation of rules and creation of bylaws and shall otherwise have an
3 opportunity to participate in the business and affairs of the commis-
4 sion. An administrator shall vote in person or by such other means as
5 provided in the bylaws. The bylaws may provide for an administrator's
6 participation in meetings by telephone or other means of communication.

7 c. The commission shall meet at least once during each calendar year.
8 Additional meetings shall be held as set forth in the bylaws or rules of
9 the commission.

10 d. All meetings shall be open to the public, and public notice of
11 meetings shall be given in the same manner as required under the rule-
12 making provisions in section eighty-nine hundred three of this article.

13 5. Closed meetings. a. The commission may convene in a closed, nonpub-
14 lic meeting if the commission shall discuss:

15 i. Noncompliance of a party state with its obligations under this
16 compact;

17 ii. The employment, compensation, discipline or other personnel
18 matters, practices or procedures related to specific employees or other
19 matters related to the commission's internal personnel practices and
20 procedures;

21 iii. Current, threatened or reasonably anticipated litigation;

22 iv. Negotiation of contracts for the purchase or sale of goods,
23 services or real estate;

24 v. Accusing any person of a crime or formally censuring any person;

25 vi. Disclosure of trade secrets or commercial or financial information
26 that is privileged or confidential;

27 vii. Disclosure of information of a personal nature where disclosure
28 would constitute a clearly unwarranted invasion of personal privacy;

29 viii. Disclosure of investigatory records compiled for law enforcement
30 purposes;

31 ix. Disclosure of information related to any reports prepared by or on
32 behalf of the commission for the purpose of investigation of compliance
33 with this compact; or

34 x. Matters specifically exempted from disclosure by federal or state
35 statute.

36 b. If a meeting, or portion of a meeting, is closed pursuant to this
37 paragraph the commission's legal counsel or designee shall certify that
38 the meeting may be closed and shall reference each relevant exempting
39 provision. The commission shall keep minutes that fully and clearly
40 describe all matters discussed in a meeting and shall provide a full and
41 accurate summary of actions taken, and the reasons therefor, including a
42 description of the views expressed. All documents considered in
43 connection with an action shall be identified in such minutes. All
44 minutes and documents of a closed meeting shall remain under seal,
45 subject to release by a majority vote of the commission or order of a
46 court of competent jurisdiction.

47 c. The commission shall, by a majority vote of the administrators,
48 prescribe bylaws or rules to govern its conduct as may be necessary or
49 appropriate to carry out the purposes and exercise the powers of this
50 compact, including but not limited to:

51 i. Establishing the fiscal year of the commission;

52 ii. Providing reasonable standards and procedures:

53 (1) For the establishment and meetings of other committees; and

54 (2) Governing any general or specific delegation of any authority or
55 function of the commission;

1 iii. Providing reasonable procedures for calling and conducting meet-
2 ings of the commission, ensuring reasonable advance notice of all meet-
3 ings and providing an opportunity for attendance of such meetings by
4 interested parties, with enumerated exceptions designed to protect the
5 public's interest, the privacy of individuals, and proprietary informa-
6 tion, including trade secrets. The commission may meet in closed session
7 only after a majority of the administrators vote to close a meeting in
8 whole or in part. As soon as practicable, the commission must make
9 public a copy of the vote to close the meeting revealing the vote of
10 each administrator, with no proxy votes allowed;

11 iv. Establishing the titles, duties and authority and reasonable
12 procedures for the election of the officers of the commission;

13 v. Providing reasonable standards and procedures for the establishment
14 of the personnel policies and programs of the commission. Notwithstand-
15 ing any civil service or other similar laws of any party state, the
16 bylaws shall exclusively govern the personnel policies and programs of
17 the commission; and

18 vi. Providing a mechanism for winding up the operations of the commis-
19 sion and the equitable disposition of any surplus funds that may exist
20 after the termination of this compact after the payment or reserving of
21 all of its debts and obligations.

22 6. General provisions. a. The commission shall publish its bylaws and
23 rules, and any amendments thereto, in a convenient form on the website
24 of the commission.

25 b. The commission shall maintain its financial records in accordance
26 with the bylaws.

27 c. The commission shall meet and take such actions as are consistent
28 with the provisions of this compact and the bylaws.

29 7. Powers of the commission. The commission shall have the following
30 powers:

31 a. To promulgate uniform rules to facilitate and coordinate implemen-
32 tation and administration of this compact. The rules shall have the
33 force and effect of law and shall be binding in all party states;

34 b. To bring and prosecute legal proceedings or actions in the name of
35 the commission, provided that the standing of any licensing board to sue
36 or be sued under applicable law shall not be affected;

37 c. To purchase and maintain insurance and bonds;

38 d. To borrow, accept or contract for services of personnel, including,
39 but not limited to, employees of a party state or nonprofit organiza-
40 tions;

41 e. To cooperate with other organizations that administer state
42 compacts related to the regulation of nursing, including but not limited
43 to sharing administrative or staff expenses, office space or other
44 resources;

45 f. To hire employees, elect or appoint officers, fix compensation,
46 define duties, grant such individuals appropriate authority to carry out
47 the purposes of this compact, and to establish the commission's person-
48 nel policies and programs relating to conflicts of interest, qualifica-
49 tions of personnel and other related personnel matters;

50 g. To accept any and all appropriate donations, grants and gifts of
51 money, equipment, supplies, materials and services, and to receive,
52 utilize and dispose of the same; provided that at all times the commis-
53 sion shall avoid any appearance of impropriety or conflict of interest;

54 h. To lease, purchase, accept appropriate gifts or donations of, or
55 otherwise to own, hold, improve or use, any property, whether real,

1 personal or mixed; provided that at all times the commission shall avoid
2 any appearance of impropriety;

3 i. To sell, convey, mortgage, pledge, lease, exchange, abandon or
4 otherwise dispose of any property, whether real, personal or mixed;

5 j. To establish a budget and make expenditures;

6 k. To borrow money;

7 l. To appoint committees, including advisory committees comprised of
8 administrators, state nursing regulators, state legislators or their
9 representatives, and consumer representatives, and other such interested
10 persons;

11 m. To provide and receive information from, and to cooperate with, law
12 enforcement agencies;

13 n. To adopt and use an official seal; and

14 o. To perform such other functions as may be necessary or appropriate
15 to achieve the purposes of this compact consistent with the state regu-
16 lation of nurse licensure and practice.

17 8. Financing of the commission. a. The commission shall pay, or
18 provide for the payment of, the reasonable expenses of its establish-
19 ment, organization and ongoing activities.

20 b. The commission may also levy on and collect an annual assessment
21 from each party state to cover the cost of its operations, activities
22 and staff in its annual budget as approved each year. The aggregate
23 annual assessment amount, if any, shall be allocated based upon a formu-
24 la to be determined by the commission, which shall promulgate a rule
25 that is binding upon all party states.

26 c. The commission shall not incur obligations of any kind prior to
27 securing the funds adequate to meet the same; nor shall the commission
28 pledge the credit of any of the party states, except by, and with the
29 authority of, such party state.

30 d. The commission shall keep accurate accounts of all receipts and
31 disbursements. The receipts and disbursements of the commission shall be
32 subject to the audit and accounting procedures established under its
33 bylaws. However, all receipts and disbursements of funds handled by the
34 commission shall be audited yearly by a certified or licensed public
35 accountant, and the report of the audit shall be included in and become
36 part of the annual report of the commission.

37 9. Qualified immunity, defense and indemnification. a. The administra-
38 tors, officers, executive director, employees and representatives of the
39 commission shall be immune from suit and liability, either personally or
40 in their official capacity, for any claim for damage to or loss of prop-
41 erty or personal injury or other civil liability caused by or arising
42 out of any actual or alleged act, error or omission that occurred, or
43 that the person against whom the claim is made had a reasonable basis
44 for believing occurred, within the scope of the commission's employment,
45 duties or responsibilities; provided that nothing in this paragraph
46 shall be construed to protect any such person from suit or liability for
47 any damage, loss, injury or liability caused by the intentional, willful
48 or wanton misconduct of that person.

49 b. The commission shall defend any administrator, officer, executive
50 director, employee or representative of the commission in any civil
51 action seeking to impose liability arising out of any actual or alleged
52 act, error or omission that occurred within the scope of the commis-
53 sion's employment, duties or responsibilities, or that the person
54 against whom the claim is made had a reasonable basis for believing
55 occurred within the scope of the commission's employment, duties or
56 responsibilities; provided that nothing herein shall be construed to

1 prohibit that person from retaining his or her own counsel; and provided
2 further that the actual or alleged act, error or omission did not result
3 from that person's intentional, willful or wanton misconduct.

4 c. The commission shall indemnify and hold harmless any administrator,
5 officer, executive director, employee or representative of the commis-
6 sion for the amount of any settlement or judgment obtained against that
7 person arising out of any actual or alleged act, error or omission that
8 occurred within the scope of the commission's employment, duties or
9 responsibilities, or that such person had a reasonable basis for believ-
10 ing occurred within the scope of the commission's employment, duties or
11 responsibilities, provided that the actual or alleged act, error or
12 omission did not result from the intentional, willful or wanton miscon-
13 duct of that person.

14 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise
15 its rulemaking powers pursuant to the criteria set forth in this article
16 and the rules adopted thereunder. Rules and amendments shall become
17 binding as of the date specified in each rule or amendment and shall
18 have the same force and effect as provisions of this compact.

19 b. Rules or amendments to the rules shall be adopted at a regular or
20 special meeting of the commission.

21 2. Notice. a. Prior to promulgation and adoption of a final rule or
22 rules by the commission, and at least sixty days in advance of the meet-
23 ing at which the rule will be considered and voted upon, the commission
24 shall file a notice of proposed rulemaking:

25 i. On the website of the commission; and
26 ii. On the website of each licensing board or the publication in which
27 each state would otherwise publish proposed rules.

28 b. The notice of proposed rulemaking shall include:

29 i. The proposed time, date and location of the meeting in which the
30 rule will be considered and voted upon;

31 ii. The text of the proposed rule or amendment, and the reason for the
32 proposed rule;

33 iii. A request for comments on the proposed rule from any interested
34 person; and

35 iv. The manner in which interested persons may submit notice to the
36 commission of their intention to attend the public hearing and any writ-
37 ten comments.

38 c. Prior to adoption of a proposed rule, the commission shall allow
39 persons to submit written data, facts, opinions and arguments, which
40 shall be made available to the public.

41 3. Public hearings on rules. a. The commission shall grant an opportu-
42 nity for a public hearing before it adopts a rule or amendment.

43 b. The commission shall publish the place, time and date of the sched-
44 uled public hearing.

45 i. Hearings shall be conducted in a manner providing each person who
46 wishes to comment a fair and reasonable opportunity to comment orally or
47 in writing. All hearings will be recorded, and a copy will be made
48 available upon request.

49 ii. Nothing in this section shall be construed as requiring a separate
50 hearing on each rule. Rules may be grouped for the convenience of the
51 commission at hearings required by this section.

52 c. If no one appears at the public hearing, the commission may proceed
53 with promulgation of the proposed rule.

54 d. Following the scheduled hearing date, or by the close of business
55 on the scheduled hearing date if the hearing was not held, the commis-
56 sion shall consider all written and oral comments received.

1 4. Voting on rules. The commission shall, by majority vote of all
2 administrators, take final action on the proposed rule and shall deter-
3 mine the effective date of the rule, if any, based on the rulemaking
4 record and the full text of the rule.

5 5. Emergency rules. Upon determination that an emergency exists, the
6 commission may consider and adopt an emergency rule without prior
7 notice, opportunity for comment or hearing, provided that the usual
8 rulemaking procedures provided in this compact and in this section shall
9 be retroactively applied to the rule as soon as reasonably possible, in
10 no event later than ninety days after the effective date of the rule.
11 For the purposes of this provision, an emergency rule is one that must
12 be adopted immediately in order to:

13 a. Meet an imminent threat to public health, safety or welfare;
14 b. Prevent a loss of the commission or party state funds; or
15 c. Meet a deadline for the promulgation of an administrative rule that
16 is required by federal law or rule.

17 6. Revisions. The commission may direct revisions to a previously
18 adopted rule or amendment for purposes of correcting typographical
19 errors, errors in format, errors in consistency or grammatical errors.
20 Public notice of any revisions shall be posted on the website of the
21 commission. The revision shall be subject to challenge by any person for
22 a period of thirty days after posting. The revision may be challenged
23 only on grounds that the revision results in a material change to a
24 rule. A challenge shall be made in writing, and delivered to the
25 commission, prior to the end of the notice period. If no challenge is
26 made, the revision will take effect without further action. If the
27 revision is challenged, the revision may not take effect without the
28 approval of the commission.

29 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.
30 a. Each party state shall enforce this compact and take all actions
31 necessary and appropriate to effectuate this compact's purposes and
32 intent.

33 b. The commission shall be entitled to receive service of process in
34 any proceeding that may affect the powers, responsibilities or actions
35 of the commission, and shall have standing to intervene in such a
36 proceeding for all purposes. Failure to provide service of process in
37 such proceeding to the commission shall render a judgment or order void
38 as to the commission, this compact or promulgated rules.

39 2. Default, technical assistance and termination. a. If the commission
40 determines that a party state has defaulted in the performance of its
41 obligations or responsibilities under this compact or the promulgated
42 rules, the commission shall:

43 i. Provide written notice to the defaulting state and other party
44 states of the nature of the default, the proposed means of curing the
45 default or any other action to be taken by the commission; and

46 ii. Provide remedial training and specific technical assistance
47 regarding the default.

48 b. If a state in default fails to cure the default, the defaulting
49 state's membership in this compact may be terminated upon an affirmative
50 vote of a majority of the administrators, and all rights, privileges and
51 benefits conferred by this compact may be terminated on the effective
52 date of termination. A cure of the default does not relieve the offend-
53 ing state of obligations or liabilities incurred during the period of
54 default.

55 c. Termination of membership in this compact shall be imposed only
56 after all other means of securing compliance have been exhausted. Notice

1 of intent to suspend or terminate shall be given by the commission to
2 the governor of the defaulting state and to the executive officer of the
3 defaulting state's licensing board and each of the party states.

4 d. A state whose membership in this compact has been terminated is
5 responsible for all assessments, obligations and liabilities incurred
6 through the effective date of termination, including obligations that
7 extend beyond the effective date of termination.

8 e. The commission shall not bear any costs related to a state that is
9 found to be in default or whose membership in this compact has been
10 terminated unless agreed upon in writing between the commission and the
11 defaulting state.

12 f. The defaulting state may appeal the action of the commission by
13 petitioning the U.S. District Court for the District of Columbia or the
14 federal district in which the commission has its principal offices. The
15 prevailing party shall be awarded all costs of such litigation, includ-
16 ing reasonable attorneys' fees.

17 3. Dispute resolution. a. Upon request by a party state, the commis-
18 sion shall attempt to resolve disputes related to the compact that arise
19 among party states and between party and non-party states.

20 b. The commission shall promulgate a rule providing for both mediation
21 and binding dispute resolution for disputes, as appropriate.

22 c. In the event the commission cannot resolve disputes among party
23 states arising under this compact:

24 i. The party states may submit the issues in dispute to an arbitration
25 panel, which will be comprised of individuals appointed by the compact
26 administrator in each of the affected party states, and an individual
27 mutually agreed upon by the compact administrators of all the party
28 states involved in the dispute.

29 ii. The decision of a majority of the arbitrators shall be final and
30 binding.

31 4. Enforcement. a. The commission, in the reasonable exercise of its
32 discretion, shall enforce the provisions and rules of this compact.

33 b. By majority vote, the commission may initiate legal action in the
34 U.S. District Court for the District of Columbia or the federal
35 district in which the commission has its principal offices against a
36 party state that is in default to enforce compliance with the provisions
37 of this compact and its promulgated rules and bylaws. The relief sought
38 may include both injunctive relief and damages. In the event judicial
39 enforcement is necessary, the prevailing party shall be awarded all
40 costs of such litigation, including reasonable attorneys' fees.

41 c. The remedies herein shall not be the exclusive remedies of the
42 commission. The commission may pursue any other remedies available under
43 federal or state law.

44 § 8910. Effective date, withdrawal and amendment. 1. Effective date.

45 a. This compact shall become effective and binding on the earlier of
46 the date of legislative enactment of this compact into law by no less
47 than twenty-six states or the effective date of the chapter of the laws
48 of two thousand twenty-two that enacted this compact. Thereafter, the
49 compact shall become effective and binding as to any other compacting
50 state upon enactment of the compact into law by that state. All party
51 states to this compact, that also were parties to the prior nurse licen-
52 sure compact, superseded by this compact, (herein referred to as "prior
53 compact"), shall be deemed to have withdrawn from said prior compact
54 within six months after the effective date of this compact.

55 b. Each party state to this compact shall continue to recognize a
56 nurse's multistate licensure privilege to practice in that party state

1 issued under the prior compact until such party state has withdrawn from
2 the prior compact.

3 2. Withdrawal. a. Any party state may withdraw from this compact by
4 enacting a statute repealing the same. A party state's withdrawal shall
5 not take effect until six months after enactment of the repealing stat-
6 ute.

7 b. A party state's withdrawal or termination shall not affect the
8 continuing requirement of the withdrawing or terminated state's licens-
9 ing board to report adverse actions and significant investigations
10 occurring prior to the effective date of such withdrawal or termination.

11 c. Nothing contained in this compact shall be construed to invalidate
12 or prevent any nurse licensure agreement or other cooperative arrange-
13 ment between a party state and a non-party state that is made in accord-
14 ance with the other provisions of this compact.

15 3. Amendment. a. This compact may be amended by the party states. No
16 amendment to this compact shall become effective and binding upon the
17 party states unless and until it is enacted into the laws of all party
18 states.

19 b. Representatives of non-party states to this compact shall be
20 invited to participate in the activities of the commission, on a nonvot-
21 ing basis, prior to the adoption of this compact by all states.

22 § 8911. Construction and severability. 1. Construction and severabil-
23 ity. This compact shall be liberally construed so as to effectuate the
24 purposes thereof. The provisions of this compact shall be severable, and
25 if any phrase, clause, sentence or provision of this compact is declared
26 to be contrary to the constitution of any party state or of the United
27 States, or if the applicability thereof to any government, agency,
28 person or circumstance is held to be invalid, the validity of the
29 remainder of this compact and the applicability thereof to any govern-
30 ment, agency, person or circumstance shall not be affected thereby. If
31 this compact shall be held to be contrary to the constitution of any
32 party state, this compact shall remain in full force and effect as to
33 the remaining party states and in full force and effect as to the party
34 state affected as to all severable matters.

35 § 3. Section 6501 of the education law is amended by adding a new
36 subdivision 3 to read as follows:

37 3. a. an applicant for licensure in a qualified high-need healthcare
38 profession who provides documentation and attestation that he or she
39 holds a license in good standing from another state, may request the
40 issuance of a temporary practice permit, which, if granted will permit
41 the applicant to work under the supervision of a New York state licensee
42 in accordance with regulations of the commissioner. The department may
43 grant such temporary practice permit when it appears based on the appli-
44 cation and supporting documentation received that the applicant will
45 meet the requirements for licensure in this state because he or she has
46 provided documentation and attestation that they hold a license in good
47 standing from another state with significantly comparable licensure
48 requirements to those of this state, except the department has not been
49 able to secure direct source verification of the applicant's underlying
50 credentials (e.g., license verification, receipt of original transcript,
51 experience verification). Such permit shall be valid for six months or
52 until ten days after notification that the applicant does not meet the
53 qualifications for licensure. An additional six months may be granted
54 upon a determination by the department that the applicant is expected to
55 qualify for the full license upon receipt of the remaining direct source
56 verification documents requested by the department in such time period

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1 and that the delay in providing the necessary documentation for full
2 licensure was due to extenuating circumstances which the applicant could
3 not avoid.

4 b. a temporary practice permit issued under paragraph a of this subdivi-
5 vision shall be subject to the full disciplinary and regulatory authori-
6 ty of the board of regents and the department, pursuant to this title,
7 as if such authorization were a professional license issued under this
8 article.

9 c. for purposes of this subdivision "high-need healthcare profession"
10 means a licensed healthcare profession of which there are an insuffi-
11 cient number of licensees to serve in the state or a region of the
12 state, as determined by the commissioner of health, in consultation with
13 the commissioner of education. The commissioner of health shall main-
14 tain a list of such licensed professions, which shall be posted online
15 and updated from time to time as warranted.

16 § 4. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2022; provided,
18 however, section three of this act shall take effect on the ninetieth
19 day after it shall have become a law. Effective immediately, the addi-
20 tion, amendment and/or repeal of any rule or regulation necessary for
21 the implementation of this act on its effective date are authorized to
22 be made and completed on or before such effective date.

23 PART C

24 Intentionally Omitted

25 PART D

26 Section 1. The social services law is amended by adding a new section
27 367-w to read as follows:

28 § 367-w. Health care and mental hygiene worker bonuses. 1. Purpose
29 and intent. New York's essential front line health care and mental
30 hygiene workers have seen us through a once-in-a-century public health
31 crisis and turned our state into a model for battling and beating
32 COVID-19. To attract talented people into the profession at a time of
33 such significant strain while also retaining those who have been working
34 so tirelessly these past two years, we must recognize the efforts of our
35 health care and mental hygiene workforce and reward them financially for
36 their service.

37 To do that, the commissioner of health is hereby directed to seek
38 additional federal spending authority under section 9817 of the American
39 Rescue Plan Act of 2021 to maximize federal financial participation with
40 respect to spending on home and community based services and to seek
41 such other federal approvals as applicable, and, subject to federal
42 financial participation, to support with federal and state funding
43 bonuses to be made available during the state fiscal year two thousand
44 twenty-three to recruit, retain, and reward health care and mental
45 hygiene workers.

46 2. Definitions. As used in this section, the term:

47 (a) "Employee" means certain front line health care and mental hygiene
48 practitioners, technicians, assistants and aides and other workers that
49 provide hands on health or care services to individuals, or that provide
50 services that are integral to such care on-site in patient and residen-
51 tial care settings, including, but not limited to, custodians, house-

1 keeping, security, and food service workers, without regard to whether
2 the person works full-time, part-time, on a salaried, hourly, or tempo-
3 rary basis, or as an independent contractor, that received an annualized
4 base salary of one hundred twenty-five thousand dollars or less, to
5 include such titles as determined by the commissioner, in consultation
6 with the commissioner of mental health, the commissioner for people with
7 developmental disabilities, the commissioner of addiction services and
8 supports, and the commissioner of children and family services, as
9 applicable, and approved by the director of the budget.

10 (b) "Employer" means a provider enrolled in the medical assistance
11 program under this title that employs at least one employee and that
12 bills for services under the state plan or a home and community based
13 services waiver authorized pursuant to subdivision (c) of section nine-
14 teen hundred fifteen of the federal social security act, or that has a
15 provider agreement to bill for services provided or arranged through a
16 managed care provider under section three hundred sixty-four-j of this
17 title or a managed long term care plan under section forty-four hundred
18 three-f of the public health law, to include:

19 (i) providers and facilities licensed, certified or otherwise author-
20 ized under articles twenty-eight, thirty, thirty-six or forty of the
21 public health law, articles sixteen, thirty-one, thirty-two or thirty-
22 six of the mental hygiene law, article seven of this chapter, fiscal
23 intermediaries under section three hundred sixty-five-f of this title,
24 pharmacies registered under section six thousand eight hundred eight of
25 the education law, school based health centers, a health district as
26 defined in section two of the public health law, or a municipal corpo-
27 ration;

28 (ii) programs funded by the office of mental health, the office of
29 addiction services and supports, or the office for people with develop-
30 mental disabilities; and

31 (iii) other provider types determined by the commissioner and approved
32 by the director of the budget;

33 (iv) provided, however, that unless the provider is subject to a
34 certificate of need process as a condition of state licensure or
35 approval, such provider shall not be an employer under this section
36 unless at least twenty percent of the provider's patients or persons
37 served are eligible for services under this title and title XIX of the
38 federal social security act.

39 (c) Notwithstanding the definition of employer in paragraph (b) of
40 this subdivision, and without regard to the availability of federal
41 financial participation, "employer" shall also include an institution of
42 higher education, a public or nonpublic school, a charter school, an
43 approved preschool program for students with disabilities, a school
44 district or boards of cooperative educational services, programs funded
45 by the office of mental health, programs funded by the office of
46 addiction services and supports, programs funded by the office for
47 people with developmental disabilities, programs funded by the office
48 for the aging, a health district as defined in section two of the public
49 health law, or a municipal corporation, where such program or entity
50 employs at least one employee. Such employers shall be required to
51 enroll in the system designated by the commissioner, or relevant agency
52 commissioners, in consultation with the director of the budget, for the
53 purpose of claiming bonus payments under this section. Such system or
54 process for claiming bonus payments may be different from the system and
55 process used under subdivision three of this section.

1 (d) "Vesting period" shall mean a series of six-month periods between
2 the dates of October first, two thousand twenty-one and March thirty-
3 first, two thousand twenty-four for which employees that are continuous-
4 ly employed by an employer during such six-month periods, in accordance
5 with a schedule issued by the commissioner or relevant agency commis-
6 sioner as applicable, may become eligible for a bonus pursuant to subdivi-
7 sion four of this section.

8 (e) "Base salary" shall mean, for the purposes of this section, the
9 employee's gross wages with the employer during the vesting period,
10 excluding any bonuses or overtime pay.

11 (f) "Municipal corporation" means a county outside of a city with a
12 population of one million or more, a city, including a city with a popu-
13 lation of one million or more, a town, a village, or a school district.

14 3. Tracking and submission of claims for bonuses. (a) The commis-
15 sioner, in consultation with the commissioner of labor and the Medicaid
16 inspector general, and subject to any necessary approvals by the federal
17 centers for Medicare and Medicaid services, shall develop such forms and
18 procedures as may be needed to identify the number of hours employees
19 worked and to provide reimbursement to employers for the purposes of
20 funding employee bonuses in accordance with hours worked during the
21 vesting period.

22 (b) Using the forms and processes developed by the commissioner under
23 this subdivision, employers shall, for a period of time specified by the
24 commissioner:

25 (i) track the number of hours that employees work during the vesting
26 period and, as applicable, the number of patients served by the employer
27 who are eligible for services under this title; and

28 (ii) submit claims for reimbursement of employee bonus payments. In
29 filling out the information required to submit such claims, employers
30 shall use information obtained from tracking required pursuant to para-
31 graph (a) of this subdivision and provide such other information as may
32 be prescribed by the commissioner. In determining an employee's annual-
33 ized base salary, the employer shall use information based on payroll
34 records.

35 (c) Employers shall be responsible for determining whether an employee
36 is eligible under this section and shall maintain and make available
37 upon request all records, data and information the employer relied upon
38 in making the determination that an employee was eligible, in accordance
39 with paragraph (d) of this subdivision.

40 (d) Employers shall maintain contemporaneous records for all tracking
41 and claims related information and documents required to substantiate
42 claims submitted under this section for a period of no less than six
43 years. Employers shall furnish such records and information, upon
44 request, to the commissioner, the Medicaid inspector general, the
45 commissioner of labor, the secretary of the United States Department of
46 Health and Human Services, and the deputy attorney general for Medicaid
47 fraud control.

48 4. Payment of worker bonuses. (a) Upon issuance of a vesting schedule
49 by the commissioner, or relevant agency commissioner as applicable,
50 employers shall be required to pay bonuses to employees pursuant to such
51 schedule based on the number of hours worked during the vesting period.
52 The schedule shall provide for total payments not to exceed three thou-
53 sand dollars per employee in accordance with the following:

54 (i) employees who have worked an average of at least twenty but less
55 than thirty hours per week over the course of a vesting period would
56 receive a five hundred dollar bonus for the vesting period;

1 (ii) employees who have worked an average of at least thirty but less
2 than thirty-five hours per week over the course of a vesting period
3 would receive a one thousand dollar bonus for such vesting period;

4 (iii) employees who have worked an average of at least thirty-five
5 hours per week over the course of a vesting period would receive a one
6 thousand five hundred dollar bonus for such vesting period;

7 (iv) full-time employees who are exempt from overtime compensation as
8 established in the labor commissioner's minimum wage orders or otherwise
9 provided by New York state law or regulation over the course of a vest-
10 ing period would receive a one thousand five hundred dollar bonus for
11 such vesting period.

12 (b) Notwithstanding paragraph (a) of this subdivision, the commission-
13 er may through regulation specify an alternative number of vesting peri-
14 ods, provided that total payments do not exceed three thousand dollars
15 per employee.

16 (c) Employees shall be eligible for bonuses for no more than two vest-
17 ing periods per employer, in an amount equal to but not greater than
18 three thousand dollars per employee across all employers.

19 (d) Upon completion of a vesting period with an employer, an employee
20 shall be entitled to receive the bonus and the employer shall be
21 required to pay the bonus no later than the date specified under this
22 subdivision, provided however that prior to such date the employee does
23 not terminate, through action or inaction, the employment relationship
24 with the employer, in accordance with any employment agreement, includ-
25 ing a collectively bargained agreement, if any, between the employee and
26 employer.

27 (e) Any bonus due and payable to an employee under this section shall
28 be made by the employer no later than thirty days after the bonus is
29 paid to the employer.

30 (f) An employer shall be required to submit a claim for a bonus to the
31 department no later than thirty days after an employee's eligibility for
32 a bonus vests, in accordance with and upon issuance of the schedule
33 issued by the commissioner or relevant agency commissioner.

34 (g) No portion of any funds received from claims under subparagraph
35 (ii) of paragraph (b) of subdivision three of this section for employee
36 bonuses shall be returned to any person other than the employee to whom
37 the bonus is due or used to reduce the total compensation an employer is
38 obligated to pay to an employee under section thirty-six hundred four-
39 teen-c of the public health law, section six hundred fifty-two of the
40 labor law, or any other provisions of law or regulations, or pursuant to
41 any collectively bargained agreement.

42 (h) No portion of any bonus available pursuant to this subdivision
43 shall be payable to a person who has been suspended or excluded under
44 the medical assistance program during the vesting period and at the time
45 an employer submits a claim under this section.

46 (i) The use of any accruals or other leave, including but not limited
47 to sick, vacation, or time used under the family medical leave act,
48 shall be credited towards and included in the calculation of the average
49 number of hours worked per week over the course of the vesting period.

50 5. Audits, investigations and reviews. (a) The Medicaid inspector
51 general shall, in coordination with the commissioner, conduct audits,
52 investigations and reviews of employers required to submit claims under
53 this section. Such claims, inappropriately paid, under this section
54 shall constitute overpayments as that term is defined under the regu-
55 lations governing the medical assistance program. The Medicaid inspector
56 general may recover such overpayments to employers as it would an over-

1 payment under the medical assistance program, impose sanctions up to and
 2 including exclusion from the medical assistance program, impose penal-
 3 ties, and take any other action authorized by law where:

4 (i) an employer claims a bonus not due to an employee or a bonus
 5 amount in excess of the correct bonus amount due to an employee;

6 (ii) an employer claims, receives and fails to pay any part of the
 7 bonus due to a designated employee; or

8 (iii) an employer fails to claim a bonus due to an employee.

9 (b) Any employer identified in paragraph (a) of this subdivision who
 10 fails to identify, claim and pay any bonus for more than ten percent of
 11 its employees eligible for the bonus shall also be subject to additional
 12 penalties under subdivision four of section one hundred forty-five-b of
 13 this article.

14 (c) Any employer who fails to pay any part of the bonus payment to a
 15 designated employee shall remain liable to pay such bonus to that
 16 employee, regardless of any recovery, sanction or penalty the Medicaid
 17 inspector general may impose.

18 (d) In all instances recovery of inappropriate bonus payments shall be
 19 recovered from the employer. The employer shall not have the right to
 20 recover any inappropriately paid bonus from the employee.

21 (e) Where the Medicaid inspector general sanctions an employer for
 22 violations under this section, they may also sanction any affiliates as
 23 defined under the regulations governing the medical assistance program.

24 6. Rules and regulations. The commissioner, in consultation with the
 25 Medicaid inspector general as it relates to subdivision five of this
 26 section, may promulgate rules to implement this section pursuant to
 27 emergency regulation; provided, however, that this provision shall not
 28 be construed as requiring the commissioner to issue regulations to
 29 implement this section.

30 § 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 4 of
 31 section 145-b of the social services law, as amended by section 1 of
 32 part QQ of chapter 56 of the laws of 2020, are amended to read as
 33 follows:

34 (iv) such person arranges or contracts, by employment, agreement, or
 35 otherwise, with an individual or entity that the person knows or should
 36 know is suspended or excluded from the medical assistance program at the
 37 time such arrangement or contract regarding activities related to the
 38 medical assistance program is made[~~+~~]; or

39 (v) such person had an obligation to identify, claim, and pay a bonus
 40 under subdivision three of section three hundred sixty-seven-w of this
 41 article and such person failed to identify, claim and pay such bonus.

42 For purposes of this paragraph, "person" as used in subparagraph (i)
 43 of this paragraph does not include recipients of the medical assistance
 44 program; and "person" as used in subparagraphs (ii) [~~--~~], (iii) and (iv)
 45 of this paragraph, is as defined in paragraph (e) of subdivision [~~(6)~~]
 46 six of section three hundred sixty-three-d of this [~~chapter~~] article;
 47 and "person" as used in subparagraph (v) of this paragraph includes
 48 employers as defined in section three hundred sixty-seven-w of this
 49 article.

50 § 3. Paragraph (c) of subdivision 4 of section 145-b of the social
 51 services law is amended by adding a new subparagraph (iii) to read as
 52 follows:

53 (iii) For subparagraph (v) of paragraph (a) of this subdivision, a
 54 monetary penalty shall be imposed for conduct described in subparagraphs
 55 (i), (ii) and (iii) of paragraph (a) of subdivision five of section
 56 three hundred sixty-seven-w of this article and shall not exceed one

1 thousand dollars per failure to identify, claim and pay a bonus for each
2 employee.

3 § 4. Health care and mental hygiene worker bonuses for state employ-
4 ees. 1. An employee who is employed by a state operated facility, an
5 institutional or direct-care setting operated by the executive branch of
6 the State of New York or a public hospital operated by the state univer-
7 sity of New York and who is deemed substantially equivalent to the defi-
8 nition of employee pursuant to paragraph (a) of subdivision 2 of section
9 367-w of the social services law as determined by the commissioner of
10 health, in consultation with the chancellor of the state university of
11 New York, the commissioner of the department of civil service, the
12 director of the office of employee relations, and the commissioners of
13 other state agencies, as applicable, and approved by the director of the
14 budget, shall be eligible for the health care and mental hygiene worker
15 bonus. Notwithstanding the definition of base salary pursuant to para-
16 graph (d) of subdivision 2 of section 367-w of the social services law,
17 such bonus shall only be paid to employees who receive an annualized
18 base salary of one hundred twenty-five thousand dollars or less.

19 2. Employees shall be eligible for health care and mental hygiene
20 worker bonuses in an amount up to but not exceeding three thousand
21 dollars per employee. The payment of bonuses shall be paid based on the
22 total number of hours worked during two vesting periods based on the
23 employee's start date with the employer. No employee's first vesting
24 period may begin later than March thirty-first, two thousand twenty-
25 three, and in total both vesting periods may not exceed one year in
26 duration. For each vesting period, payments shall be in accordance with
27 the following:

28 (a) employees who have worked an average of at least twenty but less
29 than thirty hours per week over the course of a vesting period shall
30 receive a five hundred dollar bonus for the vesting period;

31 (b) employees who have worked an average of at least thirty but less
32 than thirty-seven and one half hours per week over the course of a vest-
33 ing period shall receive a one thousand dollar bonus for such vesting
34 period; and

35 (c) employees who have worked an average of at least thirty-seven and
36 one half hours per week over the course of a vesting period shall
37 receive a one thousand five hundred dollar bonus for such vesting peri-
38 od.

39 § 5. An employee under this act shall be limited to a bonus of three
40 thousand dollars per employee without regard to which section or
41 sections such employee may be eligible or whether the employee is eligi-
42 ble to receive a bonus from more than one employer.

43 § 6. Notwithstanding any provision of law to the contrary, any bonus
44 payment paid pursuant to this act, to the extent includible in gross
45 income for federal income tax purposes, shall not be subject to state or
46 local income tax.

47 § 7. Bonuses under this act shall not be considered income for
48 purposes of public benefits or other public assistance.

49 § 8. Paragraph (a) of subdivision 8 of section 131-a of the social
50 services law is amended by adding a new subparagraph (x) to read as
51 follows:

52 (x) all of the income of a head of household or any person in the
53 household, who is receiving such aid or for whom an application for such
54 aid has been made, which is derived from the health care and mental
55 hygiene worker bonuses under section three hundred sixty-seven-w of this

1 article or under the chapter of the laws of two thousand twenty-two
2 which added this subparagraph.

3 § 9. This act shall take effect immediately.

4

PART E

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

8 1. A state aid base grant shall be reimbursed to municipalities for
9 the core public health services identified in section six hundred two of
10 this title, in an amount of the greater of [~~sixty-five~~] one dollar and
11 thirty cents per capita, [for each person in the municipality,] or [six
12 hundred fifty thousand dollars] seven hundred fifty thousand dollars,
13 provided that the municipality expends at least [~~six hundred fifty thou-~~
14 ~~sand dollars] seven hundred fifty thousand dollars, for such core public
15 health services. A municipality must provide all the core public health
16 services identified in section six hundred two of this title to qualify
17 for such base grant unless the municipality has the approval of the
18 commissioner to expend the base grant on a portion of such core public
19 health services. If any services in such section are not provided, the
20 commissioner [~~may~~] shall limit the municipality's per capita or base
21 grant to reflect the scope of the reduced services, in an amount not to
22 exceed five hundred seventy-seven thousand five hundred dollars. The
23 commissioner may use the amount that is not granted to contract with
24 agencies, associations, or organizations to provide such services; or
25 the health department may use such proportionate share to provide the
26 services upon approval of the director of the division of the budget.~~

27 § 2. Subdivision 2 of section 605 of the public health law, as amended
28 by section 1 of part O of chapter 57 of the laws of 2019, is amended to
29 read as follows:

30 2. State aid reimbursement for public health services provided by a
31 municipality under this title, shall be made if the municipality is
32 providing some or all of the core public health services identified in
33 section six hundred two of this title, pursuant to an approved applica-
34 tion for state aid, at a rate of no less than thirty-six per centum[~~;~~
35 ~~except for the city of New York which shall receive no less than twenty~~
36 ~~per centum,] of the difference between the amount of moneys expended by
37 the municipality for public health services required by section six
38 hundred two of this title during the fiscal year and the base grant
39 provided pursuant to subdivision one of this section. Provided, however,
40 that a municipality's documented fringe benefit costs submitted under an
41 application for state aid and otherwise eligible for reimbursement under
42 this article shall not exceed seventy-five per centum of the munici-
43 pality's eligible personnel services. No such reimbursement shall be
44 provided for services that are not eligible for state aid pursuant to
45 this article.~~

46 § 3. Subdivision 2 of section 616 of the public health law, as added
47 by chapter 901 of the laws of 1986, is amended and a new subdivision 4
48 is added to read as follows:

49 2. No payments shall be made from moneys appropriated for the purpose
50 of this article to a municipality for contributions by the municipality
51 for indirect costs [~~and fringe benefits, including but not limited to,~~
52 ~~employee retirement funds, health insurance and federal old age and~~
53 ~~survivors insurance]~~.

1 4. Moneys appropriated for the purposes of this article to a municipi-
2 pality may include reimbursement of a municipality's fringe benefits,
3 including but not limited to employee retirement funds, health insurance
4 and federal old age and survivor's insurance. However, costs submitted
5 under an application for state aid must be consistent with a municipi-
6 pality's documented fringe benefit costs and shall not exceed fifty per
7 centum of the municipality's eligible personnel services.

8 § 4. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2022.

10

PART F

11 Section 1. Section 3002 of the public health law is amended by adding
12 a new subdivision 1-a to read as follows:

13 1-a. The state emergency medical services council shall advise the
14 commissioner on such issues as the commissioner may require related to
15 the provision of emergency medical service, specialty care, designated
16 facility care, and disaster medical care, and assist in the coordination
17 of such. This shall include, but is not limited to, the recommendation,
18 periodic revision, and application of rules and regulations, appropri-
19 ateness review standards, standards for triage, treatment, and transpor-
20 tation protocols, workforce recruitment, development, and retention, and
21 quality improvement standards. The state emergency medical services
22 council shall meet as frequently as determined necessary by the commis-
23 sioner.

24 § 2. Section 3003 of the public health law is amended by adding a new
25 subdivision 1-a to read as follows:

26 1-a. Each regional emergency medical services council shall advise the
27 state emergency medical services council, the commissioner and the
28 department on such issues as the state emergency medical services coun-
29 cil, the commissioner and the department may require, related to the
30 provision of emergency medical service, specialty care, designated
31 facility care, disaster medical care, the workforce, and assist in the
32 regional coordination of such.

33 § 3. The public health law is amended by adding a new section 3004 to
34 read as follows:

35 § 3004. Emergency medical services system and agency sustainability
36 assurance program. The commissioner, with the advice of the state emer-
37 gency medical services council, may create an emergency medical services
38 system and agency sustainability assurance program (hereinafter referred
39 to as "the program"). Standards and metrics of the program may include
40 but not be limited to: safety initiatives, emergency vehicle operations,
41 operational competencies, planning, training, onboarding, workforce
42 development, and other standards and metrics as determined by the
43 commissioner in consultation with the state emergency medical services
44 council, to promote positive patient outcomes, safety, and emergency
45 medical services system sustainability throughout the state. The commis-
46 sioner is hereby authorized to promulgate regulations related to the
47 standards and requirements of the program, and shall require each emer-
48 gency medical services system and agency to perform regular and periodic
49 review of program metrics and standards, including but not limited to
50 identification of agency deficiencies and strengths, development of
51 programs to improve agency metrics, strengthen system sustainability and
52 operations, and improve the delivery of care. The department may
53 contract for services to assist in the development and maintenance of
54 these metrics and standards statewide with subject matter experts to

1 assist in the oversight of these metrics statewide. The department may
2 delegate authority to oversee these metrics and standards to counties or
3 other contractors as determined by the commissioner. Emergency medical
4 services agencies that do not meet the standards and requirements set
5 forth in the program set by the commissioner may be subject to enforce-
6 ment actions, including but not limited to revocation, suspension,
7 performance improvement plans, or restriction from specific types of
8 response such as but not limited to suspension of ability to respond to
9 requests for emergency medical assistance or to perform emergency
10 medical services.

11 § 4. The public health law is amended by adding a new section 3018 to
12 read as follows:

13 § 3018. Statewide comprehensive emergency medical system plan. 1. The
14 department, in consultation with the state emergency medical services
15 council, shall develop and maintain a statewide comprehensive emergency
16 medical system plan that shall provide for a coordinated emergency
17 medical system in New York state, including but not be limited to:

18 (a) Establishing a comprehensive statewide emergency medical system,
19 incorporating facilities, agency types, transportation, workforce,
20 communications, and other components of the emergency medical system to
21 improve the delivery of emergency medical services and thereby decrease
22 morbidity, hospitalization, disability, and mortality;

23 (b) Improving the accessibility of high-quality emergency medical
24 service;

25 (c) Coordinating professional medical organizations, hospitals, and
26 other public and private agencies in developing alternative delivery
27 models whereby persons who are presently using the existing emergency
28 department for routine, nonurgent, primary medical care may be served
29 more appropriately; and

30 (d) Conducting, promoting, and encouraging programs of education and
31 training designed to upgrade the knowledge and skills of emergency
32 medical service practitioners training throughout New York state with
33 emphasis on regions with limited access to emergency medical services
34 training.

35 2. The statewide comprehensive emergency medical system plan shall be
36 reviewed, updated if necessary, and published every five years on the
37 department's website, or at such times as may be necessary to improve
38 the effectiveness and efficiency of the state's emergency medical
39 service system.

40 3. Each regional emergency medical services council shall develop and
41 maintain a comprehensive regional emergency medical system plan, or
42 adapt the statewide comprehensive emergency medical system plan to
43 provide for a coordinated emergency medical system within the region.
44 Such plans shall be subject to review by the state emergency medical
45 services council and approval by the department.

46 4. Each county shall develop and maintain a comprehensive county emer-
47 gency medical system plan that shall provide for a coordinated emergency
48 medical system within the county. Such plans shall be subject to review
49 by the regional emergency medical services council, the state emergency
50 medical services council and approval by the department. The department
51 shall be responsible for oversight of each county's compliance with
52 their plan.

53 5. The commissioner may promulgate regulations to ensure compliance
54 with this section.

55 § 5. The public health law is amended by adding a new section 3019 to
56 read as follows:

1 § 3019. Emergency medical services training program. 1. The depart-
2 ment shall establish, in consultation with the state emergency medical
3 services council, a training program for emergency medical services that
4 includes students, emergency medical service practitioners, agencies,
5 facilities, and personnel, and the commissioner may provide funding
6 within the amount appropriated to conduct such training programs in
7 consultation with the state emergency medical services council. Until
8 such time as the department announces the training program pursuant to
9 this section is in effect, all current standards, curriculums, and
10 requirements for students, emergency medical service practitioners,
11 agencies, facilities, and personnel shall remain in effect.

12 2. The department, in consultation with the state emergency medical
13 services council, shall establish minimum education standards, curric-
14 ulums and requirements for all emergency medical services training
15 programs. No person shall profess to provide emergency medical services
16 training without the approval of the department.

17 3. The department is authorized to provide, either directly or through
18 contract, emergency medical services training for emergency medical
19 service practitioners and emergency medical system services personnel,
20 develop and distribute training materials for use by instructors, and to
21 recruit and offer training to additional instructors to provide train-
22 ing.

23 4. The department may visit and inspect any emergency medical system
24 training program or training center operating under this article and the
25 regulations adopted therefore to ensure compliance. The department may
26 delegate responsibilities to the state or regional emergency medical
27 services councils to assist in the compliance, maintenance, and coordi-
28 nation of training programs.

29 5. The commissioner shall, within amounts appropriated, establish a
30 public service campaign to recruit additional personnel into the emer-
31 gency medical system fields.

32 6. The commissioner shall, within amounts appropriated, establish an
33 emergency medical system mental health and wellness program that
34 provides resources to emergency medical service practitioners to reduce
35 burnout, prevent suicides, and increase safety.

36 7. The department, in consultation with the state emergency medical
37 services council, may create or adopt with the approval of the commis-
38 sioner additional standards, training and criteria to become a creden-
39 tialled emergency medical service practitioner to provide specialized,
40 advanced, or other services that further support or advance the emergen-
41 cy medical system.

42 § 6. Section 3008 of the public health law is amended by adding a new
43 subdivision 8 to read as follows:

44 8. (a) Notwithstanding any other provision of law, all determinations
45 of need shall be consistent with the state emergency medical system plan
46 established in section three thousand eighteen of this article. The
47 commissioner may promulgate regulations to provide for the standards on
48 the determination of need. Until such time as the state emergency
49 medical system plan is established, the definition of determination of
50 need will be developed by the department in consultation with the state
51 emergency medical services council. The department shall issue a new
52 emergency medical system agency certificate only upon a determination
53 that a public need for the proposed service has been established pursu-
54 ant to regulation. If the department determines that a public need
55 exists for only a portion of a proposed service, a certificate may be
56 issued for that portion. Prior to reaching a final determination of

1 need, the department shall forward a summary of the proposed service
 2 including any documentation received or subsequent reports created ther-
 3 eto, to the state emergency medical services council for review and
 4 recommendation to the department on the approval of the application. An
 5 applicant or other concerned party may appeal any determination made by
 6 the department pursuant to this section within fourteen days. Appeals
 7 shall be heard pursuant to the provisions of section twelve-a of this
 8 chapter, and a final determination as to need shall be made by the
 9 commissioner upon review of the report and recommendation of the presid-
 10 ing administrative law judge.

11 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
 12 sion, the commissioner may promulgate regulations to provide for the
 13 issuance of an emergency medical system agency certificate without a
 14 determination of public need.

15 § 7. Subdivision 1 of section 3001 of the public health law, as
 16 amended by chapter 804 of the laws of 1992, is amended to read as
 17 follows:

18 1. "Emergency medical service" means [~~initial emergency medical~~
 19 ~~assistance including, but not limited to, the treatment of trauma,~~
 20 ~~burns, respiratory, circulatory and obstetrical emergencies~~] care of a
 21 person to, from, at, in, or between the person's home, scene of injury,
 22 hospitals, health care facilities, public events or other locations, by
 23 emergency medical services practitioners as a patient care team member,
 24 for emergency, non-emergency, specialty, low acuity, preventative,
 25 interfacility, or community paramedicine care; emergency and non-emer-
 26 gency medical dispatch; coordination of emergency medical system equip-
 27 ment and personnel; assessment; treatment, transportation, routing,
 28 referrals and communications with treatment facilities and medical
 29 personnel; public education, injury prevention and wellness initiatives;
 30 administration of immunizations as approved by the state emergency
 31 medical services council; and follow-up and restorative care.

32 § 8. This act shall take effect immediately and shall be deemed to
 33 have been in full force and effect on and after April 1, 2022.

34 PART G

35 Intentionally Omitted

36 PART H

37 Section 1. Sections 91 and 92 of part H of chapter 59 of the laws of
 38 2011 relating to the year to year rate of growth of Department of Health
 39 state funds and Medicaid funding are REPEALED.

40 § 2. This act shall take effect immediately.

41 PART I

42 Section 1. 1. Notwithstanding any provision of law to the contrary,
 43 for the state fiscal years beginning April 1, 2022, and thereafter, all
 44 department of health Medicaid payments made for services provided on and
 45 after April 1, 2022, shall be subject to a uniform rate increase of one
 46 percent, subject to the approval of the commissioner of the department
 47 of health and director of the budget. Such rate increase shall be
 48 subject to federal financial participation.

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42

1 2. The following types of payments shall be exempt from increases
2 pursuant to this section:

3 (a) payments that would violate federal law including, but not limited
4 to, hospital disproportionate share payments that would be in excess of
5 federal statutory caps;

6 (b) payments made by other state agencies including, but not limited
7 to, those made pursuant to articles 16, 31 and 32 of the mental hygiene
8 law;

9 (c) payments the state is obligated to make pursuant to court orders
10 or judgments;

11 (d) payments for which the non-federal share does not reflect any
12 state funding; and

13 (e) at the discretion of the commissioner of health and the director
14 of the budget, payments with regard to which it is determined that
15 application of increases pursuant to this section would result, by oper-
16 ation of federal law, in a lower federal medical assistance percentage
17 applicable to such payments.

18 § 2. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2022.

20

PART J

21 Section 1. Paragraph (c) of subdivision 35 of section 2807-c of the
22 public health law, as amended by section 32 of part C of chapter 60 of
23 the laws of 2014, is amended to read as follows:

24 (c) The base period reported costs and statistics used for rate-set-
25 ting for operating cost components, including the weights assigned to
26 diagnostic related groups, shall be updated no less frequently than
27 every four years and the new base period shall be no more than four
28 years prior to the first applicable rate period that utilizes such new
29 base period provided, however, that the first updated base period shall
30 begin on or after April first, two thousand fourteen, but no later than
31 July first, two thousand fourteen; and further provided that the updated
32 base period subsequent to July first, two thousand eighteen shall begin
33 on or after January first, two thousand twenty-four.

34 § 2. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after April 1, 2022.

36

PART K

37 Section 1. The public health law is amended by adding a new section
38 2825-g to read as follows:

39 § 2825-g. Health care facility transformation program: statewide IV.
40 1. A statewide health care facility transformation program is hereby
41 established within the department for the purpose of transforming, rede-
42 signing, and strengthening quality health care services in alignment
43 with statewide and regional health care needs, and in the ongoing
44 pandemic response. The program shall also provide funding, subject to
45 lawful appropriation, in support of capital projects that facilitate
46 furthering such transformational goals.

47 2. The commissioner shall enter into an agreement with the dormitory
48 authority of the state of New York pursuant to section sixteen hundred
49 eighty-r of the public authorities law, which shall apply to this agree-
50 ment, subject to the approval of the director of the division of the
51 budget, for the purposes of the distribution, and administration of
52 available funds, pursuant to such agreement, and made available pursuant

1 to this section and appropriation. Such funds may be awarded and
2 distributed by the department for grants to health care facilities
3 including but not limited to, hospitals, including hospitals regulated
4 pursuant to article eight of the education law, residential health care
5 facilities, adult care facilities licensed under title two of article
6 seven of the social services law, diagnostic and treatment centers, and
7 clinics licensed pursuant to this chapter or the mental hygiene law,
8 children's residential treatment facilities licensed pursuant to article
9 thirty-one of the mental hygiene law, assisted living programs approved
10 by the department pursuant to section four hundred sixty-one-1 of the
11 social services law, behavioral health facilities licensed pursuant to
12 articles thirty-one and thirty-two of the mental hygiene law, and inde-
13 pendent practice associations or organizations. A copy of such agree-
14 ment, and any amendments thereto, shall be provided by the department to
15 the chair of the senate finance committee, the chair of the assembly
16 ways and means committee, and the director of the division of the budget
17 no later than thirty days after such agreement is finalized. Projects
18 awarded, in whole or part, under sections twenty-eight hundred twenty-
19 five-a and twenty-eight hundred twenty-five-b of this article shall not
20 be eligible for grants or awards made available under this section.

21 3. Notwithstanding subdivision two of this section or any inconsistent
22 provision of law to the contrary, and upon approval of the director of
23 the budget, the commissioner may, subject to the availability of lawful
24 appropriation, award up to four hundred fifty million dollars of the
25 funds made available pursuant to this section for unfunded project
26 applications submitted in response to the request for application number
27 18406 issued by the department on September thirtieth, two thousand
28 twenty-one pursuant to section twenty-eight hundred twenty-five-f of
29 this article. Authorized amounts to be awarded pursuant to applications
30 submitted in response to the request for application number 18406 shall
31 be awarded no later than December thirty-first, two thousand twenty-two.
32 Provided, however, that a minimum of:

33 (a) twenty-five million dollars of total awarded funds shall be made
34 to community-based health care providers, which for purposes of this
35 section shall be defined as a diagnostic and treatment center licensed
36 or granted an operating certificate under this article;

37 (b) twenty-five million dollars of total awarded funds shall be made
38 to a mental health clinic licensed or granted an operating certificate
39 under article thirty-one of the mental hygiene law; a substance use
40 disorder treatment clinic licensed or granted an operating certificate
41 under article thirty-two of the mental hygiene law; independent practice
42 associations or organizations; a clinic licensed or granted an operating
43 certificate under article sixteen of the mental hygiene law; a home care
44 provider certified or licensed pursuant to article thirty-six of this
45 chapter; or hospices licensed or granted an operating certificate pursu-
46 ant to article forty of this chapter; and

47 (c) fifty million dollars of total awarded funds shall be made to
48 residential health care facilities or adult care facilities.

49 4. Notwithstanding section one hundred sixty-three of the state
50 finance law, or any inconsistent provision of law to the contrary, up to
51 two hundred million dollars of the funds appropriated for this program
52 shall be awarded, without a competitive bid or request for proposal
53 process, for grants to health care providers for purposes of moderniza-
54 tion of an emergency department of regional significance. For purposes
55 of this subdivision, an emergency department shall be considered to have
56 regional significance if it: (a) serves as Level 1 trauma center with

1 the highest volume in its region; (b) includes the capacity to segregate
2 patients with communicable diseases, trauma or severe behavioral health
3 issues from other patients in the emergency department; (c) provides
4 training in emergency care and trauma care to residents from multiple
5 hospitals in the region; and (d) serves a high proportion of Medicaid
6 patients.

7 5. (a) Notwithstanding section one hundred sixty-three of the state
8 finance law, or any inconsistent provision of law to the contrary, up to
9 seven hundred fifty million dollars of the funds appropriated for this
10 program shall be awarded, without a competitive bid or request for
11 proposal process, for grants to health care providers, including, but
12 not limited to, public hospitals operated by a public benefit corpo-
13 ration (hereafter "applicants").

14 (b) Awards made pursuant to this subdivision shall provide funding
15 only for capital projects, to the extent lawful appropriation and fund-
16 ing is available, to build innovative, patient-centered models of care,
17 increase access to care, to improve the quality of care and to ensure
18 financial sustainability of health care providers.

19 (c) At least twenty-five percent of the funds shall be allocated
20 exclusively for community-based health care providers, which for the
21 purposes of this subdivision shall be defined as: a diagnostic and
22 treatment center licensed or granted an operating certificate under
23 article twenty-eight of the public health law; a mental health outpa-
24 tient provider licensed or granted an operating certificate under arti-
25 cle thirty-one of the mental hygiene law, a substance use disorder
26 treatment provider licensed or granted an operating certificate under
27 article thirty-two of the mental hygiene law, a program licensed under
28 article forty-one of the mental hygiene law, a community-based program
29 funded under the office of mental health, the office for people with
30 developmental disabilities, the office of addiction services and
31 supports or through a local government unit as defined under article
32 forty-one of the mental hygiene law, a home care provider certified or
33 licensed pursuant to article thirty-six of the public health law, a
34 primary care provider, a clinic licensed or granted an operating certifi-
35 cate under article sixteen of the mental hygiene law, a provider of
36 health home services as authorized under section twenty-seven hundred
37 three of the federal protection and affordable care act, a hospice
38 provider licensed or granted an operating certificate under article
39 forty of the public health law, or a family and child service provider
40 licensed under article twenty-nine-I of the public health law, for the
41 exclusive purpose of supporting the programs and services defined in
42 this subdivision.

43 6. (a) Notwithstanding section one hundred sixty-three of the state
44 finance law, or any inconsistent provision of law to the contrary, up to
45 one hundred fifty million dollars of the funds appropriated for this
46 program shall be awarded to applicants, without a competitive bid or
47 request for proposal process, for technological and telehealth transfor-
48 mation projects.

49 (b) At least twenty-five percent of the funds shall be allocated
50 exclusively for community-based health care providers, which for the
51 purposes of this subdivision shall be defined as: a diagnostic and
52 treatment center licensed or granted an operating certificate under
53 article twenty-eight of the public health law; a mental health outpa-
54 tient provider licensed or granted an operating certificate under arti-
55 cle thirty-one of the mental hygiene law, a substance use disorder
56 treatment provider licensed or granted an operating certificate under

1 article thirty-two of the mental hygiene law, a program licensed under
2 article forty-one of the mental hygiene law, a community-based program
3 funded under the office of mental health, the office for people with
4 developmental disabilities, the office of addiction services and
5 supports or through a local government unit as defined under article
6 forty-one of the mental hygiene law, a home care provider certified or
7 licensed pursuant to article thirty-six of the public health law, a
8 primary care provider, a clinic licensed or granted an operating certif-
9 icate under article sixteen of the mental hygiene law, a provider of
10 health home services as authorized under section twenty-seven hundred
11 three of the federal protection and affordable care act, a hospice
12 provider licensed or granted an operating certificate under article
13 forty of the public health law, or a family and child service provider
14 licensed under article twenty-nine-I of the public health law, for the
15 exclusive purpose of supporting the programs and services defined in
16 this subdivision.

17 7. Notwithstanding section one hundred sixty-three of the state
18 finance law, or any inconsistent provision of law to the contrary, up to
19 fifty million dollars of the funds appropriated for this program shall
20 be awarded to applicants, without a competitive bid or a request for
21 proposal process, to residential and community-based alternatives to the
22 traditional model of nursing home care.

23 7-a. Notwithstanding section one hundred sixty-three of the state
24 finance law, or any inconsistent provision of law to the contrary, up to
25 four hundred million dollars of the funds appropriated for this program
26 shall be awarded, without a competitive bid or request for proposal
27 process, to support health care delivery, including for capital invest-
28 ment, debt retirement or restructuring for a

29 (a) general hospital, licensed pursuant to this chapter, where not
30 less than thirty-six percent of the patients it treats receive medical
31 assistance or are medically uninsured;

32 (b) diagnostic and treatment center, licensed pursuant to this chap-
33 ter, where not less than thirty-six percent of the patients it treats
34 receive medical assistance or are medically uninsured; or

35 (c) residential health care facilities, licensed pursuant to this
36 chapter, where not less than seventy-five percent of the patients it
37 treats receive medical assistance.

38 8. Selection of awards made by the department pursuant to subdivisions
39 three, four, five, six and seven of this section shall be contingent on
40 an evaluation process acceptable to the commissioner and approved by the
41 director of the division of the budget. Disbursement of awards may be
42 contingent on applicants achieving certain process and performance
43 metrics and milestones that are structured to ensure that the goals of
44 the project are achieved.

45 9. The department shall provide a report on a quarterly basis to the
46 chairs of the senate finance, assembly ways and means, and senate and
47 assembly health committees, until such time as the department determines
48 that the projects that receive funding pursuant to this section are
49 substantially complete. Such reports shall be submitted no later than
50 sixty days after the close of the quarter, and shall include, for each
51 award, the name of the applicant, a description of the project or
52 purpose, the amount of the award, disbursement date, and status of
53 achievement of process and performance metrics and milestones pursuant
54 to subdivision six of this section.

55 § 2. This act shall take effect immediately and shall be deemed to
56 have been in full force and effect on and after April 1, 2022.

1

PART L

2 Section 1. Subdivision 3 of section 2801-a of the public health law,
3 as amended by section 57 of part A of chapter 58 of the laws of 2010, is
4 amended to read as follows:

5 3. The public health and health planning council shall not approve a
6 certificate of incorporation, articles of organization or application
7 for establishment unless it is satisfied, insofar as applicable, as to
8 (a) the public need for the existence of the institution at the time and
9 place and under the circumstances proposed, provided, however, that in
10 the case of an institution proposed to be established or operated by an
11 organization defined in subdivision one of section one hundred seventy-
12 two-a of the executive law, the needs of the members of the religious
13 denomination concerned, for care or treatment in accordance with their
14 religious or ethical convictions, shall be deemed to be public need; (b)
15 the character, competence, and standing in the community, of the
16 proposed incorporators, directors, sponsors, stockholders, members,
17 controlling persons, or operators; with respect to any proposed incorpo-
18 rator, director, sponsor, stockholder, member, controlling person, or
19 operator who is already or within the past [~~ten~~ seven] years [~~has~~]
20 been an incorporator, director, sponsor, member, principal stockholder, prin-
21 cipal member, controlling person, or operator any hospital or other
22 health-related or long-term care facility, program or agency, including
23 but not limited to, private proprietary home for adults, residence for
24 adults, or non-profit home for the aged or blind which has been issued
25 an operating certificate by the state department of social services, or
26 a halfway house, hostel or other residential facility or institution for
27 the care, custody or treatment of the mentally disabled which is subject
28 to approval by the department of mental hygiene, no approval shall be
29 granted unless the public health and health planning council, having
30 afforded an adequate opportunity to members of health systems agencies,
31 if any, having geographical jurisdiction of the area where the institu-
32 tion is to be located to be heard, shall affirmatively find by substan-
33 tial evidence as to each such incorporator, director, sponsor, member,
34 principal stockholder, principal member, controlling person, or operator
35 that a substantially consistent high level of care is being or was being
36 rendered in each such hospital, home, residence, halfway house, hostel,
37 or other residential facility or institution [~~with~~ in] which such person
38 is or was affiliated; for the purposes of this paragraph, the public
39 health and health planning council shall adopt rules and regulations,
40 subject to the approval of the commissioner, to establish the criteria
41 to be used to determine whether a substantially consistent high level of
42 care has been rendered, provided, however, that there shall not be a
43 finding that a substantially consistent high level of care has been
44 rendered where there have been violations of the state hospital code, or
45 other applicable rules and regulations, that (i) threatened to directly
46 affect the health, safety or welfare of any patient or resident, and
47 (ii) were recurrent or were not promptly corrected; (c) the financial
48 resources of the proposed institution and its sources of future reven-
49 ues; and (d) such other matters as it shall deem pertinent.

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

53 (b) [~~(i)~~] Any transfer, assignment or other disposition of [~~ten~~
54 ~~percent or more of~~] an interest, stock, or voting rights in a sole
55 proprietorship, partnership [~~or~~], limited liability company, non-for-

1 profit corporation, or corporation which is the operator of a hospital
2 ~~[to a new partner or member]~~ or any transfer, assignment or other dispo-
3 sition which results in the ownership or control of an interest, stock,
4 or voting rights in that operator, shall be approved by the public
5 health and health planning council, in accordance with the provisions of
6 subdivisions two ~~[and]~~, three, ~~and three-b~~ of this section, except that:
7 ~~[(A) any such change shall be subject to the approval by the public]~~
8 (i) Public health and health planning council approval in accordance
9 with paragraph (b) of ~~[subdivision]~~ subdivisions three ~~and three-b~~ of
10 this section shall be required only with respect to ~~[the new partner or~~
11 ~~member, and]~~ any ~~[remaining partners or members]~~ person, partner,
12 member, or stockholder who ~~[have]~~ has not been previously approved for
13 that ~~[facility]~~ operator in accordance with ~~[such paragraph, and (B)~~
14 ~~such change shall not be subject to paragraph (a) of subdivision three~~
15 ~~of this section]~~ paragraph (b) of subdivision three and subdivision
16 three-b of this section.
17 (ii) [With] Such change shall not be subject to the public need
18 assessment described in paragraph (a) of subdivision three of this
19 section.
20 (iii) No prior approval of the public health and health planning coun-
21 cil shall be required with respect to a transfer, assignment or disposi-
22 tion ~~[involving less than ten percent of], directly or indirectly, of:~~
23 (A) an interest, stock, or voting rights of less than ten percent in
24 ~~[such partnership or limited liability company]~~ the operator, to ~~[a new]~~
25 any person, partner ~~[or],~~ member, ~~[no prior approval of the public~~
26 ~~health and health planning council shall be required]~~ or stockholder who
27 has not been previously approved by the public health and health plan-
28 ning council, or its predecessor for that operator. However, no such
29 transaction shall be effective unless at least ninety days prior to the
30 intended effective date thereof, the ~~[partnership or limited liability~~
31 ~~company]~~ operator fully completes and files with the public health and
32 health planning council notice on a form, to be developed by the public
33 health and health planning council, which shall disclose such informa-
34 tion as may reasonably be necessary for the department to recommend and
35 for the public health and health planning council to determine whether
36 it should bar the transaction for any of the reasons set forth in [item
37 (A), (B), (C) or (D)] clause one, two, three or four below, and has
38 fully responded to any request for additional information by the depart-
39 ment acting on behalf of the public health and health planning council
40 during the review period. Such transaction will be final upon completion
41 of the review period, which shall be no longer than ninety days from the
42 date the department receives a complete response to its final request
43 for additional information, unless, prior thereto, the public health and
44 health planning council has notified each party to the proposed trans-
45 action that it has barred such transactions. [Within ninety days from
46 the date of receipt of such notice, the] The public health and health
47 planning council may bar any transaction under this subparagraph: ~~[(A)]~~
48 (1) if the equity position of the partnership [or], limited liability
49 company, or corporation that operates a hospital for profit, determined
50 in accordance with generally accepted accounting principles, would be
51 reduced as a result of the transfer, assignment or disposition; ~~[(B)]~~
52 (2) if the transaction would result in the ownership of a partnership or
53 membership interest or stock by any persons who have been convicted of a
54 felony described in subdivision five of section twenty-eight hundred six
55 of this article; ~~[(C)]~~ (3) if there are reasonable grounds to believe
56 that the proposed transaction does not satisfy the character and compe-

1 tence criteria set forth in subdivision three or three-b of this
2 section; or ~~[(D)] (4)~~ if the transaction, together with all transactions
3 under this subparagraph for the ~~[partnership, or successor,]~~ operator
4 during any five year period would, in the aggregate, involve twenty-five
5 percent or more of the interest in the ~~[partnership]~~ operator. The
6 public health and health planning council shall state specific reasons
7 for barring any transaction under this subparagraph and shall so notify
8 each party to the proposed transaction~~[-]; or~~
9 ~~[(iii) With respect to a transfer, assignment or disposition of]~~ (B)
10 an interest, stock, or voting rights ~~[in such partnership or limited~~
11 ~~liability company]~~ to any ~~[remaining]~~ person, partner ~~[or]~~, member,
12 ~~[which transaction involves the withdrawal of the transferor from the~~
13 ~~partnership or limited liability company, no prior approval of the~~
14 ~~public health and health planning council shall be required]~~ or stock-
15 holder, previously approved by the public health and health planning
16 council, or its predecessor, for that operator. However, no such trans-
17 action shall be effective unless at least ninety days prior to the
18 intended effective date thereof, the ~~[partnership or limited liability~~
19 ~~company]~~ operator fully completes and files with the public health and
20 health planning council notice on a form, to be developed by the public
21 health and health planning council, which shall disclose such informa-
22 tion as may reasonably be necessary for the department to recommend and
23 for the public health and health planning council to determine whether
24 it should bar the transaction for the reason set forth below, and has
25 fully responded to any request for additional information by the depart-
26 ment acting on behalf of the public health and health planning council
27 during the review period. Such transaction will be final upon completion
28 of the review period, which shall be no longer than ninety days from the
29 date the department receives a complete response to its final request
30 for additional information, unless, prior thereto, the public health and
31 health planning council has notified each party to the proposed trans-
32 action that it has barred such transactions. ~~[Within ninety days from~~
33 ~~the date of receipt of such notice, the]~~ The public health and health
34 planning council may bar any transaction under this subparagraph if the
35 equity position of the partnership ~~[or]~~, limited liability company, or
36 corporation that operates a hospital for profit, determined in accord-
37 ance with generally accepted accounting principles, would be reduced as
38 a result of the transfer, assignment or disposition. The public health
39 and health planning council shall state specific reasons for barring any
40 transaction under this subparagraph and shall so notify each party to
41 the proposed transaction.

42 (c) ~~[Any transfer, assignment or other disposition of ten percent or~~
43 ~~more of the stock or voting rights thereunder of a corporation which is~~
44 ~~the operator of a hospital or which is a member of a limited liability~~
45 ~~company which is the operator of a hospital to a new stockholder, or any~~
46 ~~transfer, assignment or other disposition of the stock or voting rights~~
47 ~~thereunder of such a corporation which results in the ownership or~~
48 ~~control of more than ten percent of the stock or voting rights there-~~
49 ~~under of such corporation by any person not previously approved by the~~
50 ~~public health and health planning council, or its predecessor, for that~~
51 ~~corporation shall be subject to approval by the public health and health~~
52 ~~planning council, in accordance with the provisions of subdivisions two~~
53 ~~and three of this section and rules and regulations pursuant thereto;~~
54 ~~except that: any such transaction shall be subject to the approval by~~
55 ~~the public health and health planning council in accordance with para-~~
56 ~~graph (b) of subdivision three of this section only with respect to a~~

~~1 new stockholder or a new principal stockholder; and shall not be subject~~
~~2 to paragraph (a) of subdivision three of this section. In the absence of~~
~~3 such approval, the operating certificate of such hospital shall be~~
~~4 subject to revocation or suspension. No prior approval of the public~~
~~5 health and health planning council shall be required with respect to a~~
~~6 transfer, assignment or disposition of ten percent or more of the stock~~
~~7 or voting rights thereunder of a corporation which is the operator of a~~
~~8 hospital or which is a member of a limited liability company which is~~
~~9 the owner of a hospital to any person previously approved by the public~~
~~10 health and health planning council, or its predecessor, for that corpo-~~
~~11 ration. However, no such transaction shall be effective unless at least~~
~~12 ninety days prior to the intended effective date thereof, the stockhold-~~
~~13 er completes and files with the public health and health planning coun-~~
~~14 cil notice on forms to be developed by the public health and health~~
~~15 planning council, which shall disclose such information as may reason-~~
~~16 ably be necessary for the public health and health planning council to~~
~~17 determine whether it should bar the transaction. Such transaction will~~
~~18 be final as of the intended effective date unless, prior thereto, the~~
~~19 public health and health planning council shall state specific reasons~~
~~20 for barring such transactions under this paragraph and shall notify each~~
~~21 party to the proposed transaction.]~~ Nothing in this [~~paragraph~~] subdivi-
~~22 sion~~ shall be construed as permitting [~~a~~] any person, partner, member,
~~23 or stockholder~~ not previously approved by the public health and health
~~24 planning council for that [corporation] operator to [become the owner~~
~~25 of] own or control, directly or indirectly,~~ ten percent or more of the
~~26 interest, stock, or voting rights~~ of [~~a~~] any partnership, limited
~~27 liability company, not-for-profit corporation, or~~ corporation which is
~~28 the operator of a hospital or a corporation~~ which is a member of a
~~29 limited liability company which is the owner of a hospital without first~~
~~30 obtaining the approval of the public health and health planning council.~~
~~31 In the absence of approval by the public health and health planning~~
~~32 council as required under this subdivision, the operating certificate of~~
~~33 such hospital shall be subject to revocation or suspension. Failure to~~
~~34 provide notice as required under this subdivision may subject the oper-~~
~~35 ating certificate of such operator to revocation or suspension.~~

~~36~~ § 3. Section 3611-a of the public health law, as amended by section 92
~~37~~ of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as
~~38~~ amended by section 67 of part A of chapter 58 of the laws of 2010, is
~~39~~ amended to read as follows:

~~40~~ § 3611-a. Change in the operator or owner. 1. Any [~~change in the~~
~~41 person who, or any~~] transfer, assignment, or other disposition of an
~~42 interest, stock, or voting rights [of ten percent or more] in a sole~~
~~43 proprietorship, partnership, limited liability company, not-for-profit~~
~~44 corporation or corporation which is the operator of a licensed home care~~
~~45 services agency or a certified home health agency,~~ or any transfer,
~~46 assignment or other disposition which results in the ownership or~~
~~47 control of an interest, stock, or voting rights [of ten percent or~~
~~48 more;] in [a limited liability company or a partnership which is the]~~
~~49 that operator [of a licensed home care services agency or a certified~~
~~50 home health agency],~~ shall be approved by the public health and health
~~51~~ planning council, in accordance with the provisions of subdivision four
~~52~~ of section thirty-six hundred five of this article relative to licensure
~~53~~ or subdivision two of section thirty-six hundred six of this article
~~54~~ relative to certificate of approval, except that:

~~55~~ (a) Public health and health planning council approval shall be
~~56~~ required only with respect to the person, [~~or the~~] partner, member or

1 [~~partner~~] stockholder that is acquiring the interest, stock, or voting
2 rights[~~;~~~~and~~].

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

6 (c) With respect to licensed home care services agencies, the commis-
7 sioner may promulgate regulations directing whether such change shall be
8 subject to the public need assessment described in paragraph (a) of
9 subdivision four of section thirty-six hundred five of this article.

10 [~~(c)~~] (d) No prior approval of the public health and health planning
11 council shall be required with respect to a transfer, assignment or
12 disposition, directly or indirectly, of:

13 (i) an interest, stock, or voting rights to any person, partner,
14 member, or stockholder previously approved by the public health and
15 health planning council, or its predecessor, for that operator. However,
16 no such transaction shall be effective unless at least ninety days prior
17 to the intended effective date thereof, the operator completes and files
18 with the public health and health planning council notice on forms to be
19 developed by the public health and health planning council, which shall
20 disclose such information as may reasonably be necessary for the depart-
21 ment to recommend and for the public health and health planning council
22 to determine whether it should bar the transaction, and has fully
23 responded to any request for additional information by the department
24 acting on behalf of the public health and health planning council during
25 the review period. Such transaction will be final upon completion of the
26 review period, which shall be no longer than ninety days from the date
27 the department receives a complete response to its final request for
28 additional information, unless, prior thereto, the public health and
29 health planning council has notified each party to the proposed trans-
30 action that it has barred such transactions under this paragraph and has
31 stated specific reasons for barring such transactions; or

32 (ii) an interest, stock, or voting rights of less than ten percent in
33 the operator to any person, partner, member, or stockholder who has not
34 been previously approved by the public health and health planning coun-
35 cil for that operator. However, no such transaction shall be effective
36 unless at least ninety days prior to the intended effective date there-
37 of, the [~~partner or member~~] operator completes and files with the public
38 health and health planning council notice on forms to be developed by
39 the public health and health planning council, which shall disclose such
40 information as may reasonably be necessary for the department to recom-
41 mend and for the public health and health planning council to determine
42 whether it should bar the transaction, and has fully responded to any
43 request for additional information by the department acting on behalf of
44 the public health and health planning council during the review period.
45 Such transaction will be final [~~as of the intended effective date~~] upon
46 completion of the review period, which shall be no longer than ninety
47 days from the date the department receives a complete response to its
48 final request for additional information, unless, prior thereto, the
49 public health and health planning council [~~shall state~~] has notified
50 each party to the proposed transaction that it has barred such trans-
51 actions under this paragraph and has stated specific reasons for barring
52 such transactions [~~under this paragraph and shall notify each party to~~
53 ~~the proposed transaction~~].

54 (iii) Nothing in this subdivision shall be construed as permitting any
55 person, partner, member, or stockholder not previously approved by the
56 public health and health planning council for that operator to own or

1 control, directly or indirectly, ten percent or more of the interest,
2 stock, or voting rights of any partnership, limited liability company,
3 not-for-profit corporation, or corporation which is the operator of a
4 licensed home care services agency or a certified home health agency
5 without first obtaining the approval of the public health and health
6 planning council.

7 (iv) In the absence of approval by the public health and health plan-
8 ning council as required under this paragraph, the license or certif-
9 icate of approval of such operator shall be subject to revocation or
10 suspension. Failure to provide notice as required under this paragraph
11 may subject the license or certificate of approval of such operator to
12 revocation or suspension thereof.

13 ~~2. [Any transfer, assignment or other disposition of ten percent or~~
14 ~~more of the stock or voting rights thereunder of a corporation which is~~
15 ~~the operator of a licensed home care services agency or a certified home~~
16 ~~health agency, or any transfer, assignment or other disposition of the~~
17 ~~stock or voting rights thereunder of such a corporation which results in~~
18 ~~the ownership or control of more than ten percent of the stock or voting~~
19 ~~rights thereunder of such corporation by any person shall be subject to~~
20 ~~approval by the public health and health planning council in accordance~~
21 ~~with the provisions of subdivision four of section thirty-six hundred~~
22 ~~five of this article relative to licensure or subdivision two of section~~
23 ~~thirty-six hundred six of this article relative to certificate of~~
24 ~~approval, except that:~~

25 ~~(a) Public health and health planning council approval shall be~~
26 ~~required only with respect to the person or entity acquiring such stock~~
27 ~~or voting rights; and~~

28 ~~(b) With respect to certified home health agencies, such change shall~~
29 ~~not be subject to the public need assessment described in paragraph (a)~~
30 ~~of subdivision two of section thirty-six hundred six of this article. In~~
31 ~~the absence of such approval, the license or certificate of approval~~
32 ~~shall be subject to revocation or suspension.~~

33 ~~(c) No prior approval of the public health and health planning council~~
34 ~~shall be required with respect to a transfer, assignment or disposition~~
35 ~~of an interest or voting rights to any person previously approved by the~~
36 ~~public health and health planning council, or its predecessor, for that~~
37 ~~operator. However, no such transaction shall be effective unless at~~
38 ~~least one hundred twenty days prior to the intended effective date ther-~~
39 ~~eof, the partner or member completes and files with the public health~~
40 ~~and health planning council notice on forms to be developed by the~~
41 ~~public health and health planning council, which shall disclose such~~
42 ~~information as may reasonably be necessary for the public health and~~
43 ~~health planning council to determine whether it should bar the trans-~~
44 ~~action. Such transaction will be final as of the intended effective date~~
45 ~~unless, prior thereto, the public health and health planning council~~
46 ~~shall state specific reasons for barring such transactions under this~~
47 ~~paragraph and shall notify each party to the proposed transaction.~~

48 ~~3.]~~ (a) The commissioner shall charge to applicants for a change in
49 operator or owner of a licensed home care services agency or a certified
50 home health agency an application fee in the amount of two thousand
51 dollars.

52 (b) The fees paid by certified home health agencies pursuant to this
53 subdivision for any application approved in accordance with this section
54 shall be deemed allowable costs in the determination of reimbursement
55 rates established pursuant to this article. All fees pursuant to this
56 section shall be payable to the department of health for deposit into

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52

1 the special revenue funds - other, miscellaneous special revenue fund -
2 339, certificate of need account.

3 § 4. Paragraph (b) of subdivision 3 of section 4004 of the public
4 health law, as amended by section 69 of part A of chapter 58 of the laws
5 of 2010, is amended to read as follows:

6 (b) Any [~~change in the person, principal stockholder or~~] transfer,
7 assignment or other disposition, of an interest, stock, or voting rights
8 in a sole proprietorship, partnership, limited liability company, not-
9 for-profit corporation, or corporation which is the operator of a
10 hospice, or any transfer, assignment or other disposition which results
11 in the direct or indirect ownership or control of an interest, stock or
12 voting rights in that operator, shall be approved by the public health
13 and health planning council in accordance with the provisions of subdivi-
14 sions one and two of this section[.]; provided, however:

15 (i) Public health and health planning council approval shall be
16 required only with respect to the person, partner, member, or stockhold-
17 er that is acquiring the interest, stock, or voting rights.

18 (ii) Such change shall not be subject to the public need assessment
19 described in paragraph (a) of subdivision two of this section.

20 (iii) No prior approval of the public health and health planning coun-
21 cil shall be required with respect to a transfer, assignment or disposi-
22 tion, directly or indirectly, of:

23 (A) an interest, stock, or voting rights to any person, partner,
24 member, or stockholder previously approved by the public health and
25 health planning council, or its predecessor, for that operator. However,
26 no such transaction shall be effective unless at least ninety days prior
27 to the intended effective date thereof, the operator completes and files
28 with the public health and health planning council notice, on forms to
29 be developed by the public health and health planning council, which
30 shall disclose such information as may reasonably be necessary for the
31 department to recommend and for the public health and health planning
32 council to determine whether it should bar the transaction, and has
33 fully responded to any request for additional information by the depart-
34 ment acting on behalf of the public health and health planning council
35 during the review period. Such transaction will be final upon completion
36 of the review period, which shall be no longer than ninety days from the
37 date the department receives a complete response to its final request
38 for additional information, unless, prior thereto, the public health and
39 health planning council has notified each party to the proposed trans-
40 action that it has barred such transactions under this paragraph and has
41 stated specific reasons for barring such transactions; or

42 (B) an interest, stock, or voting rights of less than ten percent in
43 the operator to any person, partner, member, or stockholder who has not
44 been previously approved by the public health and health planning coun-
45 cil for that operator. However, no such transaction shall be effective
46 unless at least ninety days prior to the intended effective date there-
47 of, the operator completes and files with the public health and health
48 planning council notice on forms to be developed by the public health
49 and health planning council, which shall disclose such information as
50 may reasonably be necessary for the department to recommend and for the
51 public health and health planning council to determine whether it should
52 bar the transaction, and has fully responded to any request for addi-
53 tional information by the department acting on behalf of the public
54 health and health planning council during the review period. Such trans-
55 action will be final upon completion of the review period, which shall
56 be no longer than ninety days from the date the department receives a

1 complete response to its final request for additional information,
2 unless, prior thereto, the public health and health planning council has
3 notified each party to the proposed transaction that it has barred such
4 transactions under this paragraph and has stated specific reasons for
5 barring such transactions.

6 (iv) Nothing in this subdivision shall be construed as permitting any
7 person, partner, member, or stockholder not previously approved by the
8 public health and health planning council for that operator to own or
9 control, directly or indirectly, ten percent or more of the interest,
10 stock, or voting rights of any partnership, limited liability company,
11 not-for-profit corporation, or corporation which is the operator of a
12 hospice without first obtaining the approval of the public health and
13 health planning council.

14 (v) In the absence of approval by the public health and health plan-
15 ning council as required under this paragraph, the certificate of
16 approval of such operator shall be subject to revocation or suspension.
17 Failure to provide notice as required under this paragraph may subject
18 the certificate of approval of such operator to revocation or suspen-
19 sion.

20 § 4-a. The commissioner of health, in conjunction with the public
21 health and health planning council, shall provide a joint report to the
22 temporary president of the senate, the speaker of the assembly, and the
23 chairs of the senate and assembly health committees by December 31,
24 2022, detailing the statutes, rules, and regulations, as well as other
25 limitations or processes for the approval of health care facilities to
26 operate in New York through licensure, certification, or other regulato-
27 ry structure approved or authorized by the state and subdivisions there-
28 of. The goal of the report shall be to identify potential barriers to
29 operation that do not jeopardize the quality of care provided by health
30 care facilities, and issue recommendations to address these barriers,
31 for any individuals or entities that desire or are actively seeking to
32 operate health care facilities in New York. The report shall include but
33 not be limited to financial requirements for these facilities either
34 directly or indirectly through costs associated with the approval proc-
35 ess, such as fees, requirements for real property acquisition, and oper-
36 ational costs that may be experienced while an application is pending.
37 The commissioner of health shall publish this report on the department
38 of health website within thirty days of its transmittal to the legisla-
39 ture.

40 § 5. This act shall take effect immediately.

41

PART M

42 Section 1. Paragraph (a) of subdivision 2 of section 2828 of the
43 public health law, as added by section 1 of part GG of chapter 57 of the
44 laws of 2021, is amended to read as follows:

45 (a) "Revenue" shall mean the total operating revenue from or on behalf
46 of residents of the residential health care facility, government payers,
47 or third-party payers, to pay for a resident's occupancy of the residen-
48 tial health care facility, resident care, and the operation of the resi-
49 dential health care facility as reported in the residential health care
50 facility cost reports submitted to the department; provided, however,
51 that revenue shall exclude:

52 (i) the average increase in the capital portion of the Medicaid
53 reimbursement rate from the prior three years;

1 (ii) funding received as reimbursement for the assessment under
2 subparagraph (vi) of paragraph (b) of subdivision two of section twen-
3 ty-eight hundred seven-d of this article, as reconciled pursuant to
4 paragraph (c) of subdivision ten of section twenty-eight hundred seven-d
5 of this article;

6 (iii) the capital per diem portion of the reimbursement rate for nurs-
7 ing homes that have a four- or five-star rating assigned pursuant to the
8 inspection rating system of the U.S. Centers for Medicare and Medicaid
9 Services (CMS rating); and

10 (iv) any grant funds from the federal government, including but not
11 limited to, funds received from the federal emergency management agency.

12 § 2. Subdivision 4 of section 2828 of the public health law, as added
13 by section 1 of part GG of chapter 57 of the laws of 2021, is amended to
14 read as follows:

15 4. The commissioner may waive the requirements of this section on a
16 case-by-case basis with respect to a nursing home that demonstrates to
17 the commissioner's satisfaction that it experienced unexpected or excep-
18 tional circumstances that prevented compliance. The commissioner may
19 also exclude from revenues and expenses, on a case-by-case basis,
20 extraordinary revenues and capital expenses, incurred due to a natural
21 disaster or other circumstances set forth by the commissioner in regu-
22 lation. The commissioner may also exclude from revenues, on a case-by-
23 case basis, the capital per diem portion of the reimbursement rate for
24 nursing homes that have a three-star CMS rating. At least thirty days
25 before any action by the commissioner under this subdivision, the
26 commissioner shall transmit the proposed action to the state office of
27 the long-term care ombudsman and the chairs of the senate and assembly
28 health committees, and post it on the department's website.

29 § 3. Paragraph (d) of subdivision 2-c of section 2808 of the public
30 health law, as amended by section 26-a of part C of chapter 60 of the
31 laws of 2014, is amended to read as follows:

32 (d) The commissioner shall promulgate regulations, and may promulgate
33 emergency regulations, to implement the provisions of this subdivision.
34 Such regulations shall be developed in consultation with the nursing
35 home industry and advocates for residential health care facility resi-
36 dents and, further, the commissioner shall provide notification concern-
37 ing such regulations to the chairs of the senate and assembly health
38 committees, the chair of the senate finance committee and the chair of
39 the assembly ways and means committee. Such regulations shall include
40 provisions for rate adjustments or payment enhancements to facilitate a
41 minimum four-year transition of facilities to the rate-setting methodol-
42 ogy established by this subdivision and may also include, but not be
43 limited to, provisions for facilitating quality improvements in residen-
44 tial health care facilities. For purposes of facilitating quality
45 improvements through the establishment of a nursing home quality pool to
46 be funded at the discretion of the commissioner by (i) adjustments in
47 medical assistance rates, (ii) funds made available through state appro-
48 priations, or (iii) a combination thereof, those facilities that
49 contribute to the quality pool, but are deemed ineligible for quality
50 pool payments due exclusively to a specific case of employee misconduct,
51 shall nevertheless be eligible for a quality pool payment if the facili-
52 ty properly reported the incident, did not receive a survey citation
53 from the commissioner or the Centers for Medicare and Medicaid Services
54 establishing the facility's culpability with regard to such misconduct
55 and, but for the specific case of employee misconduct, the facility
56 would have otherwise received a quality pool payment. Regulations

1 pertaining to the facilitation of quality improvement may be made effective for periods on and after January first, two thousand thirteen.

3 § 4. The opening paragraph and paragraph (i) of subdivision (g) of section 2826 of the public health law, as added by section 6 of part J of chapter 60 of the laws of 2015, are amended to read as follows:

6 Notwithstanding subdivision (a) of this section, and within amounts appropriated for such purposes as described herein, for the period of April first, two thousand [~~fifteen~~] twenty-two through March thirty-first, two thousand [~~sixteen~~] twenty-three, the commissioner may award a temporary adjustment to the non-capital components of rates, or make temporary lump-sum Medicaid payments to eligible [~~general hospitals~~] facilities in severe financial distress to enable such facilities to maintain operations and vital services while such facilities establish long term solutions to achieve sustainable health services. Provided, however, the commissioner is authorized to make such a temporary adjustment or make such temporary lump sum payment only pursuant to criteria, an evaluation process, and transformation plan acceptable to the commissioner in consultation with the director of the division of the budget.

19 (i) Eligible [~~general hospitals~~] facilities shall include:

20 (A) a public hospital, which for purposes of this subdivision, shall mean a general hospital operated by a county or municipality, but shall exclude any such hospital operated by a public benefit corporation;

23 (B) a federally designated critical access hospital;

24 (C) a federally designated sole community hospital; [~~or~~]

25 (D) a residential health care facility;

26 (E) a general hospital that is a safety net hospital, which for purpose of this subdivision shall mean:

28 (1) such hospital has at least thirty percent of its inpatient discharges made up of Medicaid eligible individuals, uninsured individuals or Medicaid dually eligible individuals and with at least thirty-five percent of its outpatient visits made up of Medicaid eligible individuals, uninsured individuals or Medicaid dually-eligible individuals;

34 (2) such hospital serves at least thirty percent of the residents of a county or a multi-county area who are Medicaid eligible individuals, uninsured individuals or Medicaid dually-eligible individuals; or

37 (F) an independent practice association or accountable care organization authorized under applicable regulations that participate in managed care provider network arrangements with any of the provider types in subparagraphs (A) through (F) of this paragraph.

41 § 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022.

43

PART N

44 Section 1. Subparagraph 4 of paragraph (b) of subdivision 1 of section 45 366 of the social services law, as added by section 1 of part D of chapter 46 56 of the laws of 2013, is amended to read as follows:

47 (4) An individual who is a pregnant woman or is a member of a family 48 that contains a dependent child living with a parent or other caretaker 49 relative is eligible for standard coverage if [~~his or her MAGI~~] their 50 household income does not exceed [~~the MAGI-equivalent of~~] one hundred 51 [~~thirty~~] thirty-three percent of the [~~highest amount that ordinarily~~ 52 ~~would have been paid to a person without any income or resources under~~ 53 ~~the family assistance program as it existed on the first day of November,~~ 54 ~~nineteen hundred ninety-seven~~] federal poverty line for the appli-

1 cable family size, which shall be calculated in accordance with guidance
2 issued by the Secretary of the United States department of health and
3 human services; for purposes of this subparagraph, the term dependent
4 child means a person who is under eighteen years of age, or is eighteen
5 years of age and a full-time student, who is deprived of parental
6 support or care by reason of the death, continued absence, or physical
7 or mental incapacity of a parent, or by reason of the unemployment of
8 the parent, as defined by the department of health.

9 § 2. Subparagraph 2 of paragraph (c) of subdivision 1 of section 366
10 of the social services law, as added by section 1 of part D of chapter
11 56 of the laws of 2013, is amended to read as follows:

12 (2) An individual who, although not receiving public assistance or
13 care for [~~his or her~~] their maintenance under other provisions of this
14 chapter, has income [~~and resources~~], including available support from
15 responsible relatives, that does not exceed the amounts set forth in
16 paragraph (a) of subdivision two of this section, and is (i) sixty-five
17 years of age or older, or certified blind or certified disabled or (ii)
18 for reasons other than income [~~or resources~~], is eligible for federal
19 supplemental security income benefits and/or additional state payments.

20 § 3. Subparagraph 5 of paragraph (c) of subdivision 1 of section 366
21 of the social services law, as added by section 1 of part D of chapter
22 56 of the laws of 2013, is amended to read as follows:

23 (5) A disabled individual at least sixteen years of age, but under the
24 age of sixty-five, who: would be eligible for benefits under the supple-
25 mental security income program but for earnings in excess of the allow-
26 able limit; has net available income that does not exceed two hundred
27 fifty percent of the applicable federal income official poverty line, as
28 defined and updated by the United States department of health and human
29 services, for a one-person or two-person household, as defined by the
30 commissioner in regulation; [~~has household resources, as defined in~~
31 ~~paragraph (e) of subdivision two of section three hundred sixty-six-c of~~
32 ~~this title, other than retirement accounts, that do not exceed twenty~~
33 ~~thousand dollars for a one-person household or thirty thousand dollars~~
34 ~~for a two-person household, as defined by the commissioner in regu-~~
35 ~~lation;] and contributes to the cost of medical assistance provided
36 pursuant to this subparagraph in accordance with subdivision twelve of
37 section three hundred sixty-seven-a of this title; for purposes of this
38 subparagraph, disabled means having a medically determinable impairment
39 of sufficient severity and duration to qualify for benefits under
40 section 1902(a)(10)(A)(ii)(xv) of the social security act.~~

41 § 4. Subparagraph 10 of paragraph (c) of subdivision 1 of section 366
42 of the social services law, as added by section 1 of part D of chapter
43 56 of the laws of 2013, is amended to read as follows:

44 (10) A resident of a home for adults operated by a social services
45 district, or a residential care center for adults or community residence
46 operated or certified by the office of mental health, and has not,
47 according to criteria promulgated by the department consistent with this
48 title, sufficient income, or in the case of a person sixty-five years of
49 age or older, certified blind, or certified disabled, sufficient income
50 [~~and resources~~], including available support from responsible relatives,
51 to meet all the costs of required medical care and services available
52 under this title.

53 § 5. Paragraph (a) of subdivision 2 of section 366 of the social
54 services law, as separately amended by chapter 32 and 588 of the laws of
55 1968, the opening paragraph as amended by chapter 41 of the laws of
56 1992, subparagraph 1 as amended by section 27 of part C of chapter 109

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1 of the laws of 2006, subparagraphs 3 and 6 as amended by chapter 938 of
2 the laws of 1990, subparagraph 4 as amended by section 43 and subpara-
3 graph 7 as amended by section 47 of part C of chapter 58 of the laws of
4 2008, subparagraph 5 as amended by chapter 576 of the laws of 2007,
5 subparagraph 9 as amended by chapter 110 of the laws of 1971, subpara-
6 graph 10 as added by chapter 705 of the laws of 1988, clauses (i) and
7 (ii) of subparagraph 10 as amended by chapter 672 of the laws of 2019,
8 clause (iii) of subparagraph 10 as amended by chapter 170 of the laws of
9 1994, and subparagraph 11 as added by chapter 576 of the laws of 2015,
10 is amended to read as follows:

11 (a) The following [~~income and resources~~] shall be exempt and shall not
12 be taken into consideration in determining a person's eligibility for
13 medical care, services and supplies available under this title:

14 (1) (i) for applications for medical assistance filed on or before
15 December thirty-first, two thousand five, a homestead which is essential
16 and appropriate to the needs of the household;

17 (ii) for applications for medical assistance filed on or after January
18 first, two thousand six, a homestead which is essential and appropriate
19 to the needs of the household; provided, however, that in determining
20 eligibility of an individual for medical assistance for nursing facility
21 services and other long term care services, the individual shall not be
22 eligible for such assistance if the individual's equity interest in the
23 homestead exceeds seven hundred fifty thousand dollars; provided
24 further, that the dollar amount specified in this clause shall be
25 increased, beginning with the year two thousand eleven, from year to
26 year, in an amount to be determined by the secretary of the federal
27 department of health and human services, based on the percentage
28 increase in the consumer price index for all urban consumers, rounded to
29 the nearest one thousand dollars. If such secretary does not determine
30 such an amount, the department of health shall increase such dollar
31 amount based on such increase in the consumer price index. Nothing in
32 this clause shall be construed as preventing an individual from using a
33 reverse mortgage or home equity loan to reduce the individual's total
34 equity interest in the homestead. The home equity limitation established
35 by this clause shall be waived in the case of a demonstrated hardship,
36 as determined pursuant to criteria established by such secretary. The
37 home equity limitation shall not apply if one or more of the following
38 persons is lawfully residing in the individual's homestead: (A) the
39 spouse of the individual; or (B) the individual's child who is under the
40 age of twenty-one, or is blind or permanently and totally disabled, as
41 defined in section 1614 of the federal social security act.

42 (2) [~~essential personal property;~~

43 ~~(3) a burial fund, to the extent allowed as an exempt resource under~~
44 ~~the cash assistance program to which the applicant is most closely~~
45 ~~related;~~

46 ~~(4) savings in amounts equal to one hundred fifty percent of the~~
47 ~~income amount permitted under subparagraph seven of this paragraph,~~
48 ~~provided, however, that the amounts for one and two person households~~
49 ~~shall not be less than the amounts permitted to be retained by house-~~
50 ~~holds of the same size in order to qualify for benefits under the feder-~~
51 ~~al supplemental security income program;~~

52 ~~(5)]~~ (i) such income as is disregarded or exempt under the cash
53 assistance program to which the applicant is most closely related for
54 purposes of this subparagraph, cash assistance program means either the
55 aid to dependent children program as it existed on the sixteenth day of

1 July, nineteen hundred ninety-six, or the supplemental security income
2 program; and

3 (ii) such income of a disabled person (as such term is defined in
4 section 1614(a)(3) of the federal social security act (42 U.S.C. section
5 1382c(a)(3)) or in accordance with any other rules or regulations estab-
6 lished by the social security administration), that is deposited in
7 trusts as defined in clause (iii) of subparagraph two of paragraph (b)
8 of this subdivision in the same calendar month within which said income
9 is received;

10 [~~(6)~~] (3) health insurance premiums;

11 [~~(7)~~] (4) income based on the number of family members in the medical
12 assistance household, as defined in regulations by the commissioner
13 consistent with federal regulations under title XIX of the federal
14 social security act [~~and calculated as follows:~~

15 ~~(i) The amounts for one and two person households and families shall~~
16 ~~be equal to twelve times the standard of monthly need for determining~~
17 ~~eligibility for and the amount of additional state payments for aged,~~
18 ~~blind and disabled persons pursuant to section two hundred nine of this~~
19 ~~article rounded up to the next highest one hundred dollars for eligible~~
20 ~~individuals and couples living alone, respectively.~~

21 ~~(ii) The amounts for households of three or more shall be calculated~~
22 ~~by increasing the income standard for a household of two, established~~
23 ~~pursuant to clause (i) of this subparagraph, by fifteen percent for each~~
24 ~~additional household member above two, such that the income standard for~~
25 ~~a three-person household shall be one hundred fifteen percent of the~~
26 ~~income standard for a two-person household, the income standard for a~~
27 ~~four-person household shall be one hundred thirty percent of the income~~
28 ~~standard for a two-person household, and so on.~~

29 (iii) that does not exceed one hundred thirty-eight percent of the
30 federal poverty line for the applicable family size, which shall be
31 calculated in accordance with guidance issued by the United States
32 secretary for health and human services;

33 (5) No other income [~~or resources~~], including federal old-age, survi-
34 vors and disability insurance, state disability insurance or other
35 payroll deductions, whether mandatory or optional, shall be exempt and
36 all other income [~~and resources~~] shall be taken into consideration and
37 required to be applied toward the payment or partial payment of the cost
38 of medical care and services available under this title, to the extent
39 permitted by federal law.

40 [~~(9) Subject to subparagraph eight, the~~] (6) The department, upon the
41 application of a local social services district, after passage of a
42 resolution by the local legislative body authorizing such application,
43 may adjust the income exemption based upon the variations between cost
44 of shelter in urban areas and rural areas in accordance with standards
45 prescribed by the United States secretary of health, education and
46 welfare.

47 [~~(10)~~] (7) (i) A person who is receiving or is eligible to receive
48 federal supplemental security income payments and/or additional state
49 payments is entitled to a personal needs allowance as follows:

50 (A) for the personal expenses of a resident of a residential health
51 care facility, as defined by section twenty-eight hundred one of the
52 public health law, the amount of fifty-five dollars per month;

53 (B) for the personal expenses of a resident of an intermediate care
54 facility operated or licensed by the office for people with develop-
55 mental disabilities or a patient of a hospital operated by the office of

1 mental health, as defined by subdivision ten of section 1.03 of the
2 mental hygiene law, the amount of thirty-five dollars per month.

3 (ii) A person who neither receives nor is eligible to receive federal
4 supplemental security income payments and/or additional state payments
5 is entitled to a personal needs allowance as follows:

6 (A) for the personal expenses of a resident of a residential health
7 care facility, as defined by section twenty-eight hundred one of the
8 public health law, the amount of fifty dollars per month;

9 (B) for the personal expenses of a resident of an intermediate care
10 facility operated or licensed by the office for people with develop-
11 mental disabilities or a patient of a hospital operated by the office of
12 mental health, as defined by subdivision ten of section 1.03 of the
13 mental hygiene law, the amount of thirty-five dollars per month.

14 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this
15 subparagraph, the personal needs allowance for a person who is a veteran
16 having neither a spouse nor a child, or a surviving spouse of a veteran
17 having no child, who receives a reduced pension from the federal veter-
18 ans administration, and who is a resident of a nursing facility, as
19 defined in section 1919 of the federal social security act, shall be
20 equal to such reduced monthly pension but shall not exceed ninety
21 dollars per month.

22 [~~(11)~~] (8) subject to the availability of federal financial partic-
23 ipation, any amount, including earnings thereon, in a qualified NY ABLE
24 account as established pursuant to article eighty-four of the mental
25 hygiene law, any contributions to such NY ABLE account, and any distrib-
26 ution for qualified disability expenses from such account; provided
27 however, that such exemption shall be consistent with section 529A of
28 the Internal Revenue Code of 1986, as amended.

29 § 6. Subparagraphs 1 and 2 of paragraph (b) of subdivision 2 of
30 section 366 of the social services law, subparagraph 1 as amended by
31 chapter 638 of the laws of 1993 and as designated by chapter 170 of the
32 laws of 1994, subparagraph 2 as added by chapter 170 of the laws of
33 1994, clause (iii) of subparagraph 2 as amended by chapter 187 of the
34 laws of 2017, clause (iv) of subparagraph 2 as amended by chapter 656 of
35 the laws of 1997 and as further amended by section 104 of part A of
36 chapter 62 of the laws of 2011, and clause (vi) of subparagraph 2 as
37 added by chapter 435 of the laws of 2018, are amended to read as
38 follows:

39 (1) In establishing standards for determining eligibility for and
40 amount of such assistance, the department shall take into account only
41 such income [~~and resources~~], in accordance with federal requirements, as
42 [~~are~~] is available to the applicant or recipient and as would not be
43 required to be disregarded or set aside for future needs, and there
44 shall be a reasonable evaluation of any such income [~~or resources~~]. The
45 department shall not consider the availability of an option for an
46 accelerated payment of death benefits or special surrender value pursu-
47 ant to paragraph one of subsection (a) of section one thousand one
48 hundred thirteen of the insurance law, or an option to enter into a
49 viatical settlement pursuant to the provisions of article seventy-eight
50 of the insurance law, as an available resource in determining eligibil-
51 ity for an amount of such assistance, provided, however, that the
52 payment of such benefits shall be considered in determining eligibility
53 for and amount of such assistance. There shall not be taken into consid-
54 eration the financial responsibility of any individual for any applicant
55 or recipient of assistance under this title unless such applicant or
56 recipient is such individual's spouse or such individual's child who is

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1 under twenty-one years of age. In determining the eligibility of a child
2 who is categorically eligible as blind or disabled, as determined under
3 regulations prescribed by the social security act for medical assist-
4 ance, the income [~~and resources~~] of parents or spouses of parents are
5 not considered available to that child if she/he does not regularly
6 share the common household even if the child returns to the common
7 household for periodic visits. In the application of standards of eligi-
8 bility with respect to income, costs incurred for medical care, whether
9 in the form of insurance premiums or otherwise, shall be taken into
10 account. Any person who is eligible for, or reasonably appears to meet
11 the criteria of eligibility for, benefits under title XVIII of the
12 federal social security act shall be required to apply for and fully
13 utilize such benefits in accordance with this chapter.

14 (2) In evaluating the income [~~and resources~~] available to an applicant
15 for or recipient of medical assistance, for purposes of determining
16 eligibility for and the amount of such assistance, the department must
17 consider assets [~~held in or~~] paid from trusts created by such applicant
18 or recipient, as determined pursuant to the regulations of the depart-
19 ment, in accordance with the provisions of this subparagraph.

20 (i) In the case of a revocable trust created by an applicant or recip-
21 ient, as determined pursuant to regulations of the department [~~the~~
22 ~~trust corpus must be considered to be an available resource;~~], payments
23 made from the trust to or for the benefit of such applicant or recipient
24 must be considered to be available income; and any other payments from
25 the trust must be considered to be assets disposed of by such applicant
26 or recipient for purposes of paragraph (d) of subdivision five of this
27 section.

28 (ii) In the case of an irrevocable trust created by an applicant or
29 recipient, as determined pursuant to regulations of the department: any
30 portion of the trust corpus, and of the income generated by the trust
31 corpus, from which no payment can under any circumstances be made to
32 such applicant or recipient must be considered, as of the date of estab-
33 lishment of the trust, or, if later, the date on which payment to the
34 applicant or recipient is foreclosed, to be assets disposed of by such
35 applicant or recipient for purposes of paragraph (d) of subdivision five
36 of this section; [~~any portion of the trust corpus, and of the income~~
37 ~~generated by the trust corpus, from which payment could be made to or~~
38 ~~for the benefit of such applicant or recipient must be considered to be~~
39 ~~an available resource;~~] payments made from the trust to or for the bene-
40 fit of such applicant or recipient must be considered to be available
41 income; and any other payments from the trust must be considered to be
42 assets disposed of by such applicant or recipient for purposes of para-
43 graph (d) of subdivision five of this section.

44 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this
45 subparagraph, in the case of an applicant or recipient who is disabled,
46 as such term is defined in section 1614(a)(3) of the federal social
47 security act, the department must not consider as available income [~~or~~
48 ~~resources~~] the [~~corpus or~~] income of the following trusts which comply
49 with the provisions of the regulations authorized by clause (iv) of this
50 subparagraph: (A) a trust containing the assets of such a disabled indi-
51 vidual which was established for the benefit of the disabled individual
52 while such individual was under sixty-five years of age by the individ-
53 ual, a parent, grandparent, legal guardian, or court of competent juris-
54 diction, if upon the death of such individual the state will receive all
55 amounts remaining in the trust up to the total value of all medical
56 assistance paid on behalf of such individual; (B) and a trust containing

1 the assets of such a disabled individual established and managed by a
2 non-profit association which maintains separate accounts for the benefit
3 of disabled individuals, but, for purposes of investment and management
4 of trust funds, pools the accounts, provided that accounts in the trust
5 fund are established solely for the benefit of individuals who are disa-
6 bled as such term is defined in section 1614(a)(3) of the federal social
7 security act by such disabled individual, a parent, grandparent, legal
8 guardian, or court of competent jurisdiction, and to the extent that
9 amounts remaining in the individual's account are not retained by the
10 trust upon the death of the individual, the state will receive all such
11 remaining amounts up to the total value of all medical assistance paid
12 on behalf of such individual. Notwithstanding any law to the contrary,
13 a not-for-profit corporation may, in furtherance of and as an adjunct to
14 its corporate purposes, act as trustee of a trust for persons with disa-
15 bilities established pursuant to this subclause, provided that a trust
16 company, as defined in subdivision seven of section one hundred-c of the
17 banking law, acts as co-trustee.

18 (iv) The department shall promulgate such regulations as may be neces-
19 sary to carry out the provisions of this subparagraph. Such regulations
20 shall include provisions for: assuring the fulfillment of fiduciary
21 obligations of the trustee with respect to the remainder interest of the
22 department or state; monitoring pooled trusts; applying this subdivision
23 to legal instruments and other devices similar to trusts, in accordance
24 with applicable federal rules and regulations; and establishing proce-
25 dures under which the application of this subdivision will be waived
26 with respect to an applicant or recipient who demonstrates that such
27 application would work an undue hardship on him or her, in accordance
28 with standards specified by the secretary of the federal department of
29 health and human services. Such regulations may require: notification of
30 the department of the creation or funding of such a trust for the bene-
31 fit of an applicant for or recipient of medical assistance; notification
32 of the department of the death of a beneficiary of such a trust who is a
33 current or former recipient of medical assistance; in the case of a
34 trust, the corpus of which exceeds one hundred thousand dollars, notifi-
35 cation of the department of transactions tending to substantially
36 deplete the trust corpus; notification of the department of any trans-
37 actions involving transfers from the trust corpus for less than fair
38 market value; the bonding of the trustee when the assets of such a trust
39 equal or exceed one million dollars, unless a court of competent juris-
40 diction waives such requirement; and the bonding of the trustee when the
41 assets of such a trust are less than one million dollars, upon order of
42 a court of competent jurisdiction. The department, together with the
43 department of financial services, shall promulgate regulations governing
44 the establishment, management and monitoring of trusts established
45 pursuant to subclause (B) of clause (iii) of this subparagraph in which
46 a not-for-profit corporation and a trust company serve as co-trustees.

47 (v) Notwithstanding any acts, omissions or failures to act of a trus-
48 tee of a trust which the department or a local social services official
49 has determined complies with the provisions of clause (iii) and the
50 regulations authorized by clause (iv) of this subparagraph, the depart-
51 ment must not consider the [~~corpus~~—~~or~~] income of any such trust as
52 available income [~~or~~—~~resources~~] of the applicant or recipient who is
53 disabled, as such term is defined in section 1614(a)(3) of the federal
54 social security act. The department's remedy for redress of any acts,
55 omissions or failures to act by such a trustee which acts, omissions or
56 failures are considered by the department to be inconsistent with the

1 terms of the trust, contrary to applicable laws and regulations of the
2 department, or contrary to the fiduciary obligations of the trustee
3 shall be the commencement of an action or proceeding under subdivision
4 one of section sixty-three of the executive law to safeguard or enforce
5 the state's remainder interest in the trust, or such other action or
6 proceeding as may be lawful and appropriate as to assure compliance by
7 the trustee or to safeguard and enforce the state's remainder interest
8 in the trust.

9 (vi) The department shall provide written notice to an applicant for
10 or recipient of medical assistance who is or reasonably appears to be
11 eligible for medical assistance except for having income exceeding
12 applicable income levels. The notice shall inform the applicant or
13 recipient, in plain language, that in certain circumstances the medical
14 assistance program does not count the income of disabled applicants and
15 recipients if it is placed in a trust described in clause (iii) of this
16 subparagraph. The notice shall be included with the eligibility notice
17 provided to such applicants and recipients and shall reference where
18 additional information may be found on the department's website. This
19 clause shall not be construed to change any criterion for eligibility
20 for medical assistance.

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

24 (a) Medical assistance shall be furnished to applicants in cases
25 where, although such applicant has a responsible relative with suffi-
26 cient income [~~and resources~~] to provide medical assistance as determined
27 by the regulations of the department, the income [~~and resources~~] of the
28 responsible relative are not available to such applicant because of the
29 absence of such relative or the refusal or failure of such relative to
30 provide the necessary care and assistance. In such cases, however, the
31 furnishing of such assistance shall create an implied contract with such
32 relative, and the cost thereof may be recovered from such relative in
33 accordance with title six of article three of this chapter and other
34 applicable provisions of law.

35 § 8. Paragraph h of subdivision 6 of section 366 of the social
36 services law, as amended by section 69-b of part C of chapter 58 of the
37 laws of 2008, is amended to read as follows:

38 h. Notwithstanding any other provision of this chapter or any other
39 law to the contrary, for purposes of determining medical assistance
40 eligibility for persons specified in paragraph b of this subdivision,
41 the income [~~and resources~~] of responsible relatives shall not be deemed
42 available for as long as the person meets the criteria specified in this
43 subdivision.

44 § 9. Subparagraph (vii) of paragraph (b) of subdivision 7 of section
45 366 of the social services law, as amended by chapter 324 of the laws of
46 2004, is amended to read as follows:

47 (vii) be ineligible for medical assistance because the income [~~and~~
48 ~~resources~~] of responsible relatives are deemed available to him or her,
49 causing him or her to exceed the income or resource eligibility level
50 for such assistance;

51 § 10. Paragraph j of subdivision 7 of section 366 of the social
52 services law, as amended by chapter 324 of the laws of 2004, is amended
53 to read as follows:

54 j. Notwithstanding any other provision of this chapter other than
55 subdivision six of this section or any other law to the contrary, for
56 purposes of determining medical assistance eligibility for persons spec-

1 ified in paragraph b of this subdivision, the income [~~and resources~~] of
2 a responsible relative shall not be deemed available for as long as the
3 person meets the criteria specified in this subdivision.

4 § 11. Subdivision 8 of section 366 of the social services law, as
5 added by chapter 41 of the laws of 1992, is amended to read as follows:

6 8. Notwithstanding any inconsistent provision of this chapter or any
7 other law to the contrary, income [~~and resources~~] which are otherwise
8 exempt from consideration in determining a person's eligibility for
9 medical care, services and supplies available under this title, shall be
10 considered available for the payment or part payment of the costs of
11 such medical care, services and supplies as required by federal law and
12 regulations.

13 § 12. Subparagraph (vi) of paragraph (b) of subdivision 9 of section
14 366 of the social services law, as added by chapter 170 of the laws of
15 1994, is amended to read as follows:

16 (vi) be eligible or, if discharged, would be eligible for medical
17 assistance, or are ineligible for medical assistance because the income
18 [~~and resources~~] of responsible relatives are or, if discharged, would be
19 deemed available to such persons causing them to exceed the income [~~or~~
20 ~~resource~~] eligibility level for such assistance;

21 § 13. Paragraph k of subdivision 9 of section 366 of the social
22 services law, as added by chapter 170 of the laws of 1994, is amended to
23 read as follows:

24 k. Notwithstanding any provision of this chapter other than subdivi-
25 sion six or seven of this section, or any other law to the contrary, for
26 purposes of determining medical assistance eligibility for persons spec-
27 ified in paragraphs b and c of this subdivision, the income [~~and~~
28 ~~resources~~] of a responsible relative shall not be deemed available for
29 as long as the person meets the criteria specified in this subdivision.

30 § 14. Paragraph (d) of subdivision 12 of section 366 of the social
31 services law, as added by section 1 of part E of chapter 58 of the laws
32 of 2006, is amended to read as follows:

33 (d) Notwithstanding any provision of this chapter or any other law to
34 the contrary, for purposes of determining medical assistance eligibility
35 for persons specified in paragraph (b) of this subdivision, the income
36 [~~and resources~~] of a legally responsible relative shall not be deemed
37 available for as long as the person meets the criteria specified in this
38 subdivision; provided, however, that such income shall continue to be
39 deemed unavailable should responsibility for the care and placement of
40 the person be returned to [~~his or her~~] their parent or other legally
41 responsible person.

42 § 15. Paragraph (b) of subdivision 2 of section 366-a of the social
43 services law is REPEALED and paragraphs (c) and (d), paragraph (d) as
44 added by section 29 of part B of chapter 58 of the laws of 2010, are
45 relettered paragraphs (b) and (c).

46 § 16. Paragraph (c) of subdivision 2 of section 366-a of the social
47 services law, as added by section 29 of part B of section 58 of the laws
48 of 2010 and as relettered by section fifteen of this act, is amended to
49 read as follows:

50 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-
51 sion, an applicant or recipient [~~whose eligibility under this title is~~
52 ~~determined without regard to the amount of his or her accumulated~~
53 ~~resources~~] may attest to the amount of interest income generated by
54 [~~such~~] resources if the amount of such interest income is expected to be
55 immaterial to medical assistance eligibility, as determined by the
56 commissioner of health. In the event there is an inconsistency between

1 the information reported by the applicant or recipient and any informa-
2 tion obtained by the commissioner of health from other sources and such
3 inconsistency is material to medical assistance eligibility, the commis-
4 sioner of health shall request that the applicant or recipient provide
5 adequate documentation to verify ~~[his or her]~~ **their** interest income.

6 § 17. Paragraph (d) of subdivision 2 of section 366-a of the social
7 services law is REPEALED.

8 § 18. Paragraph (a) of subdivision 8 of section 366-a of the social
9 services law, as amended by section 7 of part B of chapter 58 of the
10 laws of 2010, is amended to read as follows:

11 (a) Notwithstanding subdivisions two and five of this section, infor-
12 mation concerning income ~~[and resources]~~ of applicants for and recipi-
13 ents of medical assistance may be verified by matching client informa-
14 tion with information contained in the wage reporting system established
15 by section one hundred seventy-one-a of the tax law and in similar
16 systems operating in other geographically contiguous states, by means of
17 an income verification performed pursuant to a memorandum of understand-
18 ing with the department of taxation and finance pursuant to subdivision
19 four of section one hundred seventy-one-b of the tax law, and, to the
20 extent required by federal law, with information contained in the non-
21 wage income file maintained by the United States internal revenue
22 service, in the beneficiary data exchange maintained by the United
23 States department of health and human services, and in the unemployment
24 insurance benefits file. Such matching shall provide for procedures
25 which document significant inconsistent results of matching activities.
26 Nothing in this section shall be construed to prohibit activities the
27 department reasonably believes necessary to conform with federal
28 requirements under section one thousand one hundred thirty-seven of the
29 social security act.

30 § 19. Subdivision 1 of section 366-c of the social services law, as
31 added by chapter 558 of the laws of 1989, is amended to read as follows:

32 1. Notwithstanding any other provision of law to the contrary, in
33 determining the eligibility for medical assistance of a person defined
34 as an institutionalized spouse, the income ~~[and resources]~~ of such
35 person and the person's community spouse shall be treated as provided in
36 this section.

37 § 20. Paragraphs (c), (d) and (e) of subdivision 2 of section 366-c of
38 the social services law are REPEALED and paragraphs (f), (g), (h), (i),
39 (j) and (k) of subdivision 2 are relettered paragraphs (c), (d), (e),
40 (f), (g) and (h).

41 § 21. Subdivisions 5 and 6 of section 366-c of the social services law
42 are REPEALED and subdivisions 7 and 8 are renumbered subdivisions 5 and
43 6.

44 § 22. Subdivisions 5 and 6 of section 366-c of the social services
45 law, as added by chapter 558 of the laws of 1989 and as relettered by
46 section twenty-one of this act, are amended to read as follows:

47 5. (a) At the beginning or after the commencement of a continuous
48 period of institutionalization, either spouse may request ~~[an assessment~~
49 ~~of the total value of their resources or]~~ a determination of the commu-
50 nity spouse monthly income allowance, the amount of the family allow-
51 ance, or the method of computing the amount of the family allowance, or
52 the method of computing the amount of the community spouse income allow-
53 ance.

54 (b) ~~[(i) Upon receipt of a request pursuant to paragraph (a) of this~~
55 ~~subdivision together with all relevant documentation of the resources of~~
56 ~~both spouses, the social services district shall assess and document the~~

~~1 total value of the spouses' resources and provide each spouse with a
2 copy of the assessment and the documentation upon which it was based. If
3 the request is not part of an application for medical assistance bene-
4 fits, the social services district may charge a fee for the assessment
5 which is related to the cost of preparing and copying the assessment and
6 documentation which fee may not exceed twenty-five dollars.~~

~~7 (ii) The social services district shall also notify each requesting
8 spouse of the community spouse monthly income allowance, of the amount,
9 if any, of the family allowances, and of the method of computing the
10 amount of the community spouse monthly income allowance.~~

~~(c)]~~ The social services district shall also provide to the spouse a
12 notice of the right to a fair hearing at the time of provision of the
13 information requested under paragraph (a) of this subdivision or after a
14 determination of eligibility for medical assistance. Such notice shall
15 be in the form prescribed or approved by the commissioner and include a
16 statement advising the spouse of the right to a fair hearing under this
17 section.

18 6. (a) If, after a determination on an application for medical assist-
19 ance has been made, either spouse is dissatisfied with the determination
20 of the community spouse monthly allowance~~[,]~~ ~~or~~ the amount of monthly
21 income otherwise available to the community spouse, ~~[the computation of
22 the spousal share of resources, the attribution of resources or the
23 determination of the community spouse's resource allocation,]~~ the spouse
24 may request a fair hearing to dispute such determination. Such hearing
25 shall be held within thirty days of the request therefor.

26 (b) If either spouse establishes that the community spouse needs
27 income above the level established by the social services district as
28 the minimum monthly maintenance needs allowance, based upon exceptional
29 circumstances which result in significant financial distress (as defined
30 by the commissioner in regulations), the department shall substitute an
31 amount adequate to provide additional necessary income from the income
32 otherwise available to the institutionalized spouse.

~~33 [(c) If either spouse establishes that income generated by the commu-
34 nity spouse resource allowance, established by the social services
35 district, is inadequate to raise the community spouse's income to the
36 minimum monthly maintenance needs allowance, the department shall estab-
37 lish a resource allowance for the spousal share of the institutionalized
38 spouse adequate to provide such minimum monthly maintenance needs allow-
39 ance.]~~

40 § 23. The commissioner of health shall, consistent with the social
41 services law, make any necessary amendments to the state plan for
42 medical assistance submitted pursuant to section three hundred sixty-
43 three of the social services law, in order to ensure federal financial
44 participation in expenditures under the provisions of this act. The
45 provisions of this act shall not take effect unless all necessary
46 approvals under federal law and regulation have been obtained to receive
47 federal financial participation for the costs of services provide here-
48 under.

49 § 24. This act shall take effect January 1, 2023, subject to federal
50 financial participation; provided, however that the amendments to para-
51 graph h of subdivision 6 of section 366 of the social services law made
52 by section eight of this act shall not affect the repeal of such subdivi-
53 sion and shall be deemed repealed therewith; provided further that the
54 commissioner of health shall notify the legislative bill drafting
55 commission upon the occurrence of federal financial participation in
56 order that the commission may maintain an accurate and timely effective

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1 data base of the official text of the laws of the state of New York in
2 furtherance of effectuating the provisions of section 44 of the legisla-
3 tive law and section 70-b of the public officers law.

4 PART 0

5 Section 1. This act enacts into law major components of legislation
6 relating to medical and mental health care. Each component is wholly
7 contained within a Subpart identified as Subparts A through C. The
8 effective date for each particular provision contained within such
9 Subpart is set forth in the last section of such Subpart. Any provision
10 in any section contained within a Subpart, including the effective date
11 of the Subpart, which makes a reference to a section "of this act", when
12 used in connection with that particular component, shall be deemed to
13 mean and refer to the corresponding section of the Subpart in which it
14 is found. Section three of this act sets forth the general effective
15 date of this act.

16 SUBPART A

17 Section 1. Subdivisions 2 and 3 of section 367-r of the social
18 services law, subdivision 2 as amended and subdivision 3 as added by
19 section 2 of part PP of chapter 56 of the laws of 2020, are amended to
20 read as follows:

21 2. Medically fragile children and adults. (a) In addition, the
22 commissioner shall further increase rates for private duty nursing
23 services that are provided to medically fragile children to ensure the
24 availability of such services to such children. Furthermore, no later
25 than sixty days after the chapter of the laws of two thousand twenty-two
26 that amended this subdivision takes effect, increased rates shall be
27 extended for private duty nursing services provided to medically fragile
28 adults. In establishing rates of payment under this subdivision, the
29 commissioner shall consider the cost neutrality of such rates as related
30 to the cost effectiveness of caring for medically fragile children and
31 adults in a non-institutional setting as compared to an institutional
32 setting. Medically fragile children shall, for the purposes of this
33 subdivision, have the same meaning as in subdivision three-a of section
34 thirty-six hundred fourteen of the public health law. For purposes of
35 this subdivision, "medically fragile adult" shall be defined as any
36 individual who previously qualified as a medically fragile child but no
37 longer meets the age requirement. Such increased rates for services
38 rendered to such children and adults may take into consideration the
39 elements of cost, geographical differentials in the elements of cost
40 considered, economic factors in the area in which the private duty nurs-
41 ing service is provided, costs associated with the provision of private
42 duty nursing services to medically fragile children and adults, and the
43 need for incentives to improve services and institute economies and such
44 increased rates shall be payable only to those private duty nurses who
45 can demonstrate, to the satisfaction of the department of health, satis-
46 factory training and experience to provide services to such children and
47 adults. Such increased rates shall be determined based on application
48 of the case mix adjustment factor for AIDS home care program services
49 rates as determined pursuant to applicable regulations of the department
50 of health. The commissioner may promulgate regulations to implement the
51 provisions of this subdivision.

1 (b) Private duty nursing services providers which have their rates
2 adjusted pursuant to paragraph (b) of subdivision one of this section
3 and paragraph (a) of this subdivision shall use such funds solely for
4 the purposes of recruitment and retention of private duty nurses or to
5 ensure the delivery of private duty nursing services to medically frag-
6 ile children and adults and are prohibited from using such funds for any
7 other purpose. Funds provided under paragraph (b) of subdivision one of
8 this section and paragraph (a) of this subdivision are not intended to
9 supplant support provided by a local government. Each such provider,
10 with the exception of self-employed private duty nurses, shall submit,
11 at a time and in a manner to be determined by the commissioner of
12 health, a written certification attesting that such funds will be used
13 solely for the purpose of recruitment and retention of private duty
14 nurses or to ensure the delivery of private duty nursing services to
15 medically fragile children and adults. The commissioner of health is
16 authorized to audit each such provider to ensure compliance with the
17 written certification required by this subdivision and shall recoup all
18 funds determined to have been used for purposes other than recruitment
19 and retention of private duty nurses or the delivery of private duty
20 nursing services to medically fragile children and adults. Such recoup-
21 ment shall be in addition to any other penalties provided by law.

22 (c) The commissioner of health shall, subject to the provisions of
23 paragraph (b) of this subdivision, and the provisions of subdivision
24 three of this section, and subject to the availability of federal finan-
25 cial participation, annually increase fees for the fee-for-service
26 reimbursement of private duty nursing services provided to medically
27 fragile children by fee-for-service private duty nursing services
28 providers who enroll and participate in the provider directory pursuant
29 to subdivision three of this section, over a period of three years,
30 commencing October first, two thousand twenty, by one-third annual
31 increments, until such fees for reimbursement equal the final benchmark
32 payment designed to ensure adequate access to the service. In developing
33 such benchmark the commissioner of health may utilize the average two
34 thousand eighteen Medicaid managed care payments for reimbursement of
35 such private duty nursing services. The commissioner may promulgate
36 regulations to implement the provisions of this paragraph.

37 (d) The commissioner of health shall, subject to the provisions of
38 paragraph (b) of this subdivision, and the provisions of subdivision
39 three of this section, and subject to the availability of federal finan-
40 cial participation, increase fees for the fee-for-service reimbursement
41 of private duty nursing services provided to medically fragile adults by
42 fee-for-service private duty nursing services providers who enroll and
43 participate in the provider directory pursuant to subdivision three of
44 this section, no later than sixty days after the chapter of the laws of
45 two thousand twenty-two that amended this subdivision takes effect, so
46 such fees for reimbursement equal the benchmark payment designed to
47 ensure adequate access to the service. In developing such benchmark the
48 commissioner of health may utilize the average two thousand twenty Medi-
49 caid managed care payments for reimbursement of such private duty nurs-
50 ing services. The commissioner may promulgate regulations to implement
51 the provisions of this paragraph.

52 3. Provider directory for fee-for-service private duty nursing
53 services provided to medically fragile children and adults. The commis-
54 sioner of health is authorized to establish a directory of qualified
55 providers for the purpose of promoting the availability and ensuring
56 delivery of fee-for-service private duty nursing services to medically

1 fragile children [~~and individuals transitioning out of such category of~~
2 ~~care~~] and adults. Qualified providers enrolling in the directory shall
3 ensure the availability and delivery of and shall provide such services
4 to those individuals as are in need of such services, and shall receive
5 increased reimbursement for such services pursuant to [~~paragraph (c)~~]
6 paragraphs (c) and (d) of subdivision two of this section. The directory
7 shall offer enrollment to all private duty nursing services providers to
8 promote and ensure the participation in the directory of all nursing
9 services providers available to serve medically fragile children and
10 adults.

11 § 2. Subdivision 3-a of section 3614 of the public health law, as
12 amended by section 9 of part C of chapter 109 of the laws of 2006, is
13 amended to read as follows:

14 3-a. Medically fragile children and adults. Rates of payment for
15 continuous nursing services for medically fragile children and adults
16 provided by a certified home health agency, a licensed home care
17 services agency or a long term home health care program shall be estab-
18 lished to ensure the availability of such services, whether provided by
19 registered nurses or licensed practical nurses who are employed by or
20 under contract with such agencies or programs, and shall be established
21 at a rate that is at least equal to rates of payment for such services
22 rendered to patients eligible for AIDS home care programs; provided,
23 however, that a certified home health agency, a licensed home care
24 services agency or a long term home health care program that receives
25 such enhanced rates for continuous nursing services for medically frag-
26 ile children and adults shall use such enhanced rates to increase
27 payments to registered nurses and licensed practical nurses who provide
28 such services. In the case of services provided by certified home health
29 agencies and long term home health care programs through contracts with
30 licensed home care services agencies, rate increases received by such
31 certified home health agencies and long term home health care programs
32 pursuant to this subdivision shall be reflected in payments made to the
33 registered nurses or licensed practical nurses employed by such licensed
34 home care services agencies to render services to these children and
35 adults. In establishing rates of payment under this subdivision, the
36 commissioner shall consider the cost neutrality of such rates as related
37 to the cost effectiveness of caring for medically fragile children and
38 adults in a non-institutional setting as compared to an institutional
39 setting. For the purposes of this subdivision, a medically fragile child
40 shall mean a child who is at risk of hospitalization or institutional-
41 ization, including but not limited to children who are technologically-
42 dependent for life or health-sustaining functions, require complex medi-
43 cation regimen or medical interventions to maintain or to improve their
44 health status or are in need of ongoing assessment or intervention to
45 prevent serious deterioration of their health status or medical compli-
46 cations that place their life, health or development at risk, but who
47 are capable of being cared for at home if provided with appropriate home
48 care services, including but not limited to case management services and
49 continuous nursing services. For the purposes of this subdivision, a
50 medically fragile adult shall mean any individual who previously quali-
51 fied as a medically fragile child but no longer meets the age require-
52 ment. The commissioner shall promulgate regulations to implement
53 provisions of this subdivision and may also direct the providers speci-
54 fied in this subdivision to provide such additional information and in
55 such form as the commissioner shall determine is reasonably necessary to
56 implement the provisions of this subdivision.

1 § 3. This act shall take effect immediately.

2 SUBPART B

3 Section 1. Legislative findings and intent. The legislature finds that
4 the Program of All-Inclusive Care for the Elderly ("PACE") is a feder-
5 ally recognized model of comprehensive care for persons 55 years of age
6 or older, qualifying for nursing home levels of care who wish to remain
7 in their community (see, Sections 1894 and 1934 to Title XVIII of the
8 Social Security Act; 42 CFR 460). The PACE program includes both Medi-
9 caid and Medicare covered benefits. Federal preemption of state laws
10 with respect to PACE has inhibited the ability of state agencies -
11 particularly the New York State Department of Health ("DOH") - to regu-
12 late PACE plans similarly to other public and commercial health plans.

13 The legislature further finds that: Research has demonstrated that
14 PACE has delivered marked improvements for enrollees in the programs
15 nationwide including, but not limited to reduced hospitalizations and
16 readmissions; reduced reliance on emergency medical services; improved
17 quality of life; and higher satisfaction with the totality of their
18 care. In conjunction with these improvements, the implementation of PACE
19 in New York has realized significant savings to the state's Medicaid
20 program compared to costs that would have been incurred under fee-for-
21 service. As neither a fee-for-service model nor a managed long-term care
22 plan, PACE represents a unique approach to care and coverage for those
23 with long-term care needs. PACE organizations are currently required to
24 be licensed and are regulated under multiple provisions of state and
25 federal law. Uniformity of regulation of PACE organizations promotes
26 both efficiency for organizations and for the state.

27 For all the foregoing reasons, it is the intent of the legislature
28 through this act to provide a more efficient and uniform structure to
29 promote the prudent development of PACE organizations in the state, to
30 promote better health outcomes for New Yorkers enrolled in such
31 programs, and to realize administrative efficiencies through these
32 programs. It is the intent of the legislature to recognize PACE organ-
33 izations as integrated providers of care and to that end, nothing in
34 this article is intended to construe PACE organizations as a managed
35 care organization as defined by article 44 of the public health law.

36 § 2. The public health law is amended by adding a new article 29-EE to
37 read as follows:

38 ARTICLE 29-EE

39 PROGRAMS OF ALL-INCLUSIVE

40 CARE FOR THE ELDERLY

41 Section 2999-s. Definitions.

42 2999-t. PACE program establishment.

43 2999-u. Criteria for program eligibility and licensure.

44 2999-v. Eligibility and enrollment.

45 2999-w. Included program benefits.

46 2999-x. Reimbursement.

47 2999-y. Severability.

48 § 2999-s. Definitions. For the purposes of this article, the following
49 terms shall have the following meanings:

50 1. "PACE organization" means a PACE provider, as defined in 42 U.S.C.
51 §1395eee and established in accordance with federal public law 105-33,
52 subtitle I of title IV of the Balanced Budget Act of 1997.

53 2. "Program of all-inclusive care for the elderly" or "PACE program"
54 means the federally recognized model of comprehensive care that provides

1 Medicaid and Medicare covered services to eligible individuals, and
2 shall include those programs defined as "operating demonstrations" by
3 section forty-four hundred three-f of this chapter.

4 3. "PACE center" means a diagnostic and treatment center established
5 under article twenty-eight of this chapter and operated by a PACE organ-
6 ization where primary care and other services are furnished to enrollees
7 of such program.

8 4. "PACE program agreement" shall have the same meaning as defined by
9 42 U.S.C. § 1395eee.

10 § 2999-t. PACE program establishment. 1. Notwithstanding any incon-
11 sistent provision of law to the contrary, the commissioner shall estab-
12 lish a state program of all-inclusive care for the elderly, to provide
13 community-based, risk-based, and capitated long-term care services as
14 optional services under the state's Medicaid state plan and any applica-
15 ble waivers, as well as under contracts entered into between the federal
16 centers for Medicare and Medicaid services, the department, and PACE
17 organizations.

18 2. The establishment of such a program shall not preclude the contin-
19 ued operation of existing approved PACE organizations at the time of
20 enactment of this article. The department may establish a process, if
21 deemed necessary, to assist the transition of such existing programs
22 through processes and requirements set forth pursuant to this article.

23 § 2999-u. Criteria for program eligibility and licensure. 1. Program
24 criteria. The requirements of the PACE program, as provided for pursuant
25 to 42 U.S.C. § 1395eee and 42 U.S.C. § 1396u-4 shall not be waived or
26 modified. New York state PACE organization requirements shall include:

27 (a) The provision of a PACE center; and
28 (b) The adoption and implementation of an interdisciplinary team
29 approach to care management, care delivery, and care planning.

30 2. Contracting. The department may enter into contracts with public or
31 private organizations for implementation of the state's PACE program,
32 and may enter into additional contracts as necessary to implement such
33 program, or any other requirement deemed necessary to provide comprehen-
34 sive community-based, risk-based and capitated long-term care to eligi-
35 ble populations. Additionally:

36 (a) PACE organizations shall contract with the federal center for
37 Medicare and Medicaid services to enter into a PACE organization agree-
38 ment.

39 (b) PACE organizations licensed under this article shall be authorized
40 to act as fiscal intermediaries for their enrollees without entering
41 into additional contracts with the state to conduct such duties on
42 behalf of enrollees.

43 3. Licensure. In setting forth requirements to establish the state's
44 PACE program, the department shall provide for a unified licensure proc-
45 ess for PACE organizations that is inclusive of program requirements set
46 forth under articles forty-four, thirty-six, and twenty-eight of this
47 chapter, as well as pertinent regulatory requirements for PACE organiza-
48 tions in accordance with a regulatory approach which shall be estab-
49 lished by the department. For the purposes of subdivision one of section
50 sixty-five hundred twenty-seven of the education law, a PACE organiza-
51 tion shall be deemed to be a health maintenance organization as defined
52 by section forty-four hundred one of this chapter.

53 4. Operations and oversight. The department shall:

54 (a) Establish requirements for financial solvency for PACE organiza-
55 tions in compliance with those set forth in paragraph (c) of subdivision
56 one of section forty-four hundred three of this chapter, and shall

1 establish a contingent reserve requirement for PACE organizations which,
2 pursuant to regulations, may be different than other programs;

3 (b) Provide oversight of PACE organization operations in coordination
4 with the centers for Medicare and Medicaid services, including any rules
5 appropriate for the safe, efficient and orderly administration of the
6 program; and

7 (c) Develop a single process for PACE organizations to complete all
8 reports, audits, surveys, and other data or information collection
9 required by federal, state or local authorities.

10 § 2999-v. Eligibility and enrollment. 1. To be eligible for enrollment
11 in the PACE program, an individual must:

12 (a) (i) Be at least fifty-five years old;

13 (ii) Meet the state's eligibility criteria for nursing home level of
14 care;

15 (iii) Reside within the PACE program-approved service area; and

16 (iv) Be able to be maintained safely in the community-based setting at
17 the time of enrollment with the assistance of a PACE organization; or

18 (b) Be otherwise eligible for participation in a PACE demonstration or
19 specialty program authorized by the federal PACE Innovation Act and
20 approved by the centers for Medicare and Medicaid services.

21 2. Notwithstanding any law or regulation to the contrary, if federal
22 law or regulation sets forth broader eligibility or enrollment require-
23 ments than those set forth under subdivision one of this section, eligi-
24 bility for the PACE program shall conform to such federal requirements.

25 3. Enrollment and participation by individuals in the PACE program
26 shall be voluntary.

27 § 2999-w. Included program benefits. Enrollees in the PACE program
28 shall be provided a benefit package by their PACE organization, regard-
29 less of source of payment, that includes:

30 (a) All Medicare-covered items and services;

31 (b) All Medicaid-covered items and services, as specified in the
32 state's Medicaid plan and in section three hundred sixty-four-j of the
33 social services law; and

34 (c) Other such services as determined necessary by the interdiscipli-
35 nary team to improve and maintain the participant's overall health
36 status.

37 § 2999-x. Reimbursement. The department shall develop and implement,
38 in conformance with applicable federal requirements, a methodology for
39 establishing rates of payment for costs of benefits provided by PACE
40 organizations to its Medicaid eligible PACE program enrollees.

41 1. Methodology. To the extent required by federal law, such rate meth-
42 odologies for PACE organizations shall result in a payment amount no
43 greater than the amount that would otherwise have been paid for compara-
44 ble services provided pursuant to the state plan if the participants
45 were not enrolled in the PACE program. PACE program rates shall be set
46 in compliance with relevant centers for Medicare and Medicaid services
47 rate setting rules and guidance.

48 2. Transparency. The department shall provide, or shall require any
49 independent actuary used to review PACE program reimbursement rates to
50 provide, to PACE organizations the documents and information regarding
51 PACE program reimbursement rates submitted to the centers for Medicare
52 and Medicaid services in a form and time frame consistent with the
53 requirements for the department to provide or cause to be provided docu-
54 ments and information to Medicaid managed care providers under paragraph
55 (c) of subdivision eighteen of section three hundred sixty-four-j of the
56 social services law.

1 § 2999-y. Severability. If any provision of this article, or any
 2 application of any provision of this article, is held to be invalid, or
 3 to violate or be inconsistent with any federal law or regulation, such
 4 violation or inconsistency shall not affect the validity or effective-
 5 ness of any other provision of this article, or of any other application
 6 of any provision of this article, which can be given effect without such
 7 provision or application; and to such end, the provisions and applica-
 8 tions of this article shall be severable.

9 § 3. Paragraph (c) of subdivision 18 of section 364-j of the social
 10 services law, as added by section 55 of part B of chapter 57 of the laws
 11 of 2015, is REPEALED.

12 § 4. Paragraph (c) of subdivision 18 of section 364-j of the social
 13 services law, as added by section 40-c of part B of chapter 57 of the
 14 laws of 2015, is amended to read as follows:

15 (c) In setting such reimbursement methodologies, the department shall
 16 consider costs borne by the managed care program to ensure actuarially
 17 sound and adequate rates of payment to ensure quality of care. The
 18 department shall require the independent actuary selected pursuant to
 19 paragraph (b) of this subdivision to provide a complete actuarial memo-
 20 randum, along with all actuarial assumptions made and all other data,
 21 materials and methodologies used in the development of rates, to managed
 22 care providers thirty days prior to submission of such rates to the
 23 centers for Medicare and Medicaid services for approval. Managed care
 24 providers may request additional review of the actuarial soundness of
 25 the rate setting process and/or methodology.

26 § 5. This act shall take effect January 1, 2023, provided, however,
 27 that the amendments made to section 364-j of the social services law
 28 made by section four of this act shall not affect the repeal of such
 29 section and shall be deemed repealed therewith. Effective immediately,
 30 the addition, amendment and/or repeal of any rule or regulation neces-
 31 sary for the implementation of this act on its effective date are
 32 authorized to be made and completed on or before such effective date.

33

SUBPART C

34 Section 1. Section 26 of part H of chapter 59 of the laws of 2011,
 35 amending the public health law and other laws, relating to targeted
 36 Medicaid reimbursement rate reductions, is amended to read as follows:

37 § 26. Notwithstanding any provision of law to the contrary and subject
 38 to the availability of federal financial participation, for periods on
 39 and after April 1, 2011, clinics certified pursuant to [~~articles 16,~~]
 40 article 31 or 32 of the mental hygiene law shall be subject to targeted
 41 Medicaid reimbursement rate reductions in accordance with the provisions
 42 of this section. Such reductions shall be based on utilization thresh-
 43 olds which may be established either as provider-specific or patient-
 44 specific thresholds. Provider-specific thresholds shall be based on
 45 average patient utilization for a given provider in comparison to a peer
 46 based standard to be determined for each service. The commissioners of
 47 the office of mental health[~~, the office for persons with developmental~~
 48 ~~disabilities,~~] and the office of alcoholism and substance abuse
 49 services, in consultation with the commissioner of health, are author-
 50 ized to waive utilization thresholds for patients of clinics certified
 51 pursuant to article [~~16,~~] 31[~~,~~] or 32 of the mental hygiene law who are
 52 enrolled in specific treatment programs or otherwise meet criteria as
 53 may be specified by such commissioners. When applying a provider-spe-
 54 cific threshold, rates will be reduced on a prospective basis based on

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1 the amount any provider is over the determined threshold level.
 2 Patient-specific thresholds will be based on annual thresholds deter-
 3 mined for each service over which the per visit payment for each visit
 4 in excess of the standard during a twelve month period shall be reduced
 5 by a pre-determined amount. The thresholds, peer based standards and the
 6 payment reductions shall be determined by the department of health, with
 7 the approval of the division of the budget, and in consultation with the
 8 office of mental health[~~, the office for people with developmental disa-~~
 9 ~~billities~~] and the office of alcoholism and substance abuse services, and
 10 any such resulting rates shall be subject to certification by the appro-
 11 priate commissioners pursuant to subdivision (a) of section 43.02 of the
 12 mental hygiene law. The base period used to establish the thresholds
 13 shall be the 2009 calendar year. The total annualized reduction in
 14 payments shall be not more than \$10,900,000 for Article 31 clinics[~~, not~~
 15 ~~more than \$2,400,000 for Article 16 clinics,~~] and not more than
 16 \$13,250,000 for Article 32 clinics. The commissioner of health may
 17 promulgate regulations to implement the provisions of this section.

18 § 2. This act shall take effect immediately.

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

28 § 3. This act shall take effect immediately; provided, however, that
 29 the applicable effective dates of Subparts A through C of this act shall
 30 be as specifically set forth in the last section of such Subparts.

31 PART P

32 Section 1. Intentionally omitted.

33 § 2. Intentionally omitted.

34 § 3. Intentionally omitted.

35 § 4. Intentionally omitted.

36 § 5. Intentionally omitted.

37 § 6. Intentionally omitted.

38 § 7. Subparagraphs (v) and (vi) of paragraph (b) of subdivision 1 of
 39 section 268-d of the public health law, as added by section 2 of part T
 40 of chapter 57 of the laws of 2019, are amended to read as follows:

41 (v) meets standards specified and determined by the Marketplace,
 42 provided that the standards do not conflict with or prevent the applica-
 43 tion of federal requirements; [~~and~~]

44 (vi) contracts with any national cancer institute-designated cancer
 45 center licensed by the department within the health plan's service area
 46 that is willing to agree to provide cancer-related inpatient, outpatient
 47 and medical services to enrollees in all health plans offering coverage
 48 through the Marketplace in such cancer center's service area under the
 49 prevailing terms and conditions that the plan requires of other similar
 50 providers to be included in the plan's provider network, provided that
 51 such terms shall include reimbursement of such center at no less than
 52 the fee-for-service medicaid payment rate and methodology applicable to
 53 the center's inpatient and outpatient services; and

1 (vii) complies with the insurance law and this chapter requirements
2 applicable to health insurance issued in this state and any regulations
3 promulgated pursuant thereto that do not conflict with or prevent the
4 application of federal requirements; and

5 § 8. Subdivision 4 of section 364-j of the social services law is
6 amended by adding a new paragraph (w) to read as follows:

7 (w) A managed care provider shall provide or arrange, directly or
8 indirectly, including by referral, for access to and coverage of
9 services provided by any national cancer institute-designated cancer
10 center licensed by the department of health within the managed care
11 provider's service area that is willing to agree to provide cancer-re-
12 lated inpatient, outpatient and medical services to participants in all
13 managed care providers offering coverage to medical assistance recipi-
14 ents in such cancer center's service area under the prevailing terms and
15 conditions that the managed care provider requires of other similar
16 providers to be included in the managed care provider's network,
17 provided that such terms shall include reimbursement of such center at
18 no less than the fee-for-service medicaid payment rate and methodology
19 applicable to the center's inpatient and outpatient services.

20 § 9. Paragraph (c) of subdivision 1 of section 369-gg of the social
21 services law, as amended by section 2 of part H of chapter 57 of the
22 laws of 2021, is amended to read as follows:

23 (c) "Health care services" means (i) the services and supplies as
24 defined by the commissioner in consultation with the superintendent of
25 financial services, and shall be consistent with and subject to the
26 essential health benefits as defined by the commissioner in accordance
27 with the provisions of the patient protection and affordable care act
28 (P.L. 111-148) and consistent with the benefits provided by the refer-
29 ence plan selected by the commissioner for the purposes of defining such
30 benefits, and shall include coverage of and access to the services of
31 any national cancer institute-designated cancer center licensed by the
32 department of health within the service area of the approved organiza-
33 tion that is willing to agree to provide cancer-related inpatient,
34 outpatient and medical services to all enrollees in approved organiza-
35 tions' plans in such cancer center's service area under the prevailing
36 terms and conditions that the approved organization requires of other
37 similar providers to be included in the approved organization's network,
38 provided that such terms shall include reimbursement of such center at
39 no less than the fee-for-service medicaid payment rate and methodology
40 applicable to basic health program plan payments for inpatient and
41 outpatient services; and (ii) dental and vision services as defined by
42 the commissioner;

43 § 10. Severability. If any clause, sentence, paragraph, section or
44 part of this act shall be adjudged by any court of competent jurisdic-
45 tion to be invalid and after exhaustion of all further judicial review,
46 the judgment shall not affect, impair or invalidate the remainder there-
47 of, but shall be confined in its operation to the clause, sentence,
48 paragraph, section or part of this act directly involved in the contro-
49 versy in which the judgment shall have been rendered.

50 § 11. This act shall take effect immediately; provided however that
51 sections seven, eight and nine shall take effect on the first of January
52 next succeeding the date on which it shall have become a law and shall
53 apply to all coverage or policies issued or renewed on or after such
54 effective date and shall expire and be deemed repealed five years after
55 such date; provided, however, that the amendments to section 364-j of
56 the social services law made by section eight of this act, and the

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1 amendments to paragraph (c) of subdivision 1 of section 369-gg of the
2 social services law made by section nine of this act shall not affect
3 the repeal of such sections or such paragraph and shall be deemed
4 repealed therewith.

5

PART Q

6 Section 1. Section 268-c of the public health law is amended by adding
7 a new subdivision 25 to read as follows:

8 25. The commissioner is authorized to submit the appropriate waiver
9 applications to the United States secretary of health and human services
10 and/or the department of the treasury to waive any applicable provisions
11 of the Patient Protection and Affordable Care Act, Pub. L. 111-148 as
12 amended, or successor provisions, as provided for by 42 U.S.C. 18052,
13 and any other waivers necessary to achieve the purposes of high quality,
14 affordable coverage through NY State of Health, the official health plan
15 marketplace. The commissioner shall implement the state plans of any
16 such waiver in a manner consistent with applicable state and federal
17 laws, as authorized by the secretary of health and human services and/or
18 the secretary of the treasury pursuant to 42 U.S.C. 18052. Copies of
19 such original waiver applications and amendments thereto shall be
20 provided to the chair of the senate finance committee, the chair of the
21 assembly ways and means committee and the chairs of the senate and
22 assembly health committees simultaneously with their submission to the
23 federal government.

24 § 1-a. Section 369-gg of the social services law is amended by adding
25 a new subdivision 3-a to read as follows:

26 3-a. Alternate eligibility. A person shall also be eligible to receive
27 coverage for health care services under this title, without regard to
28 federal financial participation, if they are a resident of New York
29 state, have a household income below two hundred fifty percent of the
30 federal poverty line as defined and annually revised by the United
31 States department of health and human services for a household of the
32 same size, and are ineligible for federal financial participation in the
33 basic health program under 42 U.S.C. section 18051 on the basis of immi-
34 gration status, but otherwise meet the eligibility requirements in para-
35 graphs (b), (c), and (d) of subdivision three of this section. An appli-
36 cant who fails to make an applicable premium payment shall lose
37 eligibility to receive coverage for health care services in accordance
38 with time frames and procedures determined by the commissioner.

39 § 2. Paragraph (d) of subdivision 3 of section 369-gg of the social
40 services law, as amended by section 2 of part H of chapter 57 of the
41 laws of 2021, is amended to read as follows:

42 (d) (i) except as provided by subparagraph (ii) of this paragraph, has
43 household income at or below two hundred percent of the federal poverty
44 line defined and annually revised by the United States department of
45 health and human services for a household of the same size; and [~~(ii)~~]
46 has household income that exceeds one hundred thirty-three percent of
47 the federal poverty line defined and annually revised by the United
48 States department of health and human services for a household of the
49 same size; however, MAGI eligible aliens [~~lawfully present~~] in the
50 United States with household incomes at or below one hundred thirty-
51 three percent of the federal poverty line shall be eligible to receive
52 coverage for health care services pursuant to the provisions of this
53 title if such alien would be ineligible for medical assistance under

1 title eleven of this article due to [~~his or her~~] their immigration
2 status[];

3 (ii) subject to federal approval and the use of state funds, unless
4 the commissioner may use funds under subdivision seven of this section,
5 has household income at or below two hundred fifty percent of the feder-
6 al poverty line defined and annually revised by the United States
7 department of health and human services for a household of the same
8 size; and has household income that exceeds one hundred thirty-three
9 percent of the federal poverty line defined and annually revised by the
10 United States department of health and human services for a household of
11 the same size; however, MAGI eligible aliens in the United States with
12 household incomes at or below one hundred thirty-three percent of the
13 federal poverty line shall be eligible to receive coverage for health
14 care services pursuant to the provisions of this title if such alien
15 would be ineligible for medical assistance under title eleven of this
16 article due to their immigration status;

17 (iii) subject to federal approval if required and the use of state
18 funds, unless the commissioner may use funds under subdivision seven of
19 this section, a pregnant individual who is eligible for and receiving
20 coverage for health care services pursuant to this title is eligible to
21 continue to receive health care services pursuant to this title during
22 the pregnancy and for a period of one year following the end of the
23 pregnancy without regard to any change in the income of the household
24 that includes the pregnant individual, even if such change would render
25 the pregnant individual ineligible to receive health care services
26 pursuant to this title;

27 (iv) subject to federal approval, a child born to an individual eligi-
28 ble for and receiving coverage for health care services pursuant to this
29 title who would be eligible for coverage pursuant to subparagraphs (2)
30 or (4) of paragraph (b) of subdivision 1 of section three hundred
31 sixty-six of the social services law shall be deemed to have applied for
32 medical assistance and to have been found eligible for such assistance
33 on the date of such birth and to remain eligible for such assistance for
34 a period of one year.

35 An applicant who fails to make an applicable premium payment, if any,
36 shall lose eligibility to receive coverage for health care services in
37 accordance with time frames and procedures determined by the commission-
38 er.

39 § 3. Paragraph (d) of subdivision 3 of section 369-gg of the social
40 services law, as added by section 51 of part C of chapter 60 of the laws
41 of 2014, is amended to read as follows:

42 (d) (i) except as provided by subparagraph (ii) of this paragraph, has
43 household income at or below two hundred percent of the federal poverty
44 line defined and annually revised by the United States department of
45 health and human services for a household of the same size; and [~~(ii)~~]
46 has household income that exceeds one hundred thirty-three percent of
47 the federal poverty line defined and annually revised by the United
48 States department of health and human services for a household of the
49 same size; however, MAGI eligible aliens [~~lawfully present~~] in the
50 United States with household incomes at or below one hundred thirty-
51 three percent of the federal poverty line shall be eligible to receive
52 coverage for health care services pursuant to the provisions of this
53 title if such alien would be ineligible for medical assistance under
54 title eleven of this article due to [~~his or her~~] their immigration
55 status[];

1 (ii) subject to federal approval and the use of state funds, unless
2 the commissioner may use funds under subdivision seven of this section,
3 has household income at or below two hundred fifty percent of the federal
4 poverty line defined and annually revised by the United States
5 department of health and human services for a household of the same
6 size; and has household income that exceeds one hundred thirty-three
7 percent of the federal poverty line defined and annually revised by the
8 United States department of health and human services for a household of
9 the same size; however, MAGI eligible aliens in the United States with
10 household incomes at or below one hundred thirty-three percent of the
11 federal poverty line shall be eligible to receive coverage for health
12 care services pursuant to the provisions of this title if such alien
13 would be ineligible for medical assistance under title eleven of this
14 article due to their immigration status;

15 (iii) subject to federal approval if required and the use of state
16 funds, unless the commissioner may use funds under subdivision seven of
17 this section, a pregnant individual who is eligible for and receiving
18 coverage for health care services pursuant to this title is eligible to
19 continue to receive health care services pursuant to this title during
20 the pregnancy and for a period of one year following the end of the
21 pregnancy without regard to any change in the income of the household
22 that includes the pregnant individual, even if such change would render
23 the pregnant individual ineligible to receive health care services
24 pursuant to this title;

25 (iv) subject to federal approval, a child born to an individual eligi-
26 ble for and receiving coverage for health care services pursuant to this
27 title who would be eligible for coverage pursuant to subparagraphs (2)
28 or (4) of paragraph (b) of subdivision 1 of section three hundred
29 sixty-six of the social services law shall be deemed to have applied for
30 medical assistance and to have been found eligible for such assistance
31 on the date of such birth and to remain eligible for such assistance for
32 a period of one year.

33 An applicant who fails to make an applicable premium payment shall
34 lose eligibility to receive coverage for health care services in accord-
35 ance with time frames and procedures determined by the commissioner.

36 § 4. Paragraph (c) of subdivision 1 of section 369-gg of the social
37 services law, as amended by section 2 of part H of chapter 57 of the
38 laws of 2021, is amended to read as follows:

39 (c) "Health care services" means (i) the services and supplies as
40 defined by the commissioner in consultation with the superintendent of
41 financial services, and shall be consistent with and subject to the
42 essential health benefits as defined by the commissioner in accordance
43 with the provisions of the patient protection and affordable care act
44 (P.L. 111-148) and consistent with the benefits provided by the refer-
45 ence plan selected by the commissioner for the purposes of defining such
46 benefits, **[and]** (ii) dental and vision services as defined by the
47 commissioner, and (iii) as defined by the commissioner and subject to
48 federal approval, certain services and supports provided to enrollees
49 eligible pursuant to subparagraph one of paragraph (g) of subdivision
50 one of section three hundred sixty-six of this article who have func-
51 tional limitations and/or chronic illnesses that have the primary
52 purpose of supporting the ability of the enrollee to live or work in the
53 setting of their choice, which may include the individual's home, a
54 worksite, or a provider-owned or controlled residential setting;

1 § 5. Paragraph (c) of subdivision 1 of section 369-gg of the social
2 services law, as added by section 51 of part C of chapter 60 of the laws
3 of 2014, is amended to read as follows:

4 (c) "Health care services" means (i) the services and supplies as
5 defined by the commissioner in consultation with the superintendent of
6 financial services, and shall be consistent with and subject to the
7 essential health benefits as defined by the commissioner in accordance
8 with the provisions of the patient protection and affordable care act
9 (P.L. 111-148) and consistent with the benefits provided by the refer-
10 ence plan selected by the commissioner for the purposes of defining such
11 benefits, and (ii) as defined by the commissioner and subject to federal
12 approval, certain services and supports provided to enrollees eligible
13 pursuant to subparagraph one of paragraph (g) of subdivision one of
14 section three hundred sixty-six of this article who have functional
15 limitations and/or chronic illnesses that have the primary purpose of
16 supporting the ability of the enrollee to live or work in the setting of
17 their choice, which may include the individual's home, a worksite, or a
18 provider-owned or controlled residential setting;

19 § 6. Paragraph (c) of subdivision 1 of section 369-gg of the social
20 services law, as amended by section 2 of part H of chapter 57 of the
21 laws of 2021, is amended to read as follows:

22 (c) "Health care services" means (i) the services and supplies as
23 defined by the commissioner in consultation with the superintendent of
24 financial services, and shall be consistent with and subject to the
25 essential health benefits as defined by the commissioner in accordance
26 with the provisions of the patient protection and affordable care act
27 (P.L. 111-148) and consistent with the benefits provided by the refer-
28 ence plan selected by the commissioner for the purposes of defining such
29 benefits, ~~and~~ (ii) dental and vision services as defined by the
30 commissioner, and (iii) as defined by the commissioner and subject to
31 federal approval, certain services and supports provided to enrollees
32 who have functional limitations and/or chronic illnesses that have the
33 primary purpose of supporting the ability of the enrollee to live or
34 work in the setting of their choice, which may include the individual's
35 home, a worksite, or a provider-owned or controlled residential setting;

36 § 7. Paragraph (c) of subdivision 1 of section 369-gg of the social
37 services law, as added by section 51 of part C of chapter 60 of the laws
38 of 2014, is amended to read as follows:

39 (c) "Health care services" means (i) the services and supplies as
40 defined by the commissioner in consultation with the superintendent of
41 financial services, and shall be consistent with and subject to the
42 essential health benefits as defined by the commissioner in accordance
43 with the provisions of the patient protection and affordable care act
44 (P.L. 111-148) and consistent with the benefits provided by the refer-
45 ence plan selected by the commissioner for the purposes of defining such
46 benefits, and (ii) as defined by the commissioner and subject to federal
47 approval, certain services and supports provided to enrollees who have
48 functional limitations and/or chronic illnesses that have the primary
49 purpose of supporting the ability of the enrollee to live or work in the
50 setting of their choice, which may include the individual's home, a
51 worksite, or a provider-owned or controlled residential setting;

52 § 8. This act shall take effect immediately and shall be deemed to
53 have been in full force and effect on and after April 1, 2022, provided
54 however:

55 (a) section one-a of this act shall take effect on January 1, 2023;

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1 (b) the amendments to paragraph (d) of subdivision 3 of section 369-gg
2 of the social services law made by section two of this act shall be
3 subject to the expiration and reversion of such paragraph pursuant to
4 section 3 of part H of chapter 57 of the laws of 2021 as amended, when
5 upon such date the provisions of section three of this act shall take
6 effect;

7 (c) section four of this act shall expire and be deemed repealed
8 December 31, 2024; provided, however, the amendments to paragraph (c) of
9 subdivision 1 of section 369-gg of the social services law made by such
10 section of this act shall be subject to the expiration and reversion of
11 such paragraph pursuant to section 2 of part H of chapter 57 of the laws
12 of 2021 when upon such date, the provisions of section five of this act
13 shall take effect; provided, however, the amendments to such paragraph
14 made by section five of this act shall expire and be deemed repealed
15 December 31, 2024; and

16 (d) section six of this act shall take effect January 1, 2025;
17 provided, however, the amendments to paragraph (c) of subdivision 1 of
18 section 369-gg of the social services law made by such section of this
19 act shall be subject to the expiration and reversion of such paragraph
20 pursuant to section 2 of part H of chapter 57 of the laws of 2021 when
21 upon such date, the provisions of section seven of this act shall take
22 effect.

23

PART R

24 Section 1. Legislative findings. The legislature finds that New York
25 has a long history of advancing gender equity and, as part of that
26 effort, reproductive health.

27 The legislature additionally finds that access to the full range of
28 health benefits, as guaranteed under the laws of this state, provides
29 all New Yorkers with the opportunity to lead healthier and more fulfill-
30 ing lives.

31 The legislature also finds that neither a person's income level nor
32 the type of health insurance they utilize should prevent them from
33 having access to a full range of reproductive health care, including
34 abortion care.

35 The legislature additionally finds that restrictions and barriers to
36 health coverage for reproductive health care have a disproportionate
37 impact on low-income people, people of color, immigrants, and young
38 people and that these individuals are often already disadvantaged in
39 their access to resources, information, and services.

40 The legislature also finds that the exclusion of coverage for repro-
41 ductive health care services for women and those with the capacity to
42 become pregnant is discrimination on the basis of sex and pregnancy.

43 The legislature finds that abortion care is part of pregnancy-related
44 care, and failure to provide coverage for the full range of pregnancy-
45 related care interferes with an individual's personal health care deci-
46 sion making, their overall health and well-being and with their consti-
47 tutionally protected right to safe and legal abortion care.

48 § 2. Subsection (i) of section 3216 of the insurance law is amended by
49 adding a new paragraph 36 to read as follows:

50 (36)(A) Every policy which provides hospital, surgical, or medical
51 coverage and which offers maternity care coverage pursuant to paragraph
52 ten of this subsection shall also provide coverage for abortion services
53 for an enrollee.

1 (B) Coverage for abortion shall not be subject to annual deductibles
2 or coinsurance, including co-payments, unless the policy is a high
3 deductible health plan as defined in section 223(c)(2) of the internal
4 revenue code of 1986, in which case coverage for abortion may be subject
5 to the plan's annual deductible.

6 (C) If the superintendent concludes that enforcement of this paragraph
7 may adversely affect the allocation of federal funds to the state, the
8 superintendent may grant an exemption to the requirements of this para-
9 graph, but only to the minimum extent necessary to ensure the continued
10 receipt of federal funds.

11 § 3. Subsection (k) of section 3221 of the insurance law is amended by
12 adding a new paragraph 22 to read as follows:

13 (22)(A) Every policy which provides hospital, surgical, or medical
14 coverage and which offers maternity care coverage pursuant to paragraph
15 five of this subsection shall also provide coverage for abortion
16 services for an enrollee.

17 (B) Coverage for abortion shall not be subject to annual deductibles
18 or coinsurance, including co-payments, unless the policy is a high
19 deductible health plan as defined in section 223(c)(2) of the internal
20 revenue code of 1986, in which case coverage for abortion may be subject
21 to the plan's annual deductible.

22 (C) Notwithstanding any other provision, a group policy that provides
23 hospital, surgical, or medical expense coverage delivered or issued for
24 delivery in this state to a religious employer, as defined in item one
25 of subparagraph (E) of paragraph sixteen of subsection (l) of this
26 section, may exclude coverage for abortion only if the insurer:

27 (i) Obtains an annual certification from the group policyholder that
28 the policyholder is a religious employer and that the religious employer
29 requests a policy without coverage for abortion;

30 (ii) Issues a rider to each certificateholder at no premium to be
31 charged to the certificateholder or religious employer for the rider,
32 that provides coverage for abortion subject to the same rules as would
33 have been applied to the same category of treatment in the policy issued
34 to the religious employer. The rider shall clearly and conspicuously
35 specify that the religious employer does not administer abortion bene-
36 fits, but that the insurer is issuing a rider for coverage of abortion,
37 and shall provide the insurer's contact information for questions; and

38 (iii) Provides notice of the issuance of the policy and rider to the
39 superintendent in a form and manner acceptable to the superintendent.

40 (D) If the superintendent concludes that enforcement of this paragraph
41 may adversely affect the allocation of federal funds to the state, the
42 superintendent may grant an exemption to the requirements, but only to
43 the minimum extent necessary to ensure the continued receipt of federal
44 funds.

45 § 4. Section 4303 of the insurance law is amended by adding a new
46 subsection (ss) to read as follows:

47 (ss)(1) Every policy which provides hospital, surgical, or medical
48 coverage and which offers maternity care coverage pursuant to subsection
49 (c) of this section shall also provide coverage for abortion services
50 for an enrollee.

51 (2) Coverage for abortion shall not be subject to annual deductibles
52 or coinsurance, including co-payments, unless the policy is a high
53 deductible health plan as defined in section 223(c)(2) of the internal
54 revenue code of 1986, in which case coverage for abortion may be subject
55 to the plan's annual deductible.

1 (3) Notwithstanding any other provision, a group policy that provides
 2 hospital, surgical, or medical expense coverage delivered or issued for
 3 delivery in this state to a religious employer, as defined in paragraph
 4 five of subsection (cc) of this section, may exclude coverage for
 5 abortion only if the insurer:

6 (A) Obtains an annual certification from the group policyholder that
 7 the policyholder is a religious employer and that the religious employer
 8 requests a policy without coverage for abortion;

9 (B) Issues a rider to each certificateholder at no premium to be
 10 charged to the certificateholder or religious employer for the rider,
 11 that provides coverage for abortion subject to the same rules as would
 12 have been applied to the same category of treatment in the policy issued
 13 to the religious employer. The rider shall clearly and conspicuously
 14 specify that the religious employer does not administer abortion bene-
 15 fits, but that the insurer is issuing a rider for coverage of abortion,
 16 and shall provide the insurer's contact information for questions; and

17 (C) Provides notice of the issuance of the policy and rider to the
 18 superintendent in a form and manner acceptable to the superintendent.

19 (4) If the superintendent concludes that enforcement of this
 20 subsection may adversely affect the allocation of federal funds to the
 21 state, the superintendent may grant an exemption to the requirements,
 22 but only to the minimum extent necessary to ensure the continued receipt
 23 of federal funds.

24 § 5. Severability. If any provision of this act, or any application of
 25 any provision of this act, is held to be invalid, or to violate or be
 26 inconsistent with any federal law or regulation, that shall not affect
 27 the validity or effectiveness of any other provision of this act, or of
 28 any other application of any provision of this act, which can be given
 29 effect without that provision or application; and to that end, the
 30 provisions and applications of this act are severable.

31 § 6. This act shall take effect on the first of January next succeed-
 32 ing the date on which it shall have become a law and shall apply to all
 33 policies and contracts issued, renewed, modified, altered, or amended on
 34 or after such date.

35

PART 5

36 Section 1. Subdivision 2 of section 365-a of the social services law
 37 is amended by adding a new paragraph (jj) to read as follows:

38 (jj) pre-natal and post-partum care and services for the purpose of
 39 improving maternal health outcomes and reduction of maternal mortality,
 40 as determined by the commissioner of health, when such services are
 41 recommended by a physician or other licensed practitioner of the healing
 42 arts, and provided by qualified practitioners, as determined by the
 43 commissioner of health; provided, however, that the provisions of this
 44 paragraph shall not take effect unless all necessary approvals under
 45 federal law and regulation have been obtained to receive federal finan-
 46 cial participation in the costs of services provided pursuant to this
 47 paragraph. Nothing in this paragraph shall be construed to modify any
 48 licensure, certification or scope of practice provision under title
 49 eight of the education law.

50 § 2. Subparagraph 3 of paragraph (d) of subdivision 1 of section 366
 51 of the social services law, as added by section 1 of part D of chapter
 52 56 of the laws of 2013, is amended to read as follows:

53 (3) cooperates with the appropriate social services official or the
 54 department in establishing paternity or in establishing, modifying, or

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1 enforcing a support order with respect to his or her child; provided,
 2 however, that nothing herein contained shall be construed to require a
 3 payment under this title for care or services, the cost of which may be
 4 met in whole or in part by a third party; notwithstanding the foregoing,
 5 a social services official shall not require such cooperation if the
 6 social services official or the department determines that such actions
 7 would be detrimental to the best interest of the child, applicant, or
 8 recipient, or with respect to pregnant women during pregnancy and during
 9 the [~~sixty-day~~] one year period beginning on the last day of pregnancy,
 10 in accordance with procedures and criteria established by regulations of
 11 the department consistent with federal law; and

12 § 3. Subparagraph 1 of paragraph (b) of subdivision 4 of section 366
 13 of the social services law, as added by section 2 of part D of chapter
 14 56 of the laws of 2013, is amended to read as follows:

15 (1) A pregnant woman eligible for medical assistance under subpara-
 16 graph two or four of paragraph (b) of subdivision one of this section on
 17 any day of her pregnancy will continue to be eligible for such care and
 18 services [~~through the end of the month in which the sixtieth day follow-~~
 19 ~~ing the end of the pregnancy occurs,~~] for a period of one year beginning
 20 on the last day of pregnancy, without regard to any change in the income
 21 of the family that includes the pregnant woman, even if such change
 22 otherwise would have rendered her ineligible for medical assistance.
 23 Notwithstanding the provisions of this subparagraph, individuals who
 24 meet the eligibility requirements for medical assistance under subpara-
 25 graph eight of paragraph (b) of subdivision one of this section, shall
 26 continue to be eligible for medical assistance under this subparagraph
 27 through the end of the month in which the sixtieth day following the
 28 last day of the pregnancy occurs.

29 § 4. Paragraph (b) of subdivision 1 of section 366 of the social
 30 services law is amended by adding a new subparagraph 8 to read as
 31 follows:

32 (8) Notwithstanding the provisions of subparagraph two of this para-
 33 graph, a pregnant individual that is ineligible for federally funded
 34 medical assistance solely due to their immigration status is eligible
 35 for standard coverage if their MAGI household income does not exceed the
 36 MAGI-equivalent of two hundred percent of the federal poverty line for
 37 the applicable family size, which shall be calculated in accordance with
 38 guidance issued by the secretary of the United States department of
 39 health and human services.

40 § 5. Section 369-hh of the social services law is REPEALED.

41 § 6. This act shall take effect immediately and shall be deemed to
 42 have been in full force and effect on and after April 1, 2022; provided,
 43 however, that sections two, three, four and five of this act shall take
 44 effect March 1, 2023. The commissioner of health shall immediately take
 45 all steps necessary and shall use best efforts to secure federal finan-
 46 cial participation for eligible beneficiaries under title XIX of the
 47 social security act, for the purposes of this act, including the prompt
 48 submission of appropriate amendments to the title XIX state plan.

49 PART T

50 Intentionally Omitted

51 PART U

1 Section 1. Subdivision 7 of section 2510 of the public health law, as
2 amended by chapter 436 of the laws of 2021, is amended to read as
3 follows:

4 7. "Covered health care services" means: the services of physicians,
5 optometrists, nurses, nurse practitioners, midwives and other related
6 professional personnel which are provided on an outpatient basis,
7 including routine well-child visits; diagnosis and treatment of illness
8 and injury; inpatient health care services; laboratory tests; diagnostic
9 x-rays; prescription and non-prescription drugs, ostomy and other
10 medical supplies and durable medical equipment; radiation therapy;
11 chemotherapy; hemodialysis; outpatient blood clotting factor products
12 and other treatments and services furnished in connection with the care
13 of hemophilia and other blood clotting protein deficiencies; emergency
14 room services; ambulance services; hospice services; emergency, preven-
15 tive and routine dental care, including [~~medically necessary~~] orthodon-
16 tia but excluding cosmetic surgery; emergency, preventive and routine
17 vision care, including eyeglasses; speech and hearing services; [~~and;~~]
18 inpatient and outpatient mental health, alcohol and substance abuse
19 services, including children and family treatment and support services,
20 children's home and community based services, assertive community treat-
21 ment services and residential rehabilitation for youth services; and
22 health-related services provided by voluntary foster care agency health
23 facilities licensed pursuant to article twenty-nine-I of this chapter;
24 as defined by the commissioner [~~in consultation with the superinten-~~
25 ~~dent~~]. "Covered health care services" shall not include drugs, proce-
26 dures and supplies for the treatment of erectile dysfunction when
27 provided to, or prescribed for use by, a person who is required to
28 register as a sex offender pursuant to article six-C of the correction
29 law, provided that any denial of coverage of such drugs, procedures or
30 supplies shall provide the patient with the means of obtaining addi-
31 tional information concerning both the denial and the means of challeng-
32 ing such denial.

33 § 2. Subdivision 9 of section 2510 of the public health law is amended
34 by adding a new paragraph (e) to read as follows:

35 (e) for periods on or after October first, two thousand twenty-two,
36 amounts as follows:

37 (i) no payments are required for eligible children whose family house-
38 hold income is less than two hundred twenty-three percent of the non-
39 farm federal poverty level and for eligible children who are American
40 Indians or Alaskan Natives, as defined by the United States department
41 of health and human services, whose family household income is less than
42 two hundred fifty-one percent of the non-farm federal poverty level; and

43 (ii) fifteen dollars per month for each eligible child whose family
44 household income is between two hundred twenty-three percent and two
45 hundred fifty percent of the non-farm federal poverty level, but no more
46 than forty-five dollars per month per family; and

47 (iii) thirty dollars per month for each eligible child whose family
48 household income is between two hundred fifty-one percent and three
49 hundred percent of the non-farm federal poverty level, but no more than
50 ninety dollars per month per family; and

51 (iv) forty-five dollars per month for each eligible child whose family
52 household income is between three hundred one percent and three hundred
53 fifty percent of the non-farm federal poverty level, but no more than
54 one hundred thirty-five dollars per month per family; and

55 (v) sixty dollars per month for each eligible child whose family
56 household income is between three hundred fifty-one percent and four

1 hundred percent of the non-farm federal poverty level, but no more than
2 one hundred eighty dollars per month per family.

3 § 3. Subdivision 8 of section 2511 of the public health law is amended
4 by adding a new paragraph (i) to read as follows:

5 (i) Notwithstanding any inconsistent provision of this title, arti-
6 cles thirty-two and forty-three of the insurance law and subsection (e)
7 of section eleven hundred twenty of the insurance law:

8 (i) The commissioner shall, subject to approval of the director of the
9 division of the budget, develop reimbursement methodologies for deter-
10 mining the amount of subsidy payments made to approved organizations for
11 the cost of covered health care services coverage provided pursuant to
12 this title for payments made on and after January first, two thousand
13 twenty-four.

14 (ii) Effective January first, two thousand twenty-three, the commis-
15 sioner shall coordinate with the superintendent of financial services
16 for the transition of the subsidy payment rate setting function to the
17 department and, in conjunction with its independent actuary, review
18 reimbursement methodologies developed in accordance with subparagraph
19 (i) of this paragraph. Notwithstanding section one hundred sixty-three
20 of the state finance law, the commissioner may select and contract with
21 the independent actuary selected pursuant to subdivision eighteen of
22 section three hundred sixty-four-j of the social services law, without a
23 competitive bid or request for proposal process. Such independent actu-
24 ary shall review and make recommendations concerning appropriate actuar-
25 ial assumptions relevant to the establishment of reimbursement methodol-
26 ogies, including but not limited to the adequacy of subsidy payment
27 amounts in relation to the population to be served adjusted for case
28 mix, the scope of services approved organizations must provide, the
29 utilization of such services and the network of providers required to
30 meet state standards.

31 § 4. Paragraph b of subdivision 7 of section 2511 of the public health
32 law, as amended by chapter 923 of the laws of 1990, is amended to read
33 as follows:

34 (b) The commissioner, in consultation with the superintendent, shall
35 make a determination whether to approve, disapprove or recommend modifi-
36 cation of the proposal. In order for a proposal to be approved by the
37 commissioner, the proposal must also be approved by the superintendent
38 with respect to the provisions of subparagraphs [~~(viii) through~~] (ix)
39 and (xii) of paragraph (a) of this subdivision.

40 § 5. Section 2511 of the public health law is amended by adding subdivi-
41 sion 22 to read as follows:

42 22. Notwithstanding the provisions of this title and effective on and
43 after January first, two thousand twenty-three, the consultative,
44 review, and approval functions of the superintendent of financial
45 services related to administration of the child health insurance plan
46 are no longer applicable and references to those functions in this title
47 shall be null and void. The child health insurance plan set forth in
48 this title shall be administered solely by the commissioner. All child
49 health insurance plan policies reviewed and approved by the superinten-
50 dent of financial services in accordance with section eleven hundred
51 twenty of the insurance law shall remain in effect until the commis-
52 sioner establishes a process to review and approve member handbooks in
53 accordance with the requirements of Title XXI of the federal social
54 security act and implementing regulations, and such member handbooks are
55 issued by approved organizations to enrollees in place of child health

1 insurance plan policies which were subject to review under section elev-
 2 en hundred twenty of the insurance law.

3 § 6. This act shall take effect immediately; provided, however, that
 4 sections one, three and four of this act shall take effect January 1,
 5 2023 and sections two and five of this act shall take effect April 1,
 6 2022.

7

PART V

8 Section 1. Paragraph (y) of subdivision 2 of section 2999-cc of the
 9 public health law, as amended by section 3 of part F of chapter 57 of
 10 the laws of 2021, is amended and a new subdivision 8 is added to read as
 11 follows:

12 (y) any [~~other provider as determined by the commissioner pursuant to~~
 13 ~~regulation or, in consultation with the commissioner, by the commission-~~
 14 ~~er of the office of mental health, the commissioner of the office of~~
 15 ~~addiction services and supports, or the commissioner of the office for~~
 16 ~~people with developmental disabilities pursuant to regulation] health
 17 care provider who:~~

18 (i) possesses the requisite license, certification, registration,
 19 authorization or credentialing to provide a health care service in New
 20 York state; and

21 (ii) reasonably determines that it is clinically appropriate to deliv-
 22 er such health care service via telehealth.

23 8. "Health care plan" means an entity (other than a health care
 24 provider) that approves, provides, arranges for, or pays for health care
 25 services, including but not limited to:

26 (a) a health maintenance organization licensed under article forty-
 27 three of the insurance law;

28 (b) a health maintenance organization or other organization certified
 29 under article forty-four of this chapter;

30 (c) an insurer or corporation subject to the insurance law; and

31 (d) the medical assistance program under title eleven of article five
 32 of the social services law ("medicaid"); the child health plus program
 33 under title one-A of article twenty-five of this chapter, and the basic
 34 health program under section three hundred sixty-nine-gg of the social
 35 services law.

36 § 2. Section 2999-dd of the public health law, as amended by section 4
 37 of subpart C of part S of chapter 57 of the laws of 2018, subdivision 1
 38 as amended by chapter 124 of the laws of 2020, subdivisions 3 and 4 as
 39 added by chapter 328 of the laws of 2020, is amended to read as follows:

40 § 2999-dd. Telehealth delivery of services. 1. [~~Health care services~~
 41 ~~delivered by means of telehealth shall be entitled to reimbursement~~
 42 ~~under section three hundred sixty-seven-u of the social services law;~~
 43 ~~provided however, reimbursement for additional modalities, provider~~
 44 ~~categories and originating sites specified in accordance with section~~
 45 ~~twenty-nine hundred ninety-nine-ee of this article, and audio-only tele-~~
 46 ~~phone communication defined in regulations promulgated pursuant to~~
 47 ~~subdivision four of section twenty-nine hundred ninety-nine-cc of this~~
 48 ~~article, shall be contingent upon federal financial participation.] (a)~~

49 A health care service may be delivered by means of telehealth by a tele-
 50 health provider otherwise authorized to perform that service. A health
 51 care service delivered by telehealth shall be with the consent of the
 52 patient or a person authorized to consent for the patient. The consent
 53 shall be documented in the patient's medical record.

1 (b) In-person contact between a telehealth provider and a patient
2 prior to the delivery of health care services via telehealth shall not
3 be required, unless the provider determines it to be clinically neces-
4 sary.

5 2. (a) A health care plan shall cover a service, regardless of whether
6 it is provided by telehealth, if the service would otherwise be covered
7 by the health care plan and the provider is otherwise covered by the
8 health care plan.

9 (b) A health care plan shall reimburse a treating or consulting health
10 care provider for health care services appropriately delivered by tele-
11 health on the same basis, at the same rate, and to the same extent that
12 the health care plan reimburses for the service when provided through
13 in-person diagnosis, consultation, or treatment.

14 (c) A health care plan may subject the coverage of a telehealth
15 service to copayments, coinsurance or deductibles if they are at least
16 as favorable to the enrollee as would apply if the service is not
17 provided by telehealth.

18 (d) This article does not alter any obligation a health care plan may
19 have to ensure that enrollees have access to all covered services
20 through an adequate network of contracted providers.

21 (e) With respect to health care plans under paragraph (d) of subdivi-
22 sion eight of section 2999-cc of this article (medicaid, child health
23 plus, and the basic health plan), this article shall only apply where
24 there is federal financial participation. The commissioner shall make
25 state plan amendments and seek federal waivers as necessary to obtain
26 that federal financial participation.

27 3. The department of health, the office of mental health, the office
28 of [~~alcoholism and substance abuse services~~] addiction services and
29 supports, and the office for people with developmental disabilities
30 shall coordinate on the issuance of a single guidance document, to be
31 updated as appropriate, that shall: (a) identify any differences in
32 regulations or policies issued by the agencies, including with respect
33 to reimbursement [~~pursuant to section three hundred sixty-seven-u of the~~
34 ~~social services law~~]; and (b) be designed to assist consumers, provid-
35 ers, and health care plans in understanding and facilitating the appro-
36 priate use of telehealth in addressing barriers to care.

37 [~~3-~~] 4. The authority of the department of financial services to
38 establish and enforce minimum standards for accident and health insur-
39 ance under articles thirty-two and forty-three of the insurance law
40 shall include enforcement of telehealth standards set forth in this
41 article.

42 5. (a) Dental telehealth services shall adhere to the standards of
43 appropriate patient care required in other dental health care settings,
44 including but not limited to appropriate patient examination, taking of
45 x-rays, and review of a patient's medical and dental history. All dental
46 telehealth providers shall identify themselves to patients, including
47 providing the professional's New York state license number. No dental
48 telehealth provider shall attempt to waive liability for its telehealth
49 services in advance of delivering such telehealth services and no dental
50 telehealth provider shall attempt to prevent a patient from filing any
51 complaint with any governmental agency or authority.

52 (b) This subdivision shall not be construed to diminish requirements
53 for other telehealth services.

54 [~~4-~~] 6. Nothing in this article shall be deemed to allow any person to
55 provide any service for which a license, registration, certification or

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1 other authorization under title eight of the education law is required
2 and which the person does not possess.

3 § 3. If any provision of this act, or any application of any provision
4 of this act, is held to be invalid, or to violate or be inconsistent
5 with any federal law or regulation, that shall not affect the validity
6 or effectiveness of any other provision of this act, or of any other
7 application of any provision of this act, which can be given effect
8 without that provision or application; and to that end, the provisions
9 and applications of this act are severable.

10 § 4. This act shall take effect on the first of January next succeed-
11 ing the date on which it shall have become a law and shall apply to all
12 policies and contracts issued, renewed, modified, altered or amended on
13 or after such date. Effective immediately, the commissioner of health,
14 the superintendent of the department of financial services, the commis-
15 sioner of the office of mental health, the commissioner of the office of
16 addiction services and supports, and the commissioner of the office for
17 people with developmental disabilities shall make regulations and take
18 other actions reasonably necessary to implement this act on that date.

19 PART W

20 Intentionally Omitted

21 PART X

22 Intentionally Omitted

23 PART Y

24 Section 1. The domestic relations law is amended by adding a new
25 section 20-c to read as follows:

26 § 20-c. Certification of marriage; new certificate in case of subse-
27 quent change of name or gender. 1. A new marriage certificate shall be
28 issued by the town or city clerk where the marriage license and certif-
29 icate was issued, upon receipt of proper proof of a change of name or
30 gender designation. Proper proof shall consist of: (a) a judgment, order
31 or decree affirming a change of name or gender designation of either
32 party to a marriage; (b) an amended birth certificate demonstrating a
33 change of name or gender designation; or (c) such other proof as may be
34 established by the commissioner of health.

35 2. On every new marriage certificate made pursuant to this section, a
36 notation that it is filed pursuant to this section shall be entered
37 thereon.

38 3. When a new marriage certificate is made pursuant to this section,
39 the town or city clerk shall substitute such new certificate for the
40 marriage certificate then on file, if any, and shall send the state
41 commissioner of health a digital copy of the new marriage certificate in
42 a format prescribed by the commissioner, with the exception of the city
43 clerk of New York who shall retain their copy. The town or city clerk
44 shall make a copy of the new marriage certificate for the local record
45 and hold the contents of the original marriage certificate confidential
46 along with all supporting documentation, papers and copies pertaining
47 thereto. It shall not be released or otherwise divulged except by order
48 of a court of competent jurisdiction.

1 4. The town or city clerk shall be entitled to a fee of ten dollars
 2 for the amendment and certified copy of any marriage certificate in
 3 accordance with the provisions of this section.

4 5. The state commissioner of health may, in their discretion, report
 5 to the attorney general any town or city clerk that, without cause,
 6 fails to issue a new marriage certificate upon receipt of proper proof
 7 of a change of name or gender designation in accordance with this
 8 section. The attorney general shall thereupon, in the name of the state
 9 commissioner of health or the people of the state, institute such action
 10 or proceeding as may be necessary to compel the issuance of such new
 11 marriage certificate.

12 § 2. This act shall take effect one year after it shall have become a
 13 law.

14

PART Z

15 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
 16 of the laws of 1986, amending the civil practice law and rules and other
 17 laws relating to malpractice and professional medical conduct, as
 18 amended by section 1 of part K of chapter 57 of the laws of 2021, is
 19 amended to read as follows:

20 (a) The superintendent of financial services and the commissioner of
 21 health or their designee shall, from funds available in the hospital
 22 excess liability pool created pursuant to subdivision 5 of this section,
 23 purchase a policy or policies for excess insurance coverage, as author-
 24 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
 25 law; or from an insurer, other than an insurer described in section 5502
 26 of the insurance law, duly authorized to write such coverage and actual-
 27 ly writing medical malpractice insurance in this state; or shall
 28 purchase equivalent excess coverage in a form previously approved by the
 29 superintendent of financial services for purposes of providing equiv-
 30 alent excess coverage in accordance with section 19 of chapter 294 of
 31 the laws of 1985, for medical or dental malpractice occurrences between
 32 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
 33 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
 34 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
 35 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
 36 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
 37 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
 38 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
 39 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
 40 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
 41 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
 42 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
 43 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
 44 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
 45 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
 46 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
 47 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
 48 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
 49 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June
 50 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019
 51 and June 30, 2020, between July 1, 2020 and June 30, 2021, [~~and~~] between
 52 July 1, 2021 and June 30, 2022, and between July 1, 2022 and June 30,
 53 2023 or reimburse the hospital where the hospital purchases equivalent
 54 excess coverage as defined in subparagraph (i) of paragraph (a) of

1 subdivision 1-a of this section for medical or dental malpractice occur-
2 rences between July 1, 1987 and June 30, 1988, between July 1, 1988 and
3 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,
4 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between
5 July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994,
6 between July 1, 1994 and June 30, 1995, between July 1, 1995 and June
7 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997
8 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July
9 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001,
10 between July 1, 2001 and June 30, 2002, between July 1, 2002 and June
11 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004
12 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July
13 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008,
14 between July 1, 2008 and June 30, 2009, between July 1, 2009 and June
15 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011
16 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July
17 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015,
18 between July 1, 2015 and June 30, 2016, between July 1, 2016 and June
19 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018
20 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July
21 1, 2020 and June 30, 2021, ~~and~~ between July 1, 2021 and June 30, 2022,
22 and between July 1, 2022 and June 30, 2023 for physicians or dentists
23 certified as eligible for each such period or periods pursuant to subdivi-
24 sion 2 of this section by a general hospital licensed pursuant to
25 article 28 of the public health law; provided that no single insurer
26 shall write more than fifty percent of the total excess premium for a
27 given policy year; and provided, however, that such eligible physicians
28 or dentists must have in force an individual policy, from an insurer
29 licensed in this state of primary malpractice insurance coverage in
30 amounts of no less than one million three hundred thousand dollars for
31 each claimant and three million nine hundred thousand dollars for all
32 claimants under that policy during the period of such excess coverage
33 for such occurrences or be endorsed as additional insureds under a
34 hospital professional liability policy which is offered through a volun-
35 tary attending physician ("channeling") program previously permitted by
36 the superintendent of financial services during the period of such
37 excess coverage for such occurrences. During such period, such policy
38 for excess coverage or such equivalent excess coverage shall, when
39 combined with the physician's or dentist's primary malpractice insurance
40 coverage or coverage provided through a voluntary attending physician
41 ("channeling") program, total an aggregate level of two million three
42 hundred thousand dollars for each claimant and six million nine hundred
43 thousand dollars for all claimants from all such policies with respect
44 to occurrences in each of such years provided, however, if the cost of
45 primary malpractice insurance coverage in excess of one million dollars,
46 but below the excess medical malpractice insurance coverage provided
47 pursuant to this act, exceeds the rate of nine percent per annum, then
48 the required level of primary malpractice insurance coverage in excess
49 of one million dollars for each claimant shall be in an amount of not
50 less than the dollar amount of such coverage available at nine percent
51 per annum; the required level of such coverage for all claimants under
52 that policy shall be in an amount not less than three times the dollar
53 amount of coverage for each claimant; and excess coverage, when combined
54 with such primary malpractice insurance coverage, shall increase the
55 aggregate level for each claimant by one million dollars and three
56 million dollars for all claimants; and provided further, that, with

1 respect to policies of primary medical malpractice coverage that include
2 occurrences between April 1, 2002 and June 30, 2002, such requirement
3 that coverage be in amounts no less than one million three hundred thou-
4 sand dollars for each claimant and three million nine hundred thousand
5 dollars for all claimants for such occurrences shall be effective April
6 1, 2002.

7 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
8 amending the civil practice law and rules and other laws relating to
9 malpractice and professional medical conduct, as amended by section 2 of
10 part K of chapter 57 of the laws of 2021, is amended to read as follows:

11 (3)(a) The superintendent of financial services shall determine and
12 certify to each general hospital and to the commissioner of health the
13 cost of excess malpractice insurance for medical or dental malpractice
14 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
15 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
16 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
17 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
18 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
19 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
20 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
21 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
22 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
23 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
24 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
25 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
26 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
27 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
28 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,
29 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
30 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016
31 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July
32 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,
33 between July 1, 2020 and June 30, 2021, ~~and~~ between July 1, 2021 and
34 June 30, 2022, and between July 1, 2022 and June 30, 2023 allocable to
35 each general hospital for physicians or dentists certified as eligible
36 for purchase of a policy for excess insurance coverage by such general
37 hospital in accordance with subdivision 2 of this section, and may amend
38 such determination and certification as necessary.

39 (b) The superintendent of financial services shall determine and
40 certify to each general hospital and to the commissioner of health the
41 cost of excess malpractice insurance or equivalent excess coverage for
42 medical or dental malpractice occurrences between July 1, 1987 and June
43 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
44 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
45 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
46 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
47 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
48 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
49 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
50 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
51 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
52 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
53 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
54 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
55 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
56 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July

1 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
2 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
3 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
4 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
5 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, [and]
6 between July 1, 2021 and June 30, 2022, and between July 1, 2022 and
7 June 30, 2023 allocable to each general hospital for physicians or
8 dentists certified as eligible for purchase of a policy for excess
9 insurance coverage or equivalent excess coverage by such general hospi-
10 tal in accordance with subdivision 2 of this section, and may amend such
11 determination and certification as necessary. The superintendent of
12 financial services shall determine and certify to each general hospital
13 and to the commissioner of health the ratable share of such cost alloca-
14 ble to the period July 1, 1987 to December 31, 1987, to the period Janu-
15 ary 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31,
16 1988, to the period January 1, 1989 to June 30, 1989, to the period July
17 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30,
18 1990, to the period July 1, 1990 to December 31, 1990, to the period
19 January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December
20 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period
21 July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June
22 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period
23 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
24 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
25 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
26 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
27 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
28 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
29 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
30 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
31 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
32 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
33 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
34 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
35 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
36 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
37 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
38 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
39 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
40 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
41 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
42 period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and
43 June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the peri-
44 od July 1, 2018 to June 30, 2019, to the period July 1, 2019 to June 30,
45 2020, to the period July 1, 2020 to June 30, 2021, [and] to the period
46 July 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June
47 30, 2023.

48 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
49 18 of chapter 266 of the laws of 1986, amending the civil practice law
50 and rules and other laws relating to malpractice and professional
51 medical conduct, as amended by section 3 of part K of chapter 57 of the
52 laws of 2021, are amended to read as follows:

53 (a) To the extent funds available to the hospital excess liability
54 pool pursuant to subdivision 5 of this section as amended, and pursuant
55 to section 6 of part J of chapter 63 of the laws of 2001, as may from
56 time to time be amended, which amended this subdivision, are insuffi-

1 cient to meet the costs of excess insurance coverage or equivalent
2 excess coverage for coverage periods during the period July 1, 1992 to
3 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
4 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
5 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
6 during the period July 1, 1997 to June 30, 1998, during the period July
7 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
8 2000, during the period July 1, 2000 to June 30, 2001, during the period
9 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
10 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
11 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
12 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
13 during the period July 1, 2006 to June 30, 2007, during the period July
14 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
15 2009, during the period July 1, 2009 to June 30, 2010, during the period
16 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
17 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
18 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
19 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during
20 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017
21 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,
22 during the period July 1, 2019 to June 30, 2020, during the period July
23 1, 2020 to June 30, 2021, [and] during the period July 1, 2021 to June
24 30, 2022, and during the period July 1, 2022 to June 30, 2023 allocated
25 or reallocated in accordance with paragraph (a) of subdivision 4-a of
26 this section to rates of payment applicable to state governmental agen-
27 cies, each physician or dentist for whom a policy for excess insurance
28 coverage or equivalent excess coverage is purchased for such period
29 shall be responsible for payment to the provider of excess insurance
30 coverage or equivalent excess coverage of an allocable share of such
31 insufficiency, based on the ratio of the total cost of such coverage for
32 such physician to the sum of the total cost of such coverage for all
33 physicians applied to such insufficiency.

34 (b) Each provider of excess insurance coverage or equivalent excess
35 coverage covering the period July 1, 1992 to June 30, 1993, or covering
36 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
37 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
38 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
39 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
40 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
41 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
42 the period July 1, 2001 to October 29, 2001, or covering the period
43 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
44 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
45 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
46 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
47 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
48 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
49 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
50 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
51 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
52 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
53 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
54 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
55 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
56 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or

1 covering the period July 1, 2020 to June 30, 2021, or covering the peri-
2 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to
3 June 30, 2023 shall notify a covered physician or dentist by mail,
4 mailed to the address shown on the last application for excess insurance
5 coverage or equivalent excess coverage, of the amount due to such
6 provider from such physician or dentist for such coverage period deter-
7 mined in accordance with paragraph (a) of this subdivision. Such amount
8 shall be due from such physician or dentist to such provider of excess
9 insurance coverage or equivalent excess coverage in a time and manner
10 determined by the superintendent of financial services.

11 (c) If a physician or dentist liable for payment of a portion of the
12 costs of excess insurance coverage or equivalent excess coverage cover-
13 ing the period July 1, 1992 to June 30, 1993, or covering the period
14 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
15 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
16 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
17 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
18 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
19 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
20 od July 1, 2001 to October 29, 2001, or covering the period April 1,
21 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
22 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
23 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
24 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
25 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
26 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
27 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
28 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
29 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
30 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
31 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
32 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
33 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
34 2019, or covering the period July 1, 2019 to June 30, 2020, or covering
35 the period July 1, 2020 to June 30, 2021, or covering the period July 1,
36 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,
37 2023 determined in accordance with paragraph (a) of this subdivision
38 fails, refuses or neglects to make payment to the provider of excess
39 insurance coverage or equivalent excess coverage in such time and manner
40 as determined by the superintendent of financial services pursuant to
41 paragraph (b) of this subdivision, excess insurance coverage or equiv-
42 alent excess coverage purchased for such physician or dentist in accord-
43 ance with this section for such coverage period shall be cancelled and
44 shall be null and void as of the first day on or after the commencement
45 of a policy period where the liability for payment pursuant to this
46 subdivision has not been met.

47 (d) Each provider of excess insurance coverage or equivalent excess
48 coverage shall notify the superintendent of financial services and the
49 commissioner of health or their designee of each physician and dentist
50 eligible for purchase of a policy for excess insurance coverage or
51 equivalent excess coverage covering the period July 1, 1992 to June 30,
52 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
53 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
54 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
55 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
56 the period July 1, 1998 to June 30, 1999, or covering the period July 1,

1 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
2 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
3 ing the period April 1, 2002 to June 30, 2002, or covering the period
4 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
5 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
6 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
7 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
8 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
9 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
10 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
11 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
12 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
13 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
14 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
15 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
16 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to
17 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or
18 covering the period July 1, 2021 to June 30, 2022, or covering the peri-
19 od July 1, 2022 to June 1, 2023 that has made payment to such provider
20 of excess insurance coverage or equivalent excess coverage in accordance
21 with paragraph (b) of this subdivision and of each physician and dentist
22 who has failed, refused or neglected to make such payment.

23 (e) A provider of excess insurance coverage or equivalent excess
24 coverage shall refund to the hospital excess liability pool any amount
25 allocable to the period July 1, 1992 to June 30, 1993, and to the period
26 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
27 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
28 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
29 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
30 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
31 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
32 and to the period April 1, 2002 to June 30, 2002, and to the period July
33 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
34 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
35 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
36 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
37 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
38 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
39 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
40 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
41 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
42 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
43 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
44 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,
45 and to the period July 1, 2020 to June 30, 2021, and to the period July
46 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,
47 2023 received from the hospital excess liability pool for purchase of
48 excess insurance coverage or equivalent excess coverage covering the
49 period July 1, 1992 to June 30, 1993, and covering the period July 1,
50 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30,
51 1995, and covering the period July 1, 1995 to June 30, 1996, and cover-
52 ing the period July 1, 1996 to June 30, 1997, and covering the period
53 July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to
54 June 30, 1999, and covering the period July 1, 1999 to June 30, 2000,
55 and covering the period July 1, 2000 to June 30, 2001, and covering the
56 period July 1, 2001 to October 29, 2001, and covering the period April

1 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June
2 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and
3 covering the period July 1, 2004 to June 30, 2005, and covering the
4 period July 1, 2005 to June 30, 2006, and covering the period July 1,
5 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30,
6 2008, and covering the period July 1, 2008 to June 30, 2009, and cover-
7 ing the period July 1, 2009 to June 30, 2010, and covering the period
8 July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to
9 June 30, 2012, and covering the period July 1, 2012 to June 30, 2013,
10 and covering the period July 1, 2013 to June 30, 2014, and covering the
11 period July 1, 2014 to June 30, 2015, and covering the period July 1,
12 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30,
13 2017, and covering the period July 1, 2017 to June 30, 2018, and cover-
14 ing the period July 1, 2018 to June 30, 2019, and covering the period
15 July 1, 2019 to June 30, 2020, and covering the period July 1, 2020 to
16 June 30, 2021, and covering the period July 1, 2021 to June 30, 2022.,
17 and covering the period July 1, 2022 to June 30, 2023 for a physician or
18 dentist where such excess insurance coverage or equivalent excess cover-
19 age is cancelled in accordance with paragraph (c) of this subdivision.

20 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
21 practice law and rules and other laws relating to malpractice and
22 professional medical conduct, as amended by section 4 of part K of chap-
23 ter 57 of the laws of 2021, is amended to read as follows:

24 § 40. The superintendent of financial services shall establish rates
25 for policies providing coverage for physicians and surgeons medical
26 malpractice for the periods commencing July 1, 1985 and ending June 30,
27 ~~2022~~ 2023; provided, however, that notwithstanding any other provision
28 of law, the superintendent shall not establish or approve any increase
29 in rates for the period commencing July 1, 2009 and ending June 30,
30 2010. The superintendent shall direct insurers to establish segregated
31 accounts for premiums, payments, reserves and investment income attrib-
32 utable to such premium periods and shall require periodic reports by the
33 insurers regarding claims and expenses attributable to such periods to
34 monitor whether such accounts will be sufficient to meet incurred claims
35 and expenses. On or after July 1, 1989, the superintendent shall impose
36 a surcharge on premiums to satisfy a projected deficiency that is
37 attributable to the premium levels established pursuant to this section
38 for such periods; provided, however, that such annual surcharge shall
39 not exceed eight percent of the established rate until July 1, ~~2022~~
40 2023, at which time and thereafter such surcharge shall not exceed twen-
41 ty-five percent of the approved adequate rate, and that such annual
42 surcharges shall continue for such period of time as shall be sufficient
43 to satisfy such deficiency. The superintendent shall not impose such
44 surcharge during the period commencing July 1, 2009 and ending June 30,
45 2010. On and after July 1, 1989, the surcharge prescribed by this
46 section shall be retained by insurers to the extent that they insured
47 physicians and surgeons during the July 1, 1985 through June 30, ~~2022~~
48 2023 policy periods; in the event and to the extent physicians and
49 surgeons were insured by another insurer during such periods, all or a
50 pro rata share of the surcharge, as the case may be, shall be remitted
51 to such other insurer in accordance with rules and regulations to be
52 promulgated by the superintendent. Surcharges collected from physicians
53 and surgeons who were not insured during such policy periods shall be
54 apportioned among all insurers in proportion to the premium written by
55 each insurer during such policy periods; if a physician or surgeon was
56 insured by an insurer subject to rates established by the superintendent

1 during such policy periods, and at any time thereafter a hospital,
2 health maintenance organization, employer or institution is responsible
3 for responding in damages for liability arising out of such physician's
4 or surgeon's practice of medicine, such responsible entity shall also
5 remit to such prior insurer the equivalent amount that would then be
6 collected as a surcharge if the physician or surgeon had continued to
7 remain insured by such prior insurer. In the event any insurer that
8 provided coverage during such policy periods is in liquidation, the
9 property/casualty insurance security fund shall receive the portion of
10 surcharges to which the insurer in liquidation would have been entitled.
11 The surcharges authorized herein shall be deemed to be income earned for
12 the purposes of section 2303 of the insurance law. The superintendent,
13 in establishing adequate rates and in determining any projected defi-
14 ciency pursuant to the requirements of this section and the insurance
15 law, shall give substantial weight, determined in his discretion and
16 judgment, to the prospective anticipated effect of any regulations
17 promulgated and laws enacted and the public benefit of stabilizing
18 malpractice rates and minimizing rate level fluctuation during the peri-
19 od of time necessary for the development of more reliable statistical
20 experience as to the efficacy of such laws and regulations affecting
21 medical, dental or podiatric malpractice enacted or promulgated in 1985,
22 1986, by this act and at any other time. Notwithstanding any provision
23 of the insurance law, rates already established and to be established by
24 the superintendent pursuant to this section are deemed adequate if such
25 rates would be adequate when taken together with the maximum authorized
26 annual surcharges to be imposed for a reasonable period of time whether
27 or not any such annual surcharge has been actually imposed as of the
28 establishment of such rates.

29 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
30 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
31 1986, amending the civil practice law and rules and other laws relating
32 to malpractice and professional medical conduct, as amended by section 5
33 of part K of chapter 57 of the laws of 2021, are amended to read as
34 follows:

35 § 5. The superintendent of financial services and the commissioner of
36 health shall determine, no later than June 15, 2002, June 15, 2003, June
37 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
38 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
39 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June
40 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, [~~and~~] June 15,
41 2022, and June 15, 2023 the amount of funds available in the hospital
42 excess liability pool, created pursuant to section 18 of chapter 266 of
43 the laws of 1986, and whether such funds are sufficient for purposes of
44 purchasing excess insurance coverage for eligible participating physi-
45 cians and dentists during the period July 1, 2001 to June 30, 2002, or
46 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July
47 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,
48 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008
49 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to
50 June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June
51 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
52 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,
53 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30,
54 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30,
55 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023
56 as applicable.

1 (a) This section shall be effective only upon a determination, pursu-
2 ant to section five of this act, by the superintendent of financial
3 services and the commissioner of health, and a certification of such
4 determination to the state director of the budget, the chair of the
5 senate committee on finance and the chair of the assembly committee on
6 ways and means, that the amount of funds in the hospital excess liabil-
7 ity pool, created pursuant to section 18 of chapter 266 of the laws of
8 1986, is insufficient for purposes of purchasing excess insurance cover-
9 age for eligible participating physicians and dentists during the period
10 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
11 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
12 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
13 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
14 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
15 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
16 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
17 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
18 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
19 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,
20 2022, or July 1, 2022 to June 30, 2023 as applicable.

21 (e) The commissioner of health shall transfer for deposit to the
22 hospital excess liability pool created pursuant to section 18 of chapter
23 266 of the laws of 1986 such amounts as directed by the superintendent
24 of financial services for the purchase of excess liability insurance
25 coverage for eligible participating physicians and dentists for the
26 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
27 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
28 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
29 2007, as applicable, and the cost of administering the hospital excess
30 liability pool for such applicable policy year, pursuant to the program
31 established in chapter 266 of the laws of 1986, as amended, no later
32 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
33 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
34 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
35 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June
36 15, 2020, June 15, 2021, [~~and~~] June 15, 2022, and June 15, 2023 as
37 applicable.

38 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending
39 the New York Health Care Reform Act of 1996 and other laws relating to
40 extending certain provisions thereto, as amended by section 6 of part K
41 of chapter 57 of the laws of 2021, is amended to read as follows:

42 § 20. Notwithstanding any law, rule or regulation to the contrary,
43 only physicians or dentists who were eligible, and for whom the super-
44 intendent of financial services and the commissioner of health, or their
45 designee, purchased, with funds available in the hospital excess liabil-
46 ity pool, a full or partial policy for excess coverage or equivalent
47 excess coverage for the coverage period ending the thirtieth of June,
48 two thousand [~~twenty-one~~] twenty-two, shall be eligible to apply for
49 such coverage for the coverage period beginning the first of July, two
50 thousand [~~twenty-one~~] twenty-two; provided, however, if the total number
51 of physicians or dentists for whom such excess coverage or equivalent
52 excess coverage was purchased for the policy year ending the thirtieth
53 of June, two thousand [~~twenty-one~~] twenty-two exceeds the total number
54 of physicians or dentists certified as eligible for the coverage period
55 beginning the first of July, two thousand [~~twenty-one~~] twenty-two, then
56 the general hospitals may certify additional eligible physicians or

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1 dentists in a number equal to such general hospital's proportional share
2 of the total number of physicians or dentists for whom excess coverage
3 or equivalent excess coverage was purchased with funds available in the
4 hospital excess liability pool as of the thirtieth of June, two thousand
5 [~~twenty-one~~] twenty-two, as applied to the difference between the number
6 of eligible physicians or dentists for whom a policy for excess coverage
7 or equivalent excess coverage was purchased for the coverage period
8 ending the thirtieth of June, two thousand [~~twenty-one~~] twenty-two and
9 the number of such eligible physicians or dentists who have applied for
10 excess coverage or equivalent excess coverage for the coverage period
11 beginning the first of July, two thousand [~~twenty-one~~] twenty-two.

12 § 7. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2022.

14 PART AA

15 Intentionally Omitted

16 PART BB

17 Intentionally Omitted

18 PART CC

19 Section 1. Intentionally omitted.

20 § 2. Intentionally omitted.

21 § 3. Intentionally omitted.

22 § 4. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
23 the laws of 1996, amending the education law and other laws relating to
24 rates for residential healthcare facilities, as amended by section 22 of
25 part E of chapter 57 of the laws of 2019, is amended to read as follows:

26 (a) Notwithstanding any inconsistent provision of law or regulation to
27 the contrary, effective beginning August 1, 1996, for the period April
28 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
29 1998 through March 31, 1999, August 1, 1999, for the period April 1,
30 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
31 through March 31, 2001, April 1, 2001, for the period April 1, 2001
32 through March 31, 2002, April 1, 2002, for the period April 1, 2002
33 through March 31, 2003, and for the state fiscal year beginning April 1,
34 2005 through March 31, 2006, and for the state fiscal year beginning
35 April 1, 2006 through March 31, 2007, and for the state fiscal year
36 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
37 year beginning April 1, 2008 through March 31, 2009, and for the state
38 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
39 state fiscal year beginning April 1, 2010 through March 31, 2016, and
40 for the state fiscal year beginning April 1, 2016 through March 31,
41 2019, and for the state fiscal year beginning April 1, 2019 through
42 March 31, 2022, and for the state fiscal year beginning April 1, 2022
43 through March 31, 2025, the department of health is authorized to pay
44 public general hospitals, as defined in subdivision 10 of section 2801
45 of the public health law, operated by the state of New York or by the
46 state university of New York or by a county, which shall not include a
47 city with a population of over one million, of the state of New York,
48 and those public general hospitals located in the county of Westchester,

1 the county of Erie or the county of Nassau, additional payments for
2 inpatient hospital services as medical assistance payments pursuant to
3 title 11 of article 5 of the social services law for patients eligible
4 for federal financial participation under title XIX of the federal
5 social security act in medical assistance pursuant to the federal laws
6 and regulations governing disproportionate share payments to hospitals
7 up to one hundred percent of each such public general hospital's medical
8 assistance and uninsured patient losses after all other medical assist-
9 ance, including disproportionate share payments to such public general
10 hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on
11 reported 1994 reconciled data as further reconciled to actual reported
12 1996 reconciled data, and for 1997 based initially on reported 1995
13 reconciled data as further reconciled to actual reported 1997 reconciled
14 data, for 1998 based initially on reported 1995 reconciled data as
15 further reconciled to actual reported 1998 reconciled data, for 1999
16 based initially on reported 1995 reconciled data as further reconciled
17 to actual reported 1999 reconciled data, for 2000 based initially on
18 reported 1995 reconciled data as further reconciled to actual reported
19 2000 data, for 2001 based initially on reported 1995 reconciled data as
20 further reconciled to actual reported 2001 data, for 2002 based initial-
21 ly on reported 2000 reconciled data as further reconciled to actual
22 reported 2002 data, and for state fiscal years beginning on April 1,
23 2005, based initially on reported 2000 reconciled data as further recon-
24 ciled to actual reported data for 2005, and for state fiscal years
25 beginning on April 1, 2006, based initially on reported 2000 reconciled
26 data as further reconciled to actual reported data for 2006, for state
27 fiscal years beginning on and after April 1, 2007 through March 31,
28 2009, based initially on reported 2000 reconciled data as further recon-
29 ciled to actual reported data for 2007 and 2008, respectively, for state
30 fiscal years beginning on and after April 1, 2009, based initially on
31 reported 2007 reconciled data, adjusted for authorized Medicaid rate
32 changes applicable to the state fiscal year, and as further reconciled
33 to actual reported data for 2009, for state fiscal years beginning on
34 and after April 1, 2010, based initially on reported reconciled data
35 from the base year two years prior to the payment year, adjusted for
36 authorized Medicaid rate changes applicable to the state fiscal year,
37 and further reconciled to actual reported data from such payment year,
38 and to actual reported data for each respective succeeding year. The
39 payments may be added to rates of payment or made as aggregate payments
40 to an eligible public general hospital.

41 § 5. Intentionally omitted.

42 § 6. Intentionally omitted.

43 § 7. Intentionally omitted.

44 § 8. Intentionally omitted.

45 § 9. Intentionally omitted.

46 § 10. Intentionally omitted.

47 § 11. Intentionally omitted.

48 § 12. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after April 1, 2022.

50

PART DD

51 Section 1. 1. Subject to available appropriations and approval of the
52 director of the budget, the commissioners of the office of mental
53 health, office for people with developmental disabilities, office of
54 addiction services and supports, office of temporary and disability

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1 assistance, office of children and family services, and the state office
2 for the aging shall establish a state fiscal year 2022-23 cost of living
3 adjustment (COLA), effective April 1, 2022, for projecting for the
4 effects of inflation upon rates of payments, contracts, or any other
5 form of reimbursement for the programs and services listed in paragraphs
6 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this
7 section, and a state fiscal year 2023-2024 cost of living adjustment
8 (COLA), effective April 1, 2023, for projecting for the effects of
9 inflation upon rates of payments, contracts, or any other form of
10 reimbursement for the programs and services listed in paragraphs (i),
11 (ii), (iii), (iv), (v), and (vi) of subdivision four of this section.
12 The COLA established herein shall be applied to the appropriate portion
13 of reimbursable costs or contract amounts. Where appropriate, transfers
14 to the department of health (DOH) shall be made as reimbursement for the
15 state share of medical assistance.

16 2. Notwithstanding any inconsistent provision of law, subject to the
17 approval of the director of the budget and available appropriations
18 therefore, for the period of April 1, 2022 through March 31, 2023, and
19 for the period of April 1, 2023 through March 31, 2024, the commission-
20 ers shall provide funding to support a five and four-tenths percent
21 (5.4%) cost of living adjustment under this section for all eligible
22 programs and services as determined pursuant to subdivision four of this
23 section.

24 3. Notwithstanding any inconsistent provision of law, and as approved
25 by the director of the budget, the 5.4 percent cost of living adjustment
26 (COLA) established herein shall be inclusive of all other cost of living
27 type increases, inflation factors, or trend factors that are newly
28 applied effective April 1, 2022, and April 1, 2023. Except for the 5.4
29 percent cost of living adjustment (COLA) established herein, for the
30 period commencing on April 1, 2022 and ending March 31, 2023, and the
31 period commencing on April 1, 2023 and ending March 31, 2024, the
32 commissioners shall not apply any other new cost of living adjustments
33 for the purpose of establishing rates of payments, contracts or any
34 other form of reimbursement. The phrase "all other cost of living type
35 increases, inflation factors, or trend factors" as defined in this
36 subdivision shall not include payments made pursuant to the American
37 Rescue Plan Act or other federal relief programs related to the Corona-
38 virus Disease 2019 (COVID-19) pandemic Public Health Emergency.

39 4. Eligible programs and services. (i) Programs and services funded,
40 licensed, or certified by the office of mental health (OMH) eligible for
41 the cost of living adjustment established herein, pending federal
42 approval where applicable, include: office of mental health licensed
43 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
44 the office of mental health regulations including clinic, continuing day
45 treatment, day treatment, intensive outpatient programs and partial
46 hospitalization; outreach; crisis residence; crisis stabilization,
47 crisis/respice beds; mobile crisis, part 590 comprehensive psychiatric
48 emergency program services; crisis intervention; home based crisis
49 intervention; family care; supported single room occupancy; supported
50 housing; supported housing community services; treatment congregate;
51 supported congregate; community residence - children and youth;
52 treatment/apartment; supported apartment; community residence single
53 room occupancy; on-site rehabilitation; employment programs; recreation;
54 respice care; transportation; psychosocial club; assertive community
55 treatment; case management; care coordination, including health home
56 plus services; local government unit administration; monitoring and

1 evaluation; children and youth vocational services; single point of
2 access; school-based mental health program; family support children and
3 youth; advocacy/support services; drop in centers; recovery centers;
4 transition management services; bridger; home and community based waiver
5 services; behavioral health waiver services authorized pursuant to the
6 section 1115 MRT waiver; self-help programs; consumer service dollars;
7 conference of local mental hygiene directors; multicultural initiative;
8 ongoing integrated supported employment services; supported education;
9 mentally ill/chemical abuse (MICA) network; personalized recovery
10 oriented services; children and family treatment and support services;
11 residential treatment facilities operating pursuant to part 584 of title
12 14-NYCRR; geriatric demonstration programs; community-based mental
13 health family treatment and support; coordinated children's service
14 initiative; homeless services; and promises zone.

15 (ii) Programs and services funded, licensed, or certified by the
16 office for people with developmental disabilities (OPWDD) eligible for
17 the cost of living adjustment established herein, pending federal
18 approval where applicable, include: local/unified services; chapter 620
19 services; voluntary operated community residential services; article 16
20 clinics; day treatment services; family support services; 100% day
21 training; epilepsy services; traumatic brain injury services; hepatitis
22 B services; independent practitioner services for individuals with
23 intellectual and/or developmental disabilities; crisis services for
24 individuals with intellectual and/or developmental disabilities; family
25 care residential habilitation; supervised residential habilitation;
26 supportive residential habilitation; respite; day habilitation; prevoca-
27 tional services; supported employment; community habilitation; interme-
28 diate care facility day and residential services; specialty hospital;
29 pathways to employment; intensive behavioral services; basic home and
30 community based services (HCBS) plan support; health home services
31 provided by care coordination organizations; community transition
32 services; family education and training; fiscal intermediary; support
33 broker; and personal resource accounts.

34 (iii) Programs and services funded, licensed, or certified by the
35 office of addiction services and supports (OASAS) eligible for the cost
36 of living adjustment established herein, pending federal approval where
37 applicable, include: medically supervised withdrawal services - residen-
38 tial; medically supervised withdrawal services - outpatient; medically
39 managed detoxification; medically monitored withdrawal; inpatient reha-
40 bilitation services; outpatient opioid treatment; residential opioid
41 treatment; KEEP units outpatient; residential opioid treatment to absti-
42 nence; problem gambling treatment; medically supervised outpatient;
43 outpatient rehabilitation; specialized services substance abuse
44 programs; home and community based waiver services pursuant to subdivi-
45 sion 9 of section 366 of the social services law; children and family
46 treatment and support services; continuum of care rental assistance case
47 management; NY/NY III post-treatment housing; NY/NY III housing for
48 persons at risk for homelessness; permanent supported housing; youth
49 clubhouse; recovery community centers; recovery community organizing
50 initiative; residential rehabilitation services for youth (RRSY); inten-
51 sive residential; community residential; supportive living; residential
52 services; job placement initiative; case management; family support
53 navigator; local government unit administration; peer engagement; voca-
54 tional rehabilitation; support services; HIV early intervention
55 services; dual diagnosis coordinator; problem gambling resource centers;

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1 problem gambling prevention; prevention resource centers; primary
2 prevention services; other prevention services; and community services.

3 (iv) Programs and services funded, licensed, or certified by the
4 office of temporary and disability assistance (OTDA) eligible for the
5 cost of living adjustment established herein, pending federal approval
6 where applicable, include: nutrition outreach and education program
7 (NOEP).

8 (v) Programs and services funded, licensed, or certified by the office
9 of children and family services (OCFS) eligible for the cost of living
10 adjustment established herein, pending federal approval where applica-
11 ble, include: programs for which the office of children and family
12 services establishes maximum state aid rates pursuant to section 398-a
13 of the social services law and section 4003 of the education law; emer-
14 gency foster homes; foster family boarding homes and therapeutic foster
15 homes as defined by the regulations of the office of children and family
16 services; supervised settings as defined by subdivision twenty-two of
17 section 371 of the social services law; adoptive parents receiving
18 adoption subsidy pursuant to section 453 of the social services law; and
19 congregate and scattered supportive housing programs and supportive
20 services provided under the NY/NY III supportive housing agreement to
21 young adults leaving or having recently left foster care.

22 (vi) Programs and services funded, licensed, or certified by the state
23 office for the aging (SOFA) eligible for the cost of living adjustment
24 established herein, pending federal approval where applicable, include:
25 community services for the elderly; expanded in-home services for the
26 elderly; and supplemental nutrition assistance program.

27 5. Each local government unit or direct contract provider receiving
28 funding for the cost of living adjustment established herein shall
29 submit a written certification, in such form and at such time as each
30 commissioner shall prescribe, attesting how such funding will be or was
31 used to first promote the recruitment and retention of non-executive
32 direct care staff, non-executive direct support professionals, non-exe-
33 cutive clinical staff, or respond to other critical non-personal service
34 costs prior to supporting any salary increases or other compensation for
35 executive level job titles.

36 6. Notwithstanding any inconsistent provision of law to the contrary,
37 agency commissioners shall be authorized to recoup funding from a local
38 governmental unit or direct contract provider for the cost of living
39 adjustment established herein determined to have been used in a manner
40 inconsistent with the appropriation, or any other provision of this
41 section. Such agency commissioners shall be authorized to employ any
42 legal mechanism to recoup such funds, including an offset of other funds
43 that are owed to such local governmental unit or direct contract provid-
44 er.

45 § 2. This act shall take effect immediately and shall be deemed to
46 have been in full force and effect on and after April 1, 2022.

47

PART EE

48 Section 1. Short title. This act shall be known and may be cited as
49 the "9-8-8 suicide prevention and behavioral health crisis hotline act".

50 § 2. The mental hygiene law is amended by adding a new section 36.03
51 to read as follows:

52 § 36.03 9-8-8 suicide prevention and behavioral health crisis hotline
53 system.

1 (a) Definitions. When used in this article, the following words and
2 phrases shall have the following meanings unless the specific context
3 clearly indicates otherwise:

4 (1) "9-8-8" means the three digit phone number designated by the
5 federal communications commission for the purpose of connecting individ-
6 uals experiencing a behavioral health crisis with suicide prevention and
7 behavioral health crisis counselors, mobile crisis teams, and crisis
8 stabilization services and other behavioral health crises services
9 through the national suicide prevention lifeline.

10 (2) "9-8-8 crisis hotline center" means a state-identified and funded
11 center participating in the National Suicide Prevention Lifeline Network
12 to respond to statewide or regional 9-8-8 calls, operated by employees
13 under the jurisdiction of the office of mental health.

14 (3) "Crisis stabilization centers" means facilities providing short-
15 term observation and crisis stabilization services jointly licensed by
16 the office of mental health and the office of addiction services and
17 supports under section 36.01 of this article.

18 (4) "Crisis residential services" means a short-term residential
19 program designed to provide residential and support services to persons
20 with symptoms of mental illness who are at risk of or experiencing a
21 psychiatric crisis.

22 (5) "Crisis intervention services" means the continuum to address
23 crisis intervention, crisis stabilization, and crisis residential treat-
24 ment needs that are wellness, resiliency, and recovery oriented. Crisis
25 intervention services include but not limited to: crisis stabilization
26 centers, mobile crisis teams, and crisis residential services.

27 (6) "Mobile crisis teams" means a team licensed, certified, or author-
28 ized by the office of mental health and the office of addiction services
29 and supports to provide community-based mental health or substance use
30 disorder interventions for individuals who are experiencing a mental
31 health or substance use disorder crisis.

32 (7) "National suicide prevention lifeline" or "NSPL" means the
33 national network of local crisis centers that provide free and confiden-
34 tial emotional support to people in suicidal crisis or emotional
35 distress twenty-four hours a day, seven days a week via a toll-free
36 hotline number, which receives calls made through the 9-8-8 system. The
37 toll-free number is maintained by the Assistant Secretary for Mental
38 Health and Substance Use under Section 50-E-3 of the Public Health
39 Service Act, Section 290bb-36c of Title 42 of the United States Code.

40 (b) The commissioner of the office of mental health, in conjunction
41 with the commissioner of the office of addiction services and supports,
42 shall have joint oversight of the 9-8-8 suicide prevention and behav-
43 ioral health crisis hotline and shall work in concert with NSPL for the
44 purposes of ensuring consistency of public messaging.

45 (c) The commissioner of the office of mental health, in conjunction
46 with the commissioner of the office of addiction services and supports,
47 shall, on or before July sixteenth, two thousand twenty-two, designate a
48 crisis hotline center or centers to provide or arrange for crisis inter-
49 vention services to individuals accessing the 9-8-8 suicide prevention
50 and behavioral health crisis hotline from anywhere within the state
51 twenty-four hours a day, seven days a week. Each 9-8-8 crisis hotline
52 center shall do all of the following:

53 (1) A designated hotline center shall have an active agreement with
54 the administrator of the National Suicide Prevention Lifeline for
55 participation within the network.

1 (2) A designated hotline center shall meet NSPL requirements and best
2 practices guidelines for operation and clinical standards.

3 (3) A designated hotline center may utilize technology, including but
4 not limited to, chat and text that is interoperable between and across
5 the 9-8-8 suicide prevention and behavioral health crisis hotline system
6 and the administrator of the National Suicide Prevention Lifeline.

7 (4) A designated hotline center shall accept transfers of any call
8 from 9-1-1 pertaining to a behavioral health crisis.

9 (5) A designated hotline center shall ensure coordination between the
10 9-8-8 crisis hotline centers, 9-1-1, behavioral health crisis services,
11 and, when appropriate, other specialty behavioral health warm lines and
12 hotlines and other emergency services. If a law enforcement, medical,
13 or fire response is also needed, 9-8-8 and 9-1-1 operators shall coordi-
14 nate the simultaneous deployment of those services with mobile crisis
15 services.

16 (6) A designated hotline center shall have the authority to deploy
17 crisis intervention services, including but not limited to mobile crisis
18 teams, and coordinate access to crisis stabilization centers, and other
19 mental health crisis services, as appropriate, and according to guide-
20 lines and best practices established by New York State and the NSPL.

21 (7) A designated hotline center shall meet the requirements set forth
22 by New York State and the NSPL for serving high risk and specialized
23 populations including but not limited to: Black, African American,
24 Hispanic, Latino, Asian, Pacific Islander, Native American, Alaskan
25 Native; lesbian, gay, bisexual, transgender, nonbinary, queer, and ques-
26 tioning individuals; individuals with intellectual and developmental
27 disabilities; individuals experiencing homelessness or housing instabil-
28 ity; immigrants and refugees; children and youth; older adults; and
29 religious communities as identified by the federal Substance Abuse and
30 Mental Health Services Administration, including training requirements
31 and policies for providing linguistically and culturally competent care.

32 (8) A designated hotline center shall provide follow-up services as
33 needed to individuals accessing the 9-8-8 suicide prevention and behav-
34 ioral health crisis hotline consistent with guidance and policies estab-
35 lished by New York State and the NSPL.

36 (9) A designated hotline center shall provide data, and reports, and
37 participate in evaluations and quality improvement activities as
38 required by the office of mental health and the office of addiction
39 services and supports.

40 (d) The commissioner of the office of mental health, in conjunction
41 with the commissioner of the office of addiction services and supports,
42 shall establish a comprehensive list of reporting metrics regarding the
43 9-8-8 suicide prevention and behavioral health crisis hotline's usage,
44 services and impact which shall include, at a minimum:

45 (1) The volume of requests for assistance that the 9-8-8 suicide
46 prevention and behavioral health crisis hotline received;

47 (2) The average length of time taken to respond to each request for
48 assistance, and the aggregate rates of call abandonment;

49 (3) The types of requests for assistance that the 9-8-8 suicide
50 prevention and behavioral health crisis hotline received;

51 (4) The number of mobile crisis teams dispatched;

52 (5) The number of individuals engaged by mobile crisis teams including
53 any support provided beyond the resolution of an initial crisis;

54 (6) The number of individuals transported by mobile crisis teams to a
55 crisis receiving and stabilization service center or other mental health
56 crisis service;

1 (7) The number of such individuals transferred by mobile crisis team
 2 responders to the custody of law enforcement or transported to an emer-
 3 gency room or inpatient mental health service;

4 (8) The number of times a mobile crisis team was the first responder
 5 to a mental health crisis and had to request deployment of law enforce-
 6 ment, including the reason for the request, and the outcome of the law
 7 enforcement response; and

8 (9) The age, gender, race, ethnicity, national origin, and high risk
 9 category of the individual, if reasonably ascertainable, of individuals
 10 contacted, transported, or transferred by each mobile crisis team.

11 (e) The commissioner of the office of mental health, in conjunction
 12 with the commissioner of the office of addiction services and supports,
 13 shall submit an annual report on or by December thirty-first, two thou-
 14 sand twenty-three and annually thereafter, regarding the comprehensive
 15 list of reporting metrics to the governor, the temporary president of
 16 the senate, the speaker of the assembly, the minority leader of the
 17 senate and the minority leader of the assembly.

18 (f) Moneys allocated for the payment of costs determined in consulta-
 19 tion with the commissioners of mental health and the office of addiction
 20 services and supports associated with the administration, design,
 21 installation, construction, operation, or maintenance of a 9-8-8 suicide
 22 prevention and behavioral health crisis hotline system serving the
 23 state, including, but not limited to: staffing, hardware, software,
 24 consultants, financing and other administrative costs to operate crisis
 25 call-centers throughout the state and the provision of acute and crisis
 26 services for mental health and substance use disorder by directly
 27 responding to the 9-8-8 hotline established pursuant to the National
 28 Suicide Hotline Designation Act of 2020 (47 U.S.C. § 251a) and rules
 29 adopted by the Federal Communications Commission, including such costs
 30 incurred by the state, shall not supplant any separate existing, future
 31 appropriations, or future funding sources dedicated to the 9-8-8 crisis
 32 response system.

33 § 3. This act shall take effect immediately.

34 PART FF

35 Section 1. Subdivision 5 of section 365-m of the social services law,
 36 as added by section 11 of part C of chapter 60 of the laws of 2014, is
 37 amended to read as follows:

38 5. Pursuant to appropriations within the offices of mental health or
 39 addiction services and supports, the department of health shall reinvest
 40 ~~[funds allocated for behavioral health services, which are general fund~~
 41 ~~savings directly related to]~~ savings realized through the transition of
 42 populations covered by this section from the applicable Medicaid fee-
 43 for-service system to a managed care model, including savings ~~[resulting~~
 44 ~~from the reduction of inpatient and outpatient behavioral health~~
 45 ~~services provided under the Medicaid programs licensed or certified~~
 46 ~~pursuant to article thirty-one or thirty-two of the mental hygiene law,~~
 47 ~~or programs that are licensed pursuant to both article thirty-one of the~~
 48 ~~mental hygiene law and article twenty-eight of the public health law, or~~
 49 ~~certified under both article thirty-two of the mental hygiene law and~~
 50 ~~article twenty-eight of the public health law]~~ realized through the
 51 recovery of premiums from managed care providers which represent a
 52 reduction of spending on qualifying behavioral health services against
 53 established premium targets for behavioral health services and the
 54 medical loss ratio applicable to special needs managed care plans, for

1 the purpose of increasing investment in community based behavioral
2 health services, including residential services certified by the office
3 of ~~[alcoholism and substance abuse]~~ addiction services and supports.
4 The methodologies used to calculate the savings shall be developed by
5 the commissioner of health and the director of the budget in consulta-
6 tion with the commissioners of the office of mental health and the
7 office of ~~[alcoholism and substance abuse]~~ addiction services and
8 supports. In no event shall the full annual value of the ~~[community~~
9 ~~based behavioral health service]~~ reinvestment [savings attributable to
10 ~~the transition to managed care]~~ pursuant to this subdivision exceed the
11 ~~[twelve month value of the department of health general fund reductions~~
12 ~~resulting from such transition]~~ value of the premiums recovered from
13 managed care providers which represent a reduction of spending on quali-
14 fying behavioral health services. Within any fiscal year where appropri-
15 ation increases are recommended for reinvestment, insofar as managed
16 care transition savings do not occur as estimated, ~~[and general fund~~
17 ~~savings do not result,]~~ then spending for such reinvestment may be
18 reduced in the next year's annual budget itemization. ~~[The commissioner~~
19 ~~of health shall promulgate regulations, and prior to October first, two~~
20 ~~thousand fifteen, may promulgate emergency regulations as required to~~
21 ~~distribute funds pursuant to this subdivision; provided, however, that~~
22 ~~any emergency regulations promulgated pursuant to this section shall~~
23 ~~expire no later than December thirty-first, two thousand fifteen.]~~ The
24 commissioner shall include ~~[detailed descriptions of the methodology~~
25 ~~used to calculate savings]~~ information regarding the funds available for
26 reinvestment~~[, the results of applying such methodologies, the details~~
27 ~~regarding implementation of such reinvestment]~~ pursuant to this
28 section~~[, and any regulations promulgated under this subdivision,]~~ in
29 the annual report required under section forty-five-c of part A of chap-
30 ter fifty-six of the laws of two thousand thirteen. Beginning April
31 first, two thousand twenty-two, the department shall also post on its
32 website the list of managed care providers that provided a recovery of
33 premiums under this section, a detailed accounting of the amount that
34 was recovered from each provider, and the dates that the recovery was
35 applied to, beginning with recoveries from two thousand thirteen. After
36 the initial posting of this information on its website, the department
37 shall update it on an annual basis by December thirty-first of each
38 year.

39 § 1-a. Subdivision 2 of section 364-j of social services law is
40 amended by adding a new paragraph (d) to read as follows:

41 (d) Effective on and after April first, two thousand twenty-two, when-
42 ever the commissioner of health makes changes to the terms, conditions
43 or time frames contained in the model contract with managed care provid-
44 ers in the managed care program under this section, public notice
45 detailing the changes shall be provided on the department's website and
46 through publication as a public notice in the state register prior to
47 finalizing such changes or submitting the amended contract to the feder-
48 al centers for medicare and Medicaid services for approval, if required.
49 This public notice shall also apply to any request for proposals issued
50 by the department for managed care providers to participate in the
51 managed care program.

52 § 2. This act shall take effect immediately; provided that the amend-
53 ments to section 364-j of the social services law made by section one-a
54 of this act shall not affect the repeal of such section and shall be
55 deemed repealed therewith.

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1

PART GG

2 Section 1. Section 7 of part H of chapter 57 of the laws of 2019,
3 amending the public health law relating to waiver of certain regu-
4 lations, as amended by section 7 of part S of chapter 57 of the laws of
5 2021, is amended to read as follows:

6 § 7. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2019, provided,
8 however, that section two of this act shall expire on April 1, [~~2022~~]
9 2023.

10 § 2. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after April 1, 2022.

12

PART HH

13 Section 1. Section 3309 of the public health law is amended by adding
14 a new subdivision 8 to read as follows:

15 8. Any pharmacy registered by the New York state department of educa-
16 tion and the federal Drug Enforcement Administration (DEA) or its
17 successor agency that maintains a stock of and directly dispenses
18 controlled substance medications pursuant to prescriptions for humans in
19 the state of New York, shall maintain a minimum stock of a thirty day
20 supply of both an opioid antagonist medication and separately an opioid
21 partial agonist medication for the treatment of an opioid use disorder,
22 to the extent permitted pursuant to federal wholesaler threshold limits.
23 For purposes of this subdivision, a thirty day supply of opioid partial
24 agonist medication shall mean any combination of dosages sufficient to
25 fill a prescription of thirty days. Where the food and drug adminis-
26 tration has defined and approved one or more therapeutic and pharmaceu-
27 tical equivalents of these medications a pharmacy is required to main-
28 tain a stock of at least one version of an opioid antagonist and any
29 drug on the single statewide formulary for opioid partial agonist medi-
30 cation for the treatment of an opioid use disorder is available to
31 dispense. Where federal and state laws and regulations permit dispens-
32 ing of opioid full agonist medication for the treatment of an opioid use
33 disorder, such pharmacy may also maintain a stock of opioid full agonist
34 medication consistent with this subdivision.

35 § 2. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law.

37

PART II

38 Section 1. Paragraph 38 of section 1.03 of the mental hygiene law, as
39 amended by chapter 281 of the laws of 2019, is amended to read as
40 follows:

41 38. "Residential services facility" or "[~~Alcoholism-community~~] Commu-
42 nity residence for addiction" means any facility licensed or operated
43 pursuant to article thirty-two of this chapter which provides residen-
44 tial services for the treatment of an addiction disorder and a homelike
45 environment, including room, board and responsible supervision as part
46 of an overall service delivery system.

47 § 2. Paragraph 1 of subdivision (a) of section 32.05 of the mental
48 hygiene law, as added by chapter 558 of the laws of 1999, is amended to
49 read as follows:

50 1. operation of a residential program, including a community residence
51 for the care, custody, or treatment of persons suffering from [~~chemical~~]

1 ~~abuse or dependence~~] an addictive disorder; provided, however, that
2 giving domestic care and comfort to a person in the home shall not
3 constitute such an operation; provided further that the certification of
4 a recovery residence, developed and administered by the commissioner
5 directly or pursuant to a contract with a designated entity, shall have
6 the following structure and meaning for purposes of this section:

7 (i)(A) "Recovery residence" means a shared living environment free
8 from alcohol and illicit drug use which utilizes peer supports and
9 connection to services to promote sustained recovery from substance use
10 disorder.

11 (B) "Certified recovery residence" means a recovery residence which
12 complies with standards for the operation of a certified recovery resi-
13 dence which are issued by the office.

14 (ii) The commissioner shall regulate and assure the consistent high
15 quality of certified recovery residences for individuals in recovery
16 from a substance use disorder. The commissioner, directly or pursuant to
17 contract with a designated entity, shall implement standards for the
18 operation of a certified recovery residence, a voluntary certification
19 process, and conduct ongoing monitoring of recovery residences.

20 (iii) The commissioner shall maintain on the office website a list of
21 certified recovery residences.

22 § 3. Section 41.52 of the mental hygiene law, as amended by chapter
23 223 of the laws of 1992, is amended to read as follows:

24 § 41.52 Community residential services for [~~alcoholism~~] addiction.

25 (a) The commissioner of [~~alcoholism and substance abuse services~~]
26 addiction services and supports is authorized, within appropriations
27 made therefor, to establish a continuum of community residential
28 services for [~~alcoholism~~] addictive disorder services.

29 (b) The commissioner shall establish standards for the operation and
30 funding of community residential services, including but not limited to:

31 (1) criteria for admission to and continued residence in each type of
32 community residence;

33 (2) periodic evaluation of services provided by community residences;

34 (3) staffing patterns for each type of community residence; and

35 (4) guidelines for determining state aid to community residences, as
36 described in [~~subdivision (c) of this section~~] article twenty-five of
37 this chapter.

38 (c) Within amounts available therefor and subject to regulations
39 established by the commissioner and notwithstanding any other provisions
40 of this article, the commissioner may provide state aid to local govern-
41 ments and to voluntary agencies in an amount up to one hundred percent
42 of net operating costs of community residences for alcoholism services.
43 The commissioner shall establish guidelines for determining the amount
44 of state aid provided pursuant to this section. The guidelines shall be
45 designed to enable the effective and efficient operation of such resi-
46 dences and shall include, but need not be limited to, standards for
47 determining anticipated revenue, for retention and use of income exceed-
48 ing the anticipated amount and for determining reasonable levels of
49 uncollectible income. Such state aid to voluntary agencies shall not be
50 granted unless the proposed community residence is consistent with the
51 relevant local services plan adopted pursuant to section 41.18 of this
52 article.

53 § 4. This act shall take effect immediately.

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1 Intentionally Omitted

2 PART KK

3 Intentionally Omitted

4 PART LL

5 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
6 amending the public health law and other laws relating to general hospi-
7 tal reimbursement for annual rates, as amended by section 18 of part E
8 of chapter 57 of the laws of 2019, is amended to read as follows:

9 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
10 sioners of the office of [~~alcoholism and substance abuse~~] addiction
11 services and supports and the office of mental health are authorized,
12 subject to the approval of the director of the budget, to transfer to
13 the commissioner of health state funds to be utilized as the state share
14 for the purpose of increasing payments under the medicaid program to
15 managed care organizations licensed under article 44 of the public
16 health law or under article 43 of the insurance law. Such managed care
17 organizations shall utilize such funds for the purpose of reimbursing
18 providers licensed pursuant to article 28 of the public health law or
19 article ~~36~~, 31 or 32 of the mental hygiene law for ambulatory behavioral
20 health services, as determined by the commissioner of health, in consul-
21 tation with the commissioner of [~~alcoholism and substance abuse~~]
22 addiction services and supports and the commissioner of the office of
23 mental health, provided to medicaid enrolled outpatients and for all
24 other behavioral health services except inpatient included in New York
25 state's Medicaid redesign waiver approved by the centers for medicare
26 and Medicaid services (CMS). Such reimbursement shall be in the form of
27 fees for such services which are equivalent to the payments established
28 for such services under the ambulatory patient group (APG) rate-setting
29 methodology as utilized by the department of health, the office of
30 [~~alcoholism and substance abuse~~] addiction services and supports, or the
31 office of mental health for rate-setting purposes or any such other fees
32 pursuant to the Medicaid state plan or otherwise approved by CMS in the
33 Medicaid redesign waiver; provided, however, that the increase to such
34 fees that shall result from the provisions of this section shall not, in
35 the aggregate and as determined by the commissioner of health, in
36 consultation with the commissioner of [~~alcoholism and substance abuse~~]
37 addiction services and supports and the commissioner of the office of
38 mental health, be greater than the increased funds made available pursu-
39 ant to this section. The increase of such ambulatory behavioral health
40 fees to providers available under this section shall be for all rate
41 periods on and after the effective date of section [~~1~~] 18 of part [~~P~~] E
42 of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027
43 for patients in the city of New York, for all rate periods on and after
44 the effective date of section [~~1~~] 18 of part [~~P~~] E of chapter 57 of the
45 laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside
46 the city of New York, and for all rate periods on and after the effec-
47 tive date of such chapter through March 31, [~~2023~~] 2027 for all services
48 provided to persons under the age of twenty-one; provided, however, the
49 commissioner of health, in consultation with the commissioner of [~~alco-~~
50 ~~holism and substance abuse~~] addiction services and supports and the

1 commissioner of mental health, may require, as a condition of approval
2 of such ambulatory behavioral health fees, that aggregate managed care
3 expenditures to eligible providers meet the alternative payment method-
4 ology requirements as set forth in attachment I of the New York state
5 medicaid section one thousand one hundred fifteen medicaid redesign team
6 waiver as approved by the centers for medicare and medicaid services.
7 The commissioner of health shall, in consultation with the commissioner
8 of [~~alcoholism and substance abuse~~] addiction services and supports and
9 the commissioner of mental health, waive such conditions if a sufficient
10 number of providers, as determined by the commissioner, suffer a finan-
11 cial hardship as a consequence of such alternative payment methodology
12 requirements, or if he or she shall determine that such alternative
13 payment methodologies significantly threaten individuals access to ambu-
14 latory behavioral health services. Such waiver may be applied on a
15 provider specific or industry wide basis. Further, such conditions may
16 be waived, as the commissioner determines necessary, to comply with
17 federal rules or regulations governing these payment methodologies.
18 Nothing in this section shall prohibit managed care organizations and
19 providers from negotiating different rates and methods of payment during
20 such periods described above, subject to the approval of the department
21 of health. The department of health shall consult with the office of
22 [~~alcoholism and substance abuse~~] addiction services and supports and the
23 office of mental health in determining whether such alternative rates
24 shall be approved. The commissioner of health may, in consultation with
25 the commissioner of [~~alcoholism and substance abuse~~] addiction services
26 and supports and the commissioner of the office of mental health,
27 promulgate regulations, including emergency regulations promulgated
28 prior to October 1, 2015 to establish rates for ambulatory behavioral
29 health services, as are necessary to implement the provisions of this
30 section. Rates promulgated under this section shall be included in the
31 report required under section 45-c of part A of this chapter.

32 2. Notwithstanding any contrary provision of law, the fees paid by
33 managed care organizations licensed under article 44 of the public
34 health law or under article 43 of the insurance law, to providers
35 licensed pursuant to article 28 of the public health law or article 36,
36 31 or 32 of the mental hygiene law, for ambulatory behavioral health
37 services provided to patients enrolled in the child health insurance
38 program pursuant to title 1-A of article 25 of the public health law,
39 shall be in the form of fees for such services which are equivalent to
40 the payments established for such services under the ambulatory patient
41 group (APG) rate-setting methodology or any such other fees established
42 pursuant to the Medicaid state plan. The commissioner of health shall
43 consult with the commissioner of [~~alcoholism and substance abuse~~] addiction
44 services and supports and the commissioner of the office of
45 mental health in determining such services and establishing such fees.
46 Such ambulatory behavioral health fees to providers available under this
47 section shall be for all rate periods on and after the effective date of
48 this chapter through March 31, [~~2023~~] 2027, provided, however, that
49 managed care organizations and providers may negotiate different rates
50 and methods of payment during such periods described above, subject to
51 the approval of the department of health. The department of health
52 shall consult with the office of [~~alcoholism and substance abuse~~] addiction
53 services and supports and the office of mental health in
54 determining whether such alternative rates shall be approved. The
55 report required under section 16-a of part C of chapter 60 of the laws
56 of 2014 shall also include the population of patients enrolled in the

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

4 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
5 to increasing Medicaid payments to providers through managed care organ-
6 izations and providing equivalent fees through an ambulatory patient
7 group methodology, as amended by section 19 of part E of chapter 57 of
8 the laws of 2019, is amended to read as follows:

9 Section 1. a. Notwithstanding any contrary provision of law, the
10 commissioners of mental health and [~~alcoholism and substance abuse~~]
11 addiction services and supports are authorized, subject to the approval
12 of the director of the budget, to transfer to the commissioner of health
13 state funds to be utilized as the state share for the purpose of
14 increasing payments under the medicaid program to managed care organiza-
15 tions licensed under article 44 of the public health law or under arti-
16 cle 43 of the insurance law. Such managed care organizations shall
17 utilize such funds for the purpose of reimbursing providers licensed
18 pursuant to article 28 of the public health law, or pursuant to article
19 36, 31 or article 32 of the mental hygiene law for ambulatory behavioral
20 health services, as determined by the commissioner of health in consul-
21 tation with the commissioner of mental health and commissioner of [~~alco-~~
22 ~~holism and substance abuse~~] addiction services and supports, provided to
23 medicaid enrolled outpatients and for all other behavioral health
24 services except inpatient included in New York state's Medicaid redesign
25 waiver approved by the centers for medicare and Medicaid services (CMS).
26 Such reimbursement shall be in the form of fees for such services which
27 are equivalent to the payments established for such services under the
28 ambulatory patient group (APG) rate-setting methodology as utilized by
29 the department of health or by the office of mental health or office of
30 [~~alcoholism and substance abuse~~] addiction services and supports for
31 rate-setting purposes or any such other fees pursuant to the Medicaid
32 state plan or otherwise approved by CMS in the Medicaid redesign waiver;
33 provided, however, that the increase to such fees that shall result from
34 the provisions of this section shall not, in the aggregate and as deter-
35 mined by the commissioner of health in consultation with the commission-
36 ers of mental health and [~~alcoholism and substance abuse~~] addiction
37 services and supports, be greater than the increased funds made avail-
38 able pursuant to this section. The increase of such behavioral health
39 fees to providers available under this section shall be for all rate
40 periods on and after the effective date of section [~~2~~] 19 of part [~~P~~] E
41 of chapter 57 of the laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027
42 for patients in the city of New York, for all rate periods on and after
43 the effective date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the
44 laws of [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for patients outside
45 the city of New York, and for all rate periods on and after the effec-
46 tive date of section [~~2~~] 19 of part [~~P~~] E of chapter 57 of the laws of
47 [~~2017~~] 2019 through March 31, [~~2023~~] 2027 for all services provided to
48 persons under the age of twenty-one; provided, however, the commissioner
49 of health, in consultation with the commissioner of [~~alcoholism and~~
50 ~~substance abuse~~] addiction services and supports and the commissioner of
51 mental health, may require, as a condition of approval of such ambulatory
52 behavioral health fees, that aggregate managed care expenditures to
53 eligible providers meet the alternative payment methodology requirements
54 as set forth in attachment I of the New York state medicaid section one
55 thousand one hundred fifteen medicaid redesign team waiver as approved
56 by the centers for medicare and medicaid services. The commissioner of

1 health shall, in consultation with the commissioner of [~~alcoholism and~~
2 ~~substance abuse~~] addiction services and supports and the commissioner of
3 mental health, waive such conditions if a sufficient number of provid-
4 ers, as determined by the commissioner, suffer a financial hardship as a
5 consequence of such alternative payment methodology requirements, or if
6 he or she shall determine that such alternative payment methodologies
7 significantly threaten individuals access to ambulatory behavioral
8 health services. Such waiver may be applied on a provider specific or
9 industry wide basis. Further, such conditions may be waived, as the
10 commissioner determines necessary, to comply with federal rules or regu-
11 lations governing these payment methodologies. Nothing in this section
12 shall prohibit managed care organizations and providers from negotiating
13 different rates and methods of payment during such periods described,
14 subject to the approval of the department of health. The department of
15 health shall consult with the office of [~~alcoholism and substance abuse~~]
16 addiction services and supports and the office of mental health in
17 determining whether such alternative rates shall be approved. The
18 commissioner of health may, in consultation with the commissioners of
19 mental health and [~~alcoholism and substance abuse~~] addiction services
20 and supports, promulgate regulations, including emergency regulations
21 promulgated prior to October 1, 2013 that establish rates for behavioral
22 health services, as are necessary to implement the provisions of this
23 section. Rates promulgated under this section shall be included in the
24 report required under section 45-c of part A of chapter 56 of the laws
25 of 2013.

26 b. Notwithstanding any contrary provision of law, the fees paid by
27 managed care organizations licensed under article 44 of the public
28 health law or under article 43 of the insurance law, to providers
29 licensed pursuant to article 28 of the public health law or article 36,
30 31 or 32 of the mental hygiene law, for ambulatory behavioral health
31 services provided to patients enrolled in the child health insurance
32 program pursuant to title 1-A of article 25 of the public health law,
33 shall be in the form of fees for such services which are equivalent to
34 the payments established for such services under the ambulatory patient
35 group (APG) rate-setting methodology. The commissioner of health shall
36 consult with the commissioner of [~~alcoholism and substance abuse~~]
37 addiction services and supports and the commissioner of the office of
38 mental health in determining such services and establishing such fees.
39 Such ambulatory behavioral health fees to providers available under this
40 section shall be for all rate periods on and after the effective date of
41 this chapter through March 31, [~~2023~~] 2027, provided, however, that
42 managed care organizations and providers may negotiate different rates
43 and methods of payment during such periods described above, subject to
44 the approval of the department of health. The department of health shall
45 consult with the office of [~~alcoholism and substance abuse~~] addiction
46 services and supports and the office of mental health in determining
47 whether such alternative rates shall be approved. The report required
48 under section 16-a of part C of chapter 60 of the laws of 2014 shall
49 also include the population of patients enrolled in the child health
50 insurance program pursuant to title 1-A of article 25 of the public
51 health law in its examination on the transition of behavioral health
52 services into managed care.

53 § 3. Section 2 of part H of chapter 111 of the laws of 2010, relating
54 to increasing Medicaid payments to providers through managed care organ-
55 izations and providing equivalent fees through an ambulatory patient

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1 group methodology, as amended by section 20 of part E of chapter 57 of
2 the laws of 2019, is amended to read as follows:

3 § 2. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2010, and shall
5 expire on March 31, [~~2023~~] 2027.

6 § 4. This act shall take effect immediately; provided, however that
7 the amendments to section 1 of part H of chapter 111 of the laws of
8 2010, relating to increasing Medicaid payments to providers through
9 managed care organizations and providing equivalent fees through an
10 ambulatory patient group methodology, made by section two of this act
11 shall not affect the expiration of such section and shall expire there-
12 with.

13

PART MM

14 Section 1. Section 18 of chapter 408 of the laws of 1999, constituting
15 Kendra's law, as amended by chapter 67 of the laws of 2017, is amended
16 to read as follows:

17 § 18. This act shall take effect immediately, provided that section
18 fifteen of this act shall take effect April 1, 2000, provided, further,
19 that subdivision (e) of section 9.60 of the mental hygiene law as added
20 by section six of this act shall be effective 90 days after this act
21 shall become law; and that this act shall expire and be deemed repealed
22 June 30, [~~2022~~] 2023.

23 § 2. Intentionally omitted.

24 § 3. This act shall take effect immediately.

25

PART NN

26 Section 1. Section 41.38 of the mental hygiene law, as amended by
27 chapter 218 of the laws of 1988, is amended to read as follows:

28 § 41.38 Rental and mortgage payments of community residential facilities
29 for the mentally ill.

30 (a) "Supportive housing" shall mean, for the purpose of this section
31 only, the method by which the commissioner contracts to provide rental
32 support and funding for non-clinical support services in order to main-
33 tain recipient stability.

34 (b) Notwithstanding any inconsistent provision of this article, the
35 commissioner may reimburse voluntary agencies for the reasonable cost of
36 rental of or the reasonable mortgage payment or the reasonable principal
37 and interest payment on a loan for the purpose of financing an ownership
38 interest in, and proprietary lease from, an organization formed for the
39 purpose of the cooperative ownership of real estate, together with other
40 necessary costs associated with rental or ownership of property, for a
41 community residence [~~or~~], a residential care center for adults, or
42 supportive housing, under [~~his~~] their jurisdiction less any income
43 received from a state or federal agency or third party insurer which is
44 specifically intended to offset the cost of rental of the facility or
45 housing a client at the facility, subject to the availability of appro-
46 priations therefor and such commissioner's certification of the reason-
47 ableness of the rental cost, mortgage payment, principal and interest
48 payment on a loan as provided in this section or other necessary costs
49 associated with rental or ownership of property, with the approval of
50 the director of the budget.

51 § 2. This act shall take effect April 1, 2022.

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1 PART OO

2 Intentionally Omitted

3 PART PP

4 Section 1. Subdivision 4 of section 364-j of the social services law
5 is amended by adding two new paragraphs (w) and (x) to read as follows:

6 (w) Notwithstanding any provision of law to the contrary, administra-
7 tive fees paid to a managed care provider or a pharmacy benefit manager
8 under the medical assistance program shall be reduced for the purpose of
9 increasing reimbursement rates to retail pharmacies under the Medicaid
10 managed care program. Beginning on and after July first, two thousand
11 twenty-two, all reimbursement paid by Medicaid managed care plans to
12 retail pharmacies shall include a professional dispensing fee and the
13 drug acquisition cost for each outpatient drug dispensed at no less than
14 the amount established under the fee-for-service program, as defined in
15 section three hundred sixty-seven-a of this title, regardless of whether
16 such reimbursement is paid directly by the Medicaid managed care plan or
17 passed through a pharmacy benefit manager or other entity. The
18 reimbursement provided for under this paragraph shall not apply to any
19 existing reimbursement arrangements involving an eligible provider under
20 section 340B of the federal public health services act or a comprehen-
21 sive HIV special needs plan under section forty-four hundred three-c of
22 the public health law under the medical assistance program. No managed
23 care provider or pharmacy benefit manager shall reimburse a pharmacy
24 owned by or affiliated with such entity at a higher rate than that paid
25 by such entity to a pharmacy it does not own or is not otherwise affil-
26 iated with.

27 (x) Notwithstanding any provision of law to the contrary, a managed
28 care provider or pharmacy benefit manager acting on its behalf, as
29 defined in section two hundred eighty-a of the public health law, shall
30 not deny any retail pharmacy the opportunity to participate in another
31 provider's pharmacy network under the medical assistance program at
32 preferred participation status, provided that such retail pharmacy
33 agrees to the same reimbursement amount, as defined in paragraph (w) of
34 this subdivision, and is able to fill and dispense prescription and
35 over-the-counter medications for those enrolled in the medical assist-
36 ance program.

37 § 2. Section 280-a of the public health law is amended by adding a new
38 subdivision 6 to read as follows:

39 6. Delivery option. Notwithstanding any provision of law to the
40 contrary, no pharmacy benefit manager shall limit the option for an
41 individual receiving prescription or over-the-counter medications to
42 receive such medications from their local, non-mail order pharmacy of
43 choice via delivery including in-person delivery, United States postal
44 service or other mail or courier service. No restrictions, prohibitions
45 or prior authorization requirements shall be based on the individual's
46 choice in delivery type or distance from a pharmacy.

47 § 3. This act shall take effect on the thirtieth day after it shall
48 have become a law; provided, however, that:

49 (a) the amendments to subdivision 4 of section 364-j of the social
50 services law made by section one of this act shall take effect July 1,
51 2022;

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1 (b) if this act shall have become a law after such effective date it
 2 shall take effect immediately and shall be deemed to have been in full
 3 force and effect on and after July 1, 2022;

4 (c) the amendments to subdivision 4 of section 364-j of the social
 5 services law made by section one of this act shall not affect the repeal
 6 of such section and shall be deemed repealed therewith; and

7 (d) if chapter 828 of the laws of 2021 shall not have taken effect on
 8 or before such effective date then section two of this act shall take
 9 effect on the same date and in the same manner as such chapter of the
 10 laws of 2021 takes effect.

11

PART QQ

12 Section 1. Subparagraph (i) of paragraph (e) of subdivision 2 of
 13 section 365-a of the social services law, as amended by section 2 of
 14 part MM of chapter 56 of the laws of 2020, is amended to read as
 15 follows:

16 (i) personal care services, including personal emergency response
 17 services, shared aide and an individual aide, subject to the provisions
 18 of subparagraphs (ii), (iii), (iv)[~~;~~(v)] and (vi) of this paragraph,
 19 furnished to an individual who is not an inpatient or resident of a
 20 hospital, nursing facility, intermediate care facility for individuals
 21 with intellectual disabilities, or institution for mental disease, as
 22 determined to meet the recipient's needs for assistance when cost effec-
 23 tive and appropriate, and when prescribed by a qualified independent
 24 physician selected or approved by the department of health, in accord-
 25 ance with the recipient's plan of treatment and provided by individuals
 26 who are qualified to provide such services, who are supervised by a
 27 registered nurse and who are not members of the recipient's family, and
 28 furnished in the recipient's home or other location;

29 § 2. Subparagraph (v) of paragraph (e) of subdivision 2 of section
 30 365-a of the social services law is REPEALED.

31 § 3. Paragraph (c) of subdivision 2 of section 365-f of the social
 32 services law, as amended by section 3 of part MM of chapter 56 of the
 33 laws of 2020, is amended to read as follows:

34 (c) has been determined by the social services district, pursuant to
 35 an assessment of the person's appropriateness for the program, conducted
 36 with an appropriate long term home health care program, a certified home
 37 health agency, or an AIDS home care program or pursuant to the personal
 38 care program, as being in need of home care services or private duty
 39 nursing and [~~as needing at least limited assistance with physical maneu-~~
 40 ~~vering with more than two activities of daily living, or for persons~~
 41 ~~with a dementia or Alzheimer's diagnosis, as needing at least super-~~
 42 ~~vision with more than one activity of daily living, provided that the~~
 43 ~~provisions related to activities of daily living in this paragraph shall~~
 44 ~~only apply to persons who initially seek eligibility for the program on~~
 45 ~~or after October first, two thousand twenty, and]~~ who is able and will-
 46 ing or has a designated representative, including a legal guardian able
 47 and willing to make informed choices, or a designated relative or other
 48 adult who is able and willing to assist in making informed choices, as
 49 to the type and quality of services, including but not limited to such
 50 services as nursing care, personal care, transportation and respite
 51 services; and

52 § 4. This act shall take effect immediately.

53

PART RR

1 Section 1. The public health law is amended by adding a new section
2 3614-f to read as follows:

3 § 3614-f. Fair pay for home care. 1. For the purpose of this section,
4 "home care aide" shall have the same meaning defined in section thirty-
5 six hundred fourteen-c of this article.

6 2. Beginning January first, two thousand twenty-three, the minimum
7 wage for a home care aide shall be no less than one hundred and fifty
8 percent of the higher of: (a) the otherwise applicable minimum wage
9 under section six hundred fifty-two of the labor law, or (b) any other-
10 wise applicable wage rule or order under article nineteen of the labor
11 law.

12 3. Where any home care aide is paid less than required by this
13 section, the home care aide, or the commissioner of labor acting on
14 behalf of the home care aide, may bring an action under article six or
15 nineteen of the labor law.

16 4. (a) The commissioner shall establish a regional minimum hourly base
17 reimbursement rate for all providers employing workers subject to the
18 minimum wage provisions established in subdivision one of this section.
19 The regional minimum hourly base reimbursement rate shall be based on
20 regions established by the commissioner, provided that for areas subject
21 to section thirty-six hundred fourteen-c of this article, each area with
22 a different prevailing rate of total compensation, as defined in that
23 section, shall be its own region.

24 (b) For the purposes of this section, "regional minimum hourly base
25 reimbursement rate" means a reimbursement rate that reflects the average
26 combined costs associated with the provision of direct service inclusive
27 of, but not limited to, overtime costs; all benefits; all payroll taxes,
28 including but not limited to federal insurance contributions act, medi-
29 care, federal unemployment tax act, state unemployment insurance, disa-
30 bility insurance, workers' compensation, and the metropolitan transpor-
31 tation authority tax; related increases tied to base wages such as
32 compression; reasonable administrative costs as defined by the commis-
33 sioner; allowances for capital costs; the development of profit or
34 reserves as allowable by law or regulations of the commissioner; and any
35 additional supplemental payments.

36 5. (a) The initial regional minimum hourly base reimbursement rate
37 shall be no less than the following:

38 (i) thirty-eight dollars and fifty cents per hour in the wage parity
39 region, encompassing all counties subject to section thirty-six hundred
40 fourteen of this article; and

41 (ii) thirty-eight dollars and eighteen cents per hour for the counties
42 in the remainder of the state.

43 (b) For consumer directed personal assistance services provided under
44 section three hundred sixty-five-f of the social services law, the
45 initial regional minimum hourly base reimbursement rate shall reflect
46 the rates established in paragraph (a) of this subdivision, provided
47 that the commissioner may reduce such rates by no more than twelve and
48 nine-tenths percent. In the event that such reduction occurs, a per
49 member, per month increase reflective of actual administrative and
50 general costs, adjusted to reflect regional differences as regions are
51 defined in this section, shall be made to fiscal intermediaries adminis-
52 tering such programs. If the department or a managed care organization
53 chooses not to utilize the per member, per month payment established
54 pursuant to this paragraph, the regional minimum hourly base reimburse-
55 ment rate for that region, as defined in paragraph (a) of this subdivi-
56 sion, shall apply.

1 6. No payment made to a provider who employs home care aides subject
2 to this section that is less than the regional minimum hourly base
3 reimbursement rate established by the commissioner for a region for
4 services provided under authorization by a local department of social
5 services, a managed care provider under section three hundred sixty-
6 four-j of the social services law, or a managed long-term care provider
7 under section forty-four hundred-f of this chapter shall be deemed
8 adequate.

9 (a) The commissioner shall submit any and all necessary applications
10 for approvals and/or waivers to the federal centers for medicare and
11 medicaid services to secure approval to establish minimum hourly base
12 reimbursement rates and make state-directed payments to providers for
13 the purposes of supporting wage increases.

14 (b) Directed payments shall be made to such providers of medicaid
15 services through contracts with managed care organizations where appli-
16 cable, provided that the commissioner ensures that such directed
17 payments are in accordance with the terms of this section.

18 (c) The commissioner shall ensure that managed care capitation is
19 adjusted to ensure rate adequacy for the managed care organizations.

20 7. Nothing in this section shall preclude providers employing home
21 care aides covered under this section or payers from contracting for
22 services at rates higher than the regional minimum hourly base
23 reimbursement rate if the parties agree to such terms.

24 8. The commissioner shall publish and post regional minimum hourly
25 base reimbursement rates annually and shall take all necessary steps to
26 advise commercial and government programs payers of home care services
27 of the regional minimum hourly base reimbursement rates and require
28 other state authorized payers to reimburse providers of home care
29 services at the minimum hourly base reimbursement rate.

30 9. Following the initial established regional minimum hourly base
31 reimbursement rate established under this section, the commissioner
32 shall annually adjust the regional hourly base reimbursement rate for
33 each region to reflect costs or other increases in wages, benefits, or
34 other requirements. The commissioner shall develop a methodology for
35 annual increases, taking into consideration relevant data sources,
36 including but not limited to information from certified cost reports and
37 statistical reports submitted to the department by providers employing
38 individuals subject to this section for the prior calendar year, consum-
39 er price index increases; subsequent pandemic or other public health
40 emergencies; and other relevant economic factors. Prior to finalizing
41 such methodology, the commissioner shall establish a public workgroup
42 that shall include provider, consumer, managed care organization, and
43 labor representatives from each geographical region in which there is an
44 established regional minimum hourly base reimbursement rate; statewide
45 associations; and other stakeholders to inform the process. The commis-
46 sioner shall publish and take public input on the proposed methodology
47 to be used to update regional minimum hourly base reimbursement rates.

48 10. Annual increases to the regional minimum hourly base reimbursement
49 rates shall be issued and posted by the department by September thirti-
50 eth of the prior calendar year to when such rates shall take effect.

51 11. For years in which rate adjustments to the regional minimum hourly
52 base reimbursement rate have not been calculated prior to the start of
53 the calendar year, the previous year's rate shall remain in place until
54 the new rate is calculated. If it is determined that retroactive rate
55 adjustments are necessary, payment adjustments will be made as a direct
56 pass through to providers within sixty days of the adjusted rate.

1 § 2. Section 3614-d of the public health law, as added by section 49
2 of part B of chapter 57 of the laws of 2015, is amended to read as
3 follows:

4 § 3614-d. Universal standards for coding of payment for medical
5 assistance claims for long term care. Claims for payment submitted under
6 contracts or agreements with insurers under the medical assistance
7 program for home and community-based long-term care services provided
8 under this article, by fiscal intermediaries operating pursuant to
9 section three hundred sixty-five-f of the social services law, and by
10 residential health care facilities operating pursuant to article twen-
11 ty-eight of this chapter shall have standard billing codes. Such insur-
12 ers shall include but not be limited to Medicaid managed care plans and
13 managed long term care plans. Such payments shall be based on universal
14 billing codes approved by the department or a nationally accredited
15 organization as approved by the department; provided, however, such
16 coding shall be consistent with any codes developed as part of the
17 uniform assessment system for long term care established by the depart-
18 ment and shall include, for any entity operating pursuant to this arti-
19 cle or section three hundred sixty-five-f of the social services law
20 that is unable to control the cumulative hours worked by an individual
21 in a given payroll period, a code that is specific to the hourly cost of
22 services at an overtime rate.

23 § 3. The state finance law is amended by adding a new section 91-h to
24 read as follows:

25 § 91-h. Fair pay for home care fund. 1. There is hereby established in
26 the joint custody of the commissioner of taxation and finance and the
27 comptroller, a special fund to be known as the "fair pay for home care
28 fund".

29 2. The fund shall consist of, but not be limited to:

30 a. revenues and federal medical assistance percentage reimbursements
31 in excess of the standard reimbursement received by the department of
32 health pursuant to section thirty-seven of part B of chapter fifty-seven
33 of the laws of two thousand fifteen;

34 b. an amount equal to savings from the permanent conversion or decer-
35 tification of residential health care facility beds, as defined in
36 section twenty-eight hundred one or twenty-eight hundred two of the
37 public health law;

38 c. any unspent monies from the New York works economic development
39 funds or a life sciences initiative created by section one of chapter
40 fifty-four of the laws of two thousand seventeen which were originally
41 appropriated prior to the two thousand nineteen state fiscal year which
42 have not been bound by a contract as of April first two thousand twen-
43 ty-two and which are not otherwise legally required to be spent on capi-
44 tal projects under bonding requirements through the dormitory authority
45 of New York state or other bonding entity; and

46 d. any grants, gifts or bequests received by the state for the
47 purposes of the fund under this section.

48 3. Monies of the fund shall be distributed to the commissioner of
49 health, or the commissioner's designee, for the purpose of increasing
50 medical assistance reimbursements under title eleven of article five of
51 the social services law to entities subject to minimum wage requirements
52 for home care aides under section thirty-six hundred fourteen-f of the
53 public health law, provided that the monies of this fund shall be
54 utilized to offset general fund expenses related to implementation and
55 ongoing costs of section thirty-six hundred fourteen-f of the public

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1 health law and shall not be the sole source of funds made available to
2 meet the requirements established by such section.

3 § 4. Paragraph (c) of subdivision 1 of section 92 of part H of chapter
4 59 of the laws of 2011 amending the public health law and other laws
5 relating to known and projected department of health state fund Medicaid
6 expenditures, as amended by section 1 of part CCC of chapter 56 of the
7 laws of 2020, is amended to read as follows:

8 (c) Projections may be adjusted by the director of the budget to
9 account for any changes in the New York state federal medical assistance
10 percentage amount established pursuant to the federal social security
11 act, changes in provider revenues, reductions to local social services
12 district medical assistance administration, minimum wage increases,
13 increases to the mandatory base wage for home care workers pursuant to
14 article 36 of the public health law, and beginning April 1, 2012 the
15 operational costs of the New York state medical indemnity fund and state
16 costs or savings from the basic health plan. Such projections may be
17 adjusted by the director of the budget to account for increased or expe-
18 dited department of health state funds medicaid expenditures as a result
19 of a natural or other type of disaster, including a governmental decla-
20 ration of emergency.

21 § 5. Paragraph (a) of subdivision 3 of section 3614-c of the public
22 health law is amended by adding a new subparagraph (v) to read as
23 follows:

24 (v) for all periods on or after January first, two thousand twenty-
25 three, the cash portion of the minimum rate of home care aide total
26 compensation shall be the minimum wage for home care aides in the appli-
27 cable region, as defined in section thirty-six hundred fourteen-f of
28 this article. The benefit portion of the minimum rate of home care aide
29 total compensation shall be four dollars and eighty-four cents.

30 § 6. Subparagraph (iv) of paragraph (b) of subdivision 3 of section
31 3614-c of the public health law, as amended by section 1 of part 00 of
32 chapter 56 of the laws of 2020, is amended and a new subparagraph (v) is
33 added to read as follows:

34 (iv) for all periods on or after March first, two thousand sixteen,
35 the cash portion of the minimum rate of home care aide total compen-
36 sation shall be ten dollars or the minimum wage as laid out in paragraph
37 (b) of subdivision one of section six hundred fifty-two of the labor
38 law, whichever is higher. The benefit portion of the minimum rate of
39 home care aide total compensation shall be three dollars and twenty-two
40 cents[-];

41 (v) for all periods on or after January first, two thousand twenty-
42 three, the cash portion of the minimum rate of home care aide total
43 compensation shall be the minimum wage for the applicable region, as
44 defined in section thirty-six hundred fourteen-f of this chapter. The
45 benefit portion of the minimum rate of home care aide total compensation
46 shall be three dollars and eighty-nine cents.

47 § 7. Severability. If any provision of this act, or any application of
48 any provision of this act, is held to be invalid, or to violate or be
49 inconsistent with any federal law or regulation, that shall not affect
50 the validity or effectiveness of any other provision of this act, or of
51 any other application of any provision of this act which can be given
52 effect without that provision or application; and to that end, the
53 provisions and applications of this act are severable.

54 § 8. This act shall take effect January 1, 2023.

55

PART SS

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1 Section 1. Short title. This act shall be known and may be cited as
2 the "quality incentive vital access provider program (QIVAPP) act".

3 § 2. The public health law is amended by adding a new section 4403-ff
4 to read as follows:

5 § 4403-ff. Quality incentive vital access provider program. 1. Monies
6 shall be made available, subject to appropriation, to reward investments
7 in qualified home and personal care providers and networks, in accord-
8 ance with the provisions of this section, by managed long-term care
9 plans established pursuant to section forty-four hundred three-f of this
10 article.

11 2. Notwithstanding any contrary provisions of law, the commissioner
12 shall make available additional rate add-ons to eligible plans, in a
13 manner determined by the commissioner, to be used to increase reimburse-
14 ment to qualified providers where eligible plan applicants and qualified
15 providers meet the following standards:

16 (a) The plan must show full compliance with this chapter, including
17 all wage and hour requirements;

18 (b) The plans pay a qualified provider a base contracted amount that
19 reflects the cost of investments for home and personal care aide
20 services effective July first, two thousand twenty-two, and begin such
21 payments for services provided after this date in conjunction with
22 contract payment terms;

23 (c) The plan identifies a qualified provider that maintains or partic-
24 ipates in a specialty training program for home health aides and
25 personal care aides in excess of the training required in 18 NYCRR
26 505.14(e)(2)(ii) and 10 NYCRR 766.11, and shall provide a letter of
27 support for that training program from labor organizations;

28 (d) The plan identifies qualified network providers that have a writ-
29 ten quality assurance program that has been successfully implemented;

30 (e) The plan identifies qualified network providers that provide
31 comprehensive health insurance coverage to their employees that meets or
32 exceeds criteria identified by the department; and

33 (f) The plan provides network survey data to the department and any
34 other data as needed.

35 3. Notwithstanding subdivisions one and two of this section, no plan
36 applicant shall receive quality incentive rate add-ons under this chap-
37 ter and no qualified provider shall receive increased reimbursement
38 under this chapter if either fail to meet any of the requirements of
39 subdivision two of this section. Provided, however, if an otherwise
40 qualified provider cannot meet any of these standards, the department
41 will consider exceptions on a case by case basis, if they can be justi-
42 fied.

43 4. The commissioner is authorized to promulgate any rules or regu-
44 lations necessary to implement the quality incentive vital access
45 program established by this section.

46 § 3. This act shall take effect immediately.

47 PART TT

48 Section 1. Section 26 of part B of chapter 59 of the laws of 2016,
49 section 8 of part C of chapter 57 of the laws of 2018, sections 11, 12,
50 20 and 21 of part MM of chapter 56 of the laws of 2020 shall be of no
51 force or effect on or after the effective date of this section.

52 § 2. This act shall take effect immediately.

53 PART UU

1 Section 1. Subdivision (a) of section 25.03 of the mental hygiene law,
2 as amended by section 4 of part G of chapter 56 of the laws of 2013, is
3 amended to read as follows:

4 (a) In accordance with the provisions of this article, and within
5 appropriations made available, the office may provide state aid to a
6 program operated by a local governmental unit or voluntary agency [~~up to~~
7 ~~one hundred per centum of the approved net operating costs of such~~
8 ~~program~~] based on a payment for services model developed by the office,
9 in consultation with operators of funded programs, for programs operated
10 by a local governmental unit or voluntary agency, and state aid may also
11 be granted to a program operated by a local governmental unit or a
12 voluntary agency for capital costs associated with the provision of
13 services at a rate of up to one hundred percent of approved capital
14 costs. Such state aid shall not be granted unless and until such program
15 operated by a local governmental unit or voluntary agency is in compli-
16 ance with all regulations promulgated by the commissioner regarding the
17 financing of capital projects. Such state aid [~~for approved net operat-~~
18 ~~ing costs~~] shall be made available by way of advance or reimbursement,
19 through either contracts entered into between the office and such volun-
20 tary agency or by distribution of such state aid to local governmental
21 units through [~~a grant~~] the process pursuant to section 25.11 of this
22 article.

23 § 2. Subdivisions (a) and (b) of section 25.11 of the mental hygiene
24 law, as added by section 9 of part G of chapter 56 of the laws of 2013,
25 are amended to read as follows:

26 (a) Local governmental units shall be granted state aid by a state aid
27 funding authorization letter issued by the office [~~for approved net~~
28 ~~operating costs~~] based on a payment for services model developed by the
29 office, in consultation with operators of funded programs, for voluntary
30 agencies [~~to support the base amount of state aid provided to such~~
31 ~~voluntary agencies for the prior year~~] provided that the local govern-
32 mental unit has approved and submitted budgets for the voluntary agen-
33 cies to the office. The voluntary agency budgets shall identify the
34 nature of the services to be provided which must be consistent with the
35 local services plan submitted by the local governmental unit pursuant to
36 article forty-one of this chapter, the areas to be served and include a
37 description of the voluntary agency contributions and local governmental
38 unit funding provided. The local governmental unit shall enter into
39 contracts with the voluntary agencies receiving such state aid. Such
40 contracts shall include funding requirements set by the office including
41 but not limited to responsibilities of voluntary agencies relating to
42 work scopes, program performance and operations, [~~application of program~~
43 ~~income, prohibited use of funds,~~] recordkeeping and audit obligations.
44 Upon designation by the office, local governmental units shall notify
45 voluntary agencies as to the source of funding received by such volun-
46 tary agencies.

47 (b) State aid made available to a local governmental unit [~~for~~
48 ~~approved net operating costs~~] based on a payment for services model
49 developed by the office, in consultation with operators of funded
50 programs for a program operated by a voluntary agency or a local govern-
51 mental unit may be reduced where a review of such voluntary agency's
52 prior year's budget and/or performance indicates[~~:(1)~~] that the
53 program operated by a local governmental unit or voluntary agency has
54 failed to meet minimum performance standards and requirements of the
55 office including, but not limited to, maintaining service utilization
56 rates and productivity standards as set by the office provided however,

1 that upon determination that the program is not meeting the minimum
 2 standards and requirements, the office shall notify such program oper-
 3 ated by a local governmental unit or voluntary agency of their deficien-
 4 cies, and if appropriate, a corrective action plan that includes specif-
 5 ic actions to address any deficiencies and a timetable for
 6 implementation shall be developed. State aid may be reduced if a correc-
 7 tive action plan is not approved by the office or is not implemented in
 8 a timely and satisfactory manner[;

9 ~~(2) that the voluntary agency has had an increase in voluntary agency~~
 10 ~~contributions that reduces the approved net operating costs necessary,~~
 11 ~~except where the office has approved an alternative use of such volun-~~
 12 ~~tary agency contributions or such voluntary agency contributions are~~
 13 ~~necessary to ensure financial viability].~~

14 § 3. This act shall take effect January 1, 2023 and shall apply to
 15 program budgets developed on or after such date.

16

PART VV

17 Section 1. Subdivisions 2 and 2-a of section 1.03 of the mental
 18 hygiene law, subdivision 2 as amended and subdivision 2-a as added by
 19 chapter 281 of the laws of 2019, are amended to read as follows:

20 2. [~~"Commissioner" means the commissioner of mental health,~~] "Commis-
 21 sioner" means the commissioner of addiction and mental health services
 22 and the commissioner of developmental disabilities [and the commissioner
 23 of addiction services and supports] as used in this chapter. Any power
 24 or duty heretofore assigned to the commissioner of mental hygiene or to
 25 the department of mental hygiene pursuant to this chapter shall hereaft-
 26 er be assigned to the commissioner of [~~mental health~~] addiction and
 27 mental health services in the case of facilities, programs, or services
 28 for individuals with [~~mental illness~~] a mental health diagnosis, to the
 29 commissioner of developmental disabilities in the case of facilities,
 30 programs, or services for individuals with developmental disabilities,
 31 to the commissioner of addiction [~~services~~] and [~~supports~~] mental health
 32 services in the case of facilities, programs, or addiction disorder
 33 services in accordance with the provisions of titles D and E of this
 34 chapter.

35 2-a. Notwithstanding any other section of law or regulation, on and
 36 after the effective date of this subdivision, any and all references to
 37 the office of alcoholism and substance abuse services and the predeces-
 38 sor agencies to the office of alcoholism and substance abuse services
 39 including the division of alcoholism and alcohol abuse and the division
 40 of substance abuse services and all references to the office of mental
 41 health, shall be known as the "office of addiction [~~services~~] and
 42 [~~supports~~] mental health services." Nothing in this subdivision shall
 43 be construed as requiring or prohibiting the further amendment of stat-
 44 utes or regulations to conform to the provisions of this subdivision.

45 § 2. Section 5.01 of the mental hygiene law, as amended by chapter 281
 46 of the laws of 2019, is amended and two new sections 5.01-a and 5.01-b
 47 are added to read as follows:

48 § 5.01 Department of mental hygiene.

49 There shall continue to be in the state government a department of
 50 mental hygiene. Within the department there shall be the following
 51 autonomous offices:

52 (1) office of addiction and mental health services; and

53 (2) office for people with developmental disabilities[;

54 ~~(3) office of addiction services and supports].~~

1 § 5.01-a Office of addiction and mental health services.

2 (a) The office of addiction and mental health services shall be a new
3 office within the department formed by the integration of the offices
4 and services of mental health and addiction services and supports which
5 shall focus on the integration of care and issues related to both mental
6 illness and addiction in the state and carry out the intent of the
7 legislature in establishing the offices pursuant to articles seven and
8 nineteen of this chapter. The office of addiction and mental health
9 services is charged with ensuring the development of comprehensive plans
10 for the integration of programs and services in the area of research,
11 prevention, care and treatment, co-occurring disorders, rehabilitation,
12 education and training, and shall be staffed to perform the responsibil-
13 ities attributed to the office pursuant to sections 7.07 and 19.07 of
14 this chapter and provide integrated services and programs to promote
15 recovery for individuals with a mental health diagnosis, substance use
16 disorder, or a mental health diagnosis and substance use disorder.

17 (b) The commissioner of the office of addiction and mental health
18 services shall be vested with the powers, duties, and obligations of the
19 office of mental health and the office of addiction services and
20 supports. Additionally, two deputy commissioners shall be appointed,
21 one deputy commissioner to represent addiction services and supports,
22 which shall be prominently represented to ensure the needs of substance
23 use disorder communities are met, and one deputy commissioner to repre-
24 sent mental health services. In conjunction with one another, the
25 commissioners shall develop a plan for integrating services which shall
26 be made available for public comment.

27 (c) The office of addiction and mental health services may license
28 providers to provide integrated services for individuals with a mental
29 health diagnosis, substance use disorder, or a mental health diagnosis
30 and substance use disorder, in accordance with regulations issued by the
31 commissioner. Such direct licensing mechanism allows for resources to
32 get to community-based organizations in an expedited manner.

33 (d) The office of addiction and mental health services shall establish
34 a standing advisory committee on addiction and mental health services.
35 The standing advisory committee shall consist of seven members appointed
36 by the governor as follows: (i) two members appointed on the recommenda-
37 tion of the temporary president of the senate; (ii) two members
38 appointed on the recommendation of the speaker of the assembly; (iii)
39 one member appointed on the recommendation of the minority leader of the
40 senate; (iv) one member appointed on the recommendation of the minority
41 leader of the assembly; and (v) one member appointed on the recommenda-
42 tion of the department of health AIDS institute, the office of mental
43 health and the office of addiction services and supports to ensure the
44 intent of the legislature is fulfilled in establishing the integration
45 of services by such office. Such standing advisory committee shall
46 consist of providers, peers, family members, individuals who have
47 utilized addiction services and supports and/or mental health services,
48 the local government unit as defined in article forty-one of this chap-
49 ter, public and private sector unions and representatives of other agen-
50 cies or offices as the designated standing advisory committee may deem
51 necessary. Such standing advisory committee shall meet regularly in
52 furtherance of its functions and at any other time at the request of the
53 designated standing advisory committee leader.

54 § 5.01-b Office of addiction and mental health services.

1 Until January first, two thousand twenty-three, the office of
2 addiction and mental health services shall consist of the office of
3 mental health and the office of addiction services and supports.

4 § 3. Section 5.03 of the mental hygiene law, as amended by chapter 281
5 of the laws of 2019, is amended to read as follows:

6 § 5.03 Commissioners.

7 The head of the office of addiction and mental health services shall
8 be the commissioner of [~~mental health~~] addiction and mental health
9 services; and the head of the office for people with developmental disa-
10 bilities shall be the commissioner of developmental disabilities[~~;~~~~and~~
11 ~~the head of the office of addiction services and supports shall be the~~
12 ~~commissioner of addiction services and supports~~]. Each commissioner
13 shall be appointed by the governor, by and with the advice and consent
14 of the senate, to serve at the pleasure of the governor. Until the
15 commissioner of addiction and mental health services is appointed by the
16 governor and confirmed by the senate, the commissioner of mental health
17 and the commissioner of addiction services and supports shall continue
18 to oversee mental health and addiction services respectively, and work
19 collaboratively to integrate care for individuals with both mental
20 health and substance use disorders.

21 § 4. Section 5.05 of the mental hygiene law, as added by chapter 978
22 of the laws of 1977, subdivision (a) as amended by chapter 168 of the
23 laws of 2010, subdivision (b) as amended by chapter 294 of the laws of
24 2007, paragraph 1 of subdivision (b) as amended by section 14 of part J
25 of chapter 56 of the laws of 2012, subdivision (d) as added by chapter
26 58 of the laws of 1988 and subdivision (e) as added by chapter 588 of
27 the laws of 2011, is amended to read as follows:

28 § 5.05 Powers and duties of the head of the department.

29 (a) The commissioners of the office of addiction and mental health
30 services and the office for people with developmental disabilities, as
31 the heads of the department, shall jointly visit and inspect, or cause
32 to be visited and inspected, all facilities either public or private
33 used for the care, treatment [~~and~~], rehabilitation, and recovery of
34 individuals with a mental [~~illness~~] health diagnosis, substance use
35 disorder and developmental disabilities in accordance with the require-
36 ments of section four of article seventeen of the New York state consti-
37 tution.

38 (b) (1) The commissioners of the office of addiction and mental
39 health[~~;~~] services and the office for people with developmental disabili-
40 ties [~~and the office of alcoholism and substance abuse services~~] shall
41 constitute an inter-office coordinating council which, consistent with
42 the autonomy of each office for matters within its jurisdiction, shall
43 ensure that the state policy for the prevention, care, treatment [~~and~~],
44 rehabilitation, and recovery of individuals with a mental [~~illness~~]
45 health diagnosis, substance use disorders and developmental disabili-
46 ties[~~;~~~~alcoholism, alcohol abuse, substance abuse, substance dependence,~~
47 ~~and chemical dependence~~] is planned, developed and implemented compre-
48 hensively; that gaps in services to individuals with multiple disabili-
49 ties are eliminated and that no person is denied treatment and services
50 because he or she has more than one disability; that procedures for the
51 regulation of programs which offer care and treatment for more than one
52 class of persons with mental disabilities be coordinated between the
53 offices having jurisdiction over such programs; and that research
54 projects of the institutes, as identified in section 7.17 [~~or~~], 13.17,
55 or 19.17 of this chapter or as operated by the office for people with
56 developmental disabilities, are coordinated to maximize the success and

1 cost effectiveness of such projects and to eliminate wasteful dupli-
2 cation.

3 (2) The inter-office coordinating council shall annually issue a
4 report on its activities to the legislature on or before December thir-
5 ty-first. Such annual report shall include, but not be limited to, the
6 following information: proper treatment models and programs for persons
7 with multiple disabilities and suggested improvements to such models and
8 programs; research projects of the institutes and their coordination
9 with each other; collaborations and joint initiatives undertaken by the
10 offices of the department; consolidation of regulations of each of the
11 offices of the department to reduce regulatory inconsistencies between
12 the offices; inter-office or office activities related to workforce
13 training and development; data on the prevalence, availability of
14 resources and service utilization by persons with multiple disabilities;
15 eligibility standards of each office of the department affecting clients
16 suffering from multiple disabilities, and eligibility standards under
17 which a client is determined to be an office's primary responsibility;
18 agreements or arrangements on statewide, regional and local government
19 levels addressing how determinations over client responsibility are made
20 and client responsibility disputes are resolved; information on any
21 specific cohort of clients with multiple disabilities for which substan-
22 tial barriers in accessing or receiving appropriate care has been
23 reported or is known to the inter-office coordinating council or the
24 offices of the department; and coordination of planning, standards or
25 services for persons with multiple disabilities between the inter-office
26 coordinating council, the offices of the department and local govern-
27 ments in accordance with the local planning requirements set forth in
28 article forty-one of this chapter.

29 (c) The commissioners shall meet from time to time with the New York
30 state conference of local mental hygiene directors to assure consistent
31 procedures in fulfilling the responsibilities required by this section
32 and by article forty-one of this chapter.

33 (d) ~~[1-]~~ (1) The commissioner of addiction and mental health services
34 shall evaluate the type and level of care required by patients in the
35 adult psychiatric centers authorized by section 7.17 of this chapter and
36 develop appropriate comprehensive requirements for the staffing of inpa-
37 tient wards. These requirements should reflect measurable need for
38 administrative and direct care staff including physicians, nurses and
39 other clinical staff, direct and related support and other support
40 staff, established on the basis of sound clinical judgment. The staffing
41 requirements shall include but not be limited to the following: (i) the
42 level of care based on patient needs, including on ward activities, (ii)
43 the number of admissions, (iii) the geographic location of each facili-
44 ty, (iv) the physical layout of the campus, and (v) the physical design
45 of patient care wards.

46 ~~[2-]~~ (2) Such commissioner, in developing the requirements, shall
47 provide for adequate ward coverage on all shifts taking into account the
48 number of individuals expected to be off the ward due to sick leave,
49 workers' compensation, mandated training and all other off ward leaves.

50 ~~[3-]~~ (3) The staffing requirements shall be designed to reflect the
51 legitimate needs of facilities so as to ensure full accreditation and
52 certification by appropriate regulatory bodies. The requirements shall
53 reflect appropriate industry standards. The staffing requirements shall
54 be fully measurable.

55 ~~[4-]~~ (4) The commissioner of addiction and mental health services
56 shall submit an interim report to the governor and the legislature on

1 the development of the staffing requirements on October first, [~~nineteen~~
2 ~~hundred eighty-eight~~] two thousand twenty-two and again on April first,
3 [~~nineteen hundred eighty-nine~~] two thousand twenty-three. The commis-
4 sioner shall submit a final report to the governor and the legislature
5 no later than October first, [~~nineteen hundred eighty-nine~~] two thousand
6 twenty-three and shall include in his report a plan to achieve the
7 staffing requirements and the length of time necessary to meet these
8 requirements.

9 (e) The commissioners of the office of addiction and mental health[~~;~~]
10 services and the office for people with developmental disabilities[~~;~~ ~~and~~
11 ~~the office of alcoholism and substance abuse services~~] shall cause to
12 have all new contracts with agencies and providers licensed by the
13 offices to have a clause requiring notice be provided to all current and
14 new employees of such agencies and providers stating that all instances
15 of abuse shall be investigated pursuant to this chapter, and, if an
16 employee leaves employment prior to the conclusion of a pending abuse
17 investigation, the investigation shall continue. Nothing in this section
18 shall be deemed to diminish the rights, privileges, or remedies of any
19 employee under any other law or regulation or under any collective
20 bargaining agreement or employment contract.

21 § 5. Section 7.01 of the mental hygiene law, as added by chapter 978
22 of the laws of 1977, is amended to read as follows:

23 § 7.01 Declaration of policy.

24 The state of New York and its local governments have a responsibility
25 for the prevention and early detection of mental [~~illness~~] health disor-
26 ders and for the comprehensively planned care, treatment [~~and~~], rehabil-
27 itation and recovery of [~~their mentally ill citizens~~] individuals with a
28 mental health diagnosis.

29 Therefore, it shall be the policy of the state to conduct research and
30 to develop programs which further prevention and early detection of
31 mental [~~illness~~] health disorders; to develop a comprehensive, inte-
32 grated system of treatment [~~and~~], rehabilitative and recovery services
33 for [~~the mentally ill~~] individuals with a mental health diagnosis. Such
34 a system should include, whenever possible, the provision of necessary
35 treatment services to people in their home communities; it should assure
36 the adequacy and appropriateness of residential arrangements for people
37 in need of service; and it should rely upon improved programs of insti-
38 tutional care only when necessary and appropriate. Further, such a
39 system should recognize the important therapeutic roles of all disci-
40 plines which may contribute to the care or treatment of [~~the mentally~~
41 ~~ill~~] individuals with a mental health diagnosis, such as psychology,
42 social work, psychiatric nursing, special education and other disci-
43 plines in the field of mental illness, as well as psychiatry and should
44 establish accountability for implementation of the policies of the state
45 with regard to the care [~~and~~], rehabilitation and recovery of [~~the~~
46 ~~mentally ill~~] individuals with a mental health diagnosis.

47 To facilitate the implementation of these policies and to further
48 advance the interests of [~~the mentally ill~~] individuals with a mental
49 health diagnosis and their families, a new autonomous agency to be known
50 as the office of addiction and mental health services has been estab-
51 lished by this article. The office and its commissioner shall plan and
52 work with local governments, voluntary agencies and all providers and
53 consumers of mental health services in order to develop an effective,
54 integrated, comprehensive system for the delivery of all services to
55 [~~the mentally ill~~] individuals with a mental health diagnosis and to
56 create financing procedures and mechanisms to support such a system of

1 services to ensure that [~~mentally ill~~] persons in need of services
2 receive appropriate care, treatment and rehabilitation close to their
3 families and communities. In carrying out these responsibilities, the
4 office and its commissioner shall make full use of existing services in
5 the community including those provided by voluntary organizations.

6 § 6. Section 19.01 of the mental hygiene law, as added by chapter 223
7 of the laws of 1992, is amended to read as follows:

8 § 19.01 Declaration of policy.

9 The legislature declares the following:

10 [~~Alcoholism~~] Unhealthy alcohol use, substance [~~abuse~~] use disorder and
11 chemical dependence pose major health and social problems for individ-
12 uals and their families when left untreated, including family devas-
13 tation, homelessness, [~~and~~] unemployment, and death. It has been proven
14 that successful prevention [~~and~~], integrated treatment, and sustained
15 recovery can dramatically reduce costs to the health care, criminal
16 justice and social welfare systems.

17 The tragic, cumulative and often fatal consequences of [~~alcoholism~~]
18 unhealthy alcohol use and substance [~~abuse~~] use disorder are, however,
19 preventable and treatable disabilities that require a coordinated and
20 multi-faceted network of services.

21 The legislature recognizes locally planned and implemented prevention
22 as a primary means to avert the onset of [~~alcoholism~~] unhealthy alcohol
23 use and substance [~~abuse~~] use disorder. It is the policy of the state to
24 promote comprehensive, age appropriate education for children and youth
25 and stimulate public awareness of the risks associated with [~~alcoholism~~]
26 unhealthy alcohol use and substance [~~abuse~~] use disorder. Further, the
27 legislature acknowledges the need for a coordinated state policy for the
28 establishment of prevention [~~and~~], treatment, and recovery programs
29 designed to address the problems of chemical dependency among youth,
30 including prevention and intervention efforts in school and community-
31 based programs designed to identify and refer high risk youth in need of
32 chemical dependency services.

33 Substantial benefits can be gained through [~~alcoholism~~] unhealthy
34 alcohol use and substance [~~abuse~~] use disorder treatment for both
35 addicted individuals and their families. Positive treatment outcomes
36 that may be generated through a complete continuum of care offer a cost
37 effective and comprehensive approach to [~~rehabilitating~~] treating such
38 individuals. The primary goals of the [~~rehabilitation~~] treatment and
39 recovery process are to [~~restore~~] rebuild social, family, lifestyle,
40 vocational and economic supports by stabilizing an individual's physical
41 and psychological functioning. The legislature recognizes the impor-
42 tance of varying treatment approaches and levels of care designed to
43 meet each [~~client's~~] individual's needs. [~~Relapse~~] Reoccurrence
44 prevention and aftercare are two primary components of treatment that
45 serve to promote and maintain recovery.

46 The legislature recognizes that the distinct treatment needs of
47 special populations, including women and women with children, persons
48 with HIV infection, persons [~~diagnosed~~] with a mental [~~illness~~] health
49 diagnosis, persons who [~~abuse~~] misuse chemicals, the homeless and veter-
50 ans with posttraumatic stress disorder, merit particular attention. It
51 is the intent of the legislature to promote effective interventions for
52 such populations in need of particular attention. The legislature also
53 recognizes the importance of family support for individuals in alcohol
54 or substance [~~abuse~~] use disorder treatment and recovery. Such family
55 participation can provide lasting support to the recovering individual
56 to [~~prevent relapse and maintain~~] support sustained recovery. The inter-

1 generational cycle of chemical dependency within families can be inter-
2 cepted through appropriate interventions.

3 The state of New York and its local governments have a responsibility
4 in coordinating the delivery of [~~alcoholism~~] unhealthy alcohol use and
5 substance [~~abuse~~] use disorder services, through the entire network of
6 service providers. To accomplish these objectives, the legislature
7 declares that the establishment of a single, unified office of [~~alcohol-~~
8 ~~ism and substance abuse~~] addiction and mental health services will
9 provide an integrated framework to plan, oversee and regulate the
10 state's prevention and treatment network. In recognition of the growing
11 trends and incidence of chemical dependency, this consolidation allows
12 the state to respond to the changing profile of chemical dependency.
13 The legislature recognizes that some distinctions exist between the
14 [~~alcoholism~~] unhealthy alcohol use and substance [~~abuse~~] use disorder
15 field and the mental health field and where appropriate, those
16 distinctions may be preserved. Accordingly, it is the intent of the
17 state to establish one office of [~~alcoholism and substance abuse~~]
18 addiction and mental health services in furtherance of a comprehensive
19 service delivery system.

20 § 7. Upon or prior to January 1, 2023, the governor may nominate an
21 individual to serve as commissioner of the office of addiction and
22 mental health services. If such individual is confirmed by the senate
23 prior to January 1, 2023, they shall become the commissioner of the
24 office of addiction and mental health services. The governor may desig-
25 nate a person to exercise the powers of the commissioner of the office
26 of addiction and mental health services on an acting basis, until
27 confirmation of a nominee by the senate, who is hereby authorized to
28 take such actions as are necessary and proper to implement the orderly
29 transition of the functions, powers as duties as herein provided,
30 including the preparation for a budget request for the office as estab-
31 lished by this act.

32 § 8. Upon the transfer pursuant to this act of the functions and
33 powers possessed by and all of the obligations and duties of the office
34 of mental health and the office of addiction services and supports as
35 established pursuant to the mental hygiene law and other laws, to the
36 office of addiction and mental health services as prescribed by this
37 act, provision shall be made for the transfer of all employees from the
38 office of mental health and the office of addiction services and
39 supports into the office of addiction and mental health services.
40 Employees so transferred shall be transferred without further examina-
41 tion or qualification to the same or similar titles and shall remain in
42 the same collective bargaining units and shall retain their respective
43 civil service classifications, status, and rights pursuant to their
44 collective bargaining units and collective bargaining agreements.

45 § 9. Notwithstanding any contrary provision of law, on or before Octo-
46 ber 1, 2022 and annually thereafter, the office of addiction and mental
47 health services, in consultation with the department of health, shall
48 issue a report, and post such report on their public website, detailing
49 the office's expenditures for addiction and mental health services,
50 including total Medicaid spending directly by the state to licensed or
51 designated providers and payments to managed care providers pursuant to
52 section 364-j of the social services law. The office of addiction and
53 mental health services shall examine reports produced pursuant to this
54 section and may make recommendations to the governor and the legislature
55 regarding appropriations for addiction and mental health services or

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1 other provisions of law which may be necessary to effectively implement
2 the creation and continued operation of the office.

3 § 10. Any financial saving realized from the creation of the office of
4 addiction and mental health services shall be reinvested in the services
5 and supports funded by such office.

6 § 11. Severability. If any clause, sentence, paragraph, section or
7 part of this act shall be adjudged by any court of competent jurisdic-
8 tion to be invalid, such judgment shall not affect, impair or invalidate
9 the remainder thereof, but shall be confined in its operation to the
10 clause, sentence, paragraph, section or part thereof directly involved
11 in the controversy in which such judgment shall have been rendered.

12 § 12. This act shall take effect April 1, 2023. Effective immediately,
13 the office of mental health and the office of addiction services and
14 supports are authorized to promulgate the addition, amendment and/or
15 repeal of any rule or regulation or engage in any work necessary for the
16 implementation of this act on its effective date are authorized to be
17 made and completed on or before such effective date.

18

PART WW

19 Section 1. The mental hygiene law is amended by adding two new
20 sections 7.51 and 7.53 to read as follows:

21 § 7.51 Crisis intervention demonstration program.

22 (a) The commissioner shall establish a crisis intervention demon-
23 stration program in the state of New York for the purpose of assisting
24 law enforcement officers in responding to crisis situations involving
25 persons with mental illness and/or substance use disorder.

26 (b) The commissioner shall establish within the office the position of
27 crisis intervention team training program coordinator who will serve at
28 the pleasure of the commissioner and who shall work with municipal
29 police departments and any other law enforcement agency in the state
30 that requests assistance to coordinate the provision of crisis inter-
31 vention team training to its first responders as a part of a specialized
32 response team or as part of training for first responders.

33 (c) The crisis intervention team training program coordinator shall:

34 (1) work with communities to develop partnerships, coordinate activ-
35 ities and promote cooperation and collaboration between the office, the
36 office of alcoholism and substance abuse services, law enforcement agen-
37 cies, disability service providers and people with psychiatric or other
38 disabilities and their families to provide crisis intervention team
39 training;

40 (2) provide coordination activities and funding support for crisis
41 intervention team training;

42 (3) provide support, training and community coordination to ensure
43 that mental health service providers in the community provide alterna-
44 tives to incarceration;

45 (4) provide funding to support training and community coordination
46 costs as necessary. All moneys shall be deposited in the crisis inter-
47 vention team training fund established by section ninety-nine-pp of the
48 state finance law;

49 (5) in consultation with the crisis intervention advisory committee
50 established by this article, distribute crisis intervention team train-
51 ing fund moneys as needed for support, training and community coordi-
52 nation costs; and

53 (6) submit a report to the governor, temporary president of the
54 senate, speaker of the assembly and the crisis intervention advisory

1 committee on or before November fifteenth of each year that contains the
2 following:

3 (A) a review of all law enforcement agencies that have provided crisis
4 intervention team training to their officers and the number of officers
5 that have completed the training;

6 (B) a list of communities in this state that have implemented the
7 crisis intervention team training program through training and coordi-
8 nation, including the length of implementation and current status of the
9 program;

10 (C) recommendations for improvement in the community based partner-
11 ships that support crisis intervention team responses;

12 (D) recommendations for improvement in the law enforcement and public
13 safety agencies that provide crisis intervention team responses; and

14 (E) a review of all funding resources that the crisis intervention
15 team training program coordinator has applied for to increase available
16 funding, including the status of all funding requests and the total of
17 moneys received.

18 (d) The demonstration program established pursuant to this section
19 shall end five years after the effective date of this section.

20 § 7.53 Crisis intervention advisory committee.

21 (a) There is hereby established a crisis intervention advisory commit-
22 tee.

23 (b) The committee shall consist of:

24 (1) The commissioner, who shall serve as chairperson of the committee
25 and who is a nonvoting member;

26 (2) the crisis intervention team training program coordinator, who is
27 a nonvoting member;

28 (3) one member appointed by the commissioner who is a consumer of
29 mental health services;

30 (4) one member appointed by the commissioner who is an immediate fami-
31 ly member of a consumer of mental health services;

32 (5) one member appointed by the commissioner who represents a state-
33 wide advocacy agency that serves persons with mental disabilities and
34 their families;

35 (6) one member appointed by the commissioner who is a psychiatrist or
36 psychologist licensed in the state;

37 (7) one member appointed by the commissioner of addiction services and
38 supports;

39 (8) one member appointed by the commissioner of addiction services and
40 supports who represents a statewide behavior advocacy group, agency or
41 association;

42 (9) one member appointed by the commissioner of the office for people
43 with developmental disabilities who is either a family member or guardi-
44 an of a person with a developmental disability;

45 (10) one member appointed by the commissioner of the office for people
46 with developmental disabilities who is a person with a developmental
47 disability;

48 (11) one member appointed by the commissioner of the division of crim-
49 inal justice services upon the recommendation of a state benevolent
50 association representing peace officers who is a certified peace offi-
51 cer;

52 (12) one member appointed by the commissioner of the division of crim-
53 inal justice services who is a law enforcement officer; and

54 (13) one member of a police department appointed by each county that
55 has a crisis intervention team established pursuant to section two
56 hundred nine-ggg of the general municipal law.

1 (c) The committee shall:

2 (1) meet at least two times in each full calendar year. The committee
3 shall meet at the request of its chairperson; and

4 (2) review the report required by section 7.51 of this article and
5 based on that report make recommendations to the office of mental
6 health, the office for people with developmental disabilities, the
7 office of addiction services and supports, the division of criminal
8 justice services, municipal police departments, the governor, the tempo-
9 rary president of the senate and the speaker of the assembly.

10 (d) Committee members shall not be compensated but are eligible for
11 reimbursement of reasonable expenses.

12 § 2. The state finance law is amended by adding a new section 99-pp to
13 read as follows:

14 § 99-pp. Crisis intervention team training fund. 1. There is hereby
15 established in the joint custody of the comptroller and the commissioner
16 of the office of mental health a fund to be known as the crisis inter-
17 vention team training fund.

18 2. The crisis intervention team training fund shall consist of all
19 moneys received from the federal government, New York state government,
20 and private grants.

21 3. Any contractors that receive moneys pursuant to this section shall
22 submit quarterly reports to the commissioner of the office of mental
23 health regarding the use and effectiveness of the distributed moneys.
24 The commissioner of the office of mental health shall include a summary
25 of the fund analysis in the annual report required pursuant to section
26 7.51 of the mental hygiene law.

27 § 3. The general municipal law is amended by adding a new section
28 209-ggg to read as follows:

29 § 209-ggg. Crisis intervention teams. 1. The commissioner of the divi-
30 sion of criminal justice services, in consultation with the commission-
31 ers of the office of mental health, office for people with developmental
32 disabilities and the office of addiction services and supports, shall,
33 for all local police departments and any other enforcement agency that
34 chooses to participate:

35 (a) establish criteria for the development of crisis intervention
36 teams; and

37 (b) establish, and implement on an ongoing basis, a training program
38 for all current and new employees regarding the policies and procedures
39 established pursuant to this section. The curriculum shall include a
40 minimum of forty hours of mandatory training in mental health issues.

41 2. The goals of the crisis intervention team program shall be to:

42 (a) provide immediate response by specifically trained law enforcement
43 officers;

44 (b) reduce the amount of time police officers spend out of service
45 awaiting assessment and disposition;

46 (c) afford persons with mental illness and/or substance use disorder a
47 sense of dignity in crisis situations;

48 (d) reduce the likelihood of physical confrontation;

49 (e) identify underserved populations with mental illness and/or
50 substance use disorder and refer them to appropriate care;

51 (f) decrease the use of arrest and detention of persons experiencing
52 mental health and/or substance use crises by providing better access to
53 timely treatment;

54 (g) provide therapeutic locations or protocols for officers to bring
55 individuals in crisis for assessment that is not a law enforcement or
56 jail facility; and

1 (h) decrease injuries to law enforcement officers during crisis
2 events.

3 3. Other state agencies shall provide cooperation and assistance to
4 the division of criminal justice services to assist in the effective
5 performance of its duties.

6 § 4. Section 19.07 of the mental hygiene law is amended by adding a
7 new subdivision (o) to read as follows:

8 (o) The office of addiction services and supports shall, in collab-
9 oration with law enforcement and the office of mental health, establish
10 criteria for the development of crisis intervention teams that shall
11 include assessment of the effectiveness of the plan for community
12 involvement, training and therapeutic response alternatives and a deter-
13 mination of whether law enforcement officers have effective agreements
14 with mental health care providers and all other community stakeholders.

15 § 5. This act shall take effect immediately.

16

PART XX

17 Section 1. Legislative intent. During the pandemic, New York's
18 seniors, and disabled individuals, particularly those residing in nurs-
19 ing homes and long-term care facilities, were at the most significant
20 risk of contracting and dying from the coronavirus. The families of
21 these vulnerable individuals were faced with the life and death decision
22 to allow their loved ones to remain in a congregate facility where they
23 would have limited access, ensuring sufficient safety and care, or bring
24 them home and provide all care for their loved ones themselves. The
25 health and safety risks associated with living in a congregate setting
26 during the pandemic proved too great for many, resulting in families
27 opting to bring their aging and disabled family members home. Keeping
28 our most vulnerable in the home often required drastic changes to long-
29 term care plans and brought new challenges for families trying to ensure
30 the safety and health of their loved ones. Providing for these family
31 members at home often required finding assistance to adequately care for
32 these vulnerable individuals, increasing demand for home care providers.
33 New York has a documented shortage of home care workforce, so families
34 trying to find a caregiver whom they trusted to enter their home during
35 this critical time for their at-risk family member became highly chal-
36 lenging and at times impossible. As a result, consumer-directed personal
37 assistants, or family home care, became the safety net provider for the
38 state's most vulnerable population. Having the ability to employ a
39 trusted friend or family member to provide the care needed for our most
40 susceptible family members became a critical resource in providing the
41 care they needed.

42 Ensuring the health and safety of our seniors and disabled citizens by
43 allowing them to remain in their own homes ought to be a priority for
44 the state as we reassess the delivery of long-term care. Maintaining and
45 responding to an increased need for consumer-directed home care services
46 is more crucial than ever before and requires a full assessment of the
47 program's needs, including the number of administrators, geographical
48 location, wages and reimbursements, and other supports needed to ensure
49 a continuity of care for all individuals being served.

50 § 2. The commissioner of health is hereby directed to prepare a study
51 of the Consumer Directed Personal Care Program, authorized by section
52 365-j of the social services law, to assess the current need and costs
53 associated with consumer-directed services within the state, including,
54 but not limited to, total current and anticipated eligible Medicaid

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1 recipients; the appropriate number of fiscal intermediaries required to
2 ensure continuity of care and program administration for all partic-
3 ipants statewide; the need for procurement of fiscal intermediary
4 services; all evidence-based criteria and scoring to be used during any
5 procurement process, if required; and the need for any programmatic
6 changes to support the program. The commissioner shall issue recommenda-
7 tions based on such findings.

8 § 3. The commissioner of health shall provide the study to the tempo-
9 rary president of the senate, the speaker of the assembly, and the
10 chairs of the senate and assembly health committees by December thirty-
11 first, two thousand twenty-three. Until such time, all changes to the
12 program shall be suspended, and, if necessary, a reissuance of the
13 request for offers shall be released one hundred eighty days after the
14 study's release. The commissioner shall also publish the study on the
15 department of health's website within thirty days of its transmittal to
16 the legislature.

17 § 4. This act shall take effect immediately.

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

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